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Congressional Record

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, June 26, 1991*

The House met at 10 a.m.

The Reverend Kirk D. Monroe, Sr., pastor, Mount Zion United Methodist Church, Washington, DC, offered the following prayer:

Good morning God; we come to You seeking harmony and peace. We ask for Your sovereign protection over the limits and boundaries of our Nation. As You have called us to mark the paths of history we ask for Your wisdom and Your goodness to intern us toward mercy.

We pray for America, for all of her children. Please help us to let justice roll down like waters and righteousness like an everflowing stream. Please guide us and kindle us for fine heroic living; please humble us when the ordinary is transformed into some mountaintop experience for Your people.

So as the rose tells its secret in its perfume, so as the Sun tells its secret in light and heat, may we who serve America tell of its secret in our benevolence and our compassion.

Hear our prayer O God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Michigan [Mr. HENRY] will please come forward and lead the Members in the Pledge of Allegiance.

Mr. HENRY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia; and

H. Con. Res. 173. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 904. An act to direct the Secretary of the Interior to prepare a national historic landmark theme study on African-American history; and

H.R. 1143. An act to authorize a study of nationally significant places in American labor history.

The message also announced that pursuant to Senate Resolution 143, 102d Congress, first session, the Chair, on behalf of the majority leader and the Republican leader, announces the appointment of Mr. WIRTH and Mr. GORE, as cochairmen; Mr. CHAFEE and Mr. NICKLES, as vice chairmen; Mr. ADAMS, Mr. BAUCUS, Mr. DOMENICI, Mr. FOWLER, Mr. GRAHAM, Mr. MCCONNELL, and Mr. WALLOP, as members of the World Climate Convention Observer Group.

THE REVEREND KIRK MONROE

(Ms. NORTON asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, it is a personal pleasure to welcome Rev. Kirk Monroe, pastor of Mount Zion United Methodist Church, at 175 years old this year, the oldest black congregation in Washington. Located in Georgetown, Mount Zion United Methodist Church is among a treasure of historic churches located in the Nation's Capital.

It is only fitting that one of our most distinguished and historic churches would have as its minister a distinguished and able young man, a graduate of Howard University Divinity School, who has been cited in the Afro-American newspaper as one of the District's top 25 preachers.

Mr. Speaker, we in the District are grateful for Mount Zion's spiritual and civic influence and for the energetic and excellent contributions of Rev. Kirk Monroe.

AMERICA 2000: MEETING THE PRESIDENT'S CHALLENGE

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, for the past 25 years the Federal Government has been a significant leader in the education of American students. Head Start, chapter 1, Education of the Handicapped Act, Pell grants, and adult education—all programs created by the Federal Government and targeted at populations with specific unmet needs.

The President has raised a new challenge to the Congress, the Governors, the private sector, and the American people. He has asked us all to start a second track of change, without turning back from the goal of equal opportunity. This new challenge is no less than the transformation of the American educational system so that all students will have an opportunity for a quality education. That is what school reform is all about—quality. Rather than looking at inputs and numbers of this, that, or the other thing, school reform is about making sure every student receives a world class education.

To accomplish this, some feathers are going to be ruffled. No doubt about it. Things are going to be done differently, in some cases by different persons trained differently. Choice, national tests, merit schools, national education standards—new and, some would say, scary stuff. But if we learned anything from the last 10 years of school reform it's that incremental, marginal changes in our schools are not enough.

The President has given us the lead. He has challenged Congress, the pri-

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vate sector, Governors, parents, and communities in this charge to give our children the education they deserve and America the schools it needs.

Let's join him.

H.R. 5, THE GOLDEN RULE VERSUS THE RULE OF THE JUNGLE

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, most Americans treat others the way they want to be treated. But during the 1980's, many companies chucked the Golden Rule for the rule of the jungle. They permanently replaced workers to loot their pensions or dissolve worker and retiree health plans.

Often, this attack against organized workers came from businesses brokered in a merger or buyout. These firms prolonged job actions as a pretense for hiring permanent replacements, and then they cracked down on wages, health benefits, and pensions to service their debts. Unwise mergers led to unfair actions by corporations, injuring and humbling workers and communities, just to make a buck.

H.R. 5, the workplace fairness law, will make it unlawful to permanently replace workers engaged in a job action. This bill would not apply to nonunion establishments. And it mirrors the laws of our major trading partners.

Mr. Speaker, the practice of hiring permanent replacements is unjust and a threat to the health care and retirement security of working American families. We should be on their side and strongly supporting H.R. 5.

H.R. 5: STILL CREATES UNBALANCED RISKS

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, the proponents of H.R. 5 claim that giving unionized employees the right to not be replaced, balances the scales in the labor-management relationship, and preserves their right to strike.

However, under H.R. 5 unionized employees can't be replaced, even if the labor dispute is illegal, or if the strikers engage in violence.

Employees must assume some risk when they strike, however, H.R. 5 provides job guarantees for unionized employees. An April 8, 1991, editorial by the Omaha World Herald, stated:

> What is so wrong with a worker being forced to consider whether he will be able to return to his job if he strikes? Workers want guarantees, but life holds few guarantees. An employee who tries to bring down his employer by withholding his services, should understand that he is taking a risk. He should understand that the company might have to hire replacements to stay in business.

Mr. Speaker, if we truly want balance, then perhaps we should investigate reforming the problem resolution process. The National Labor Relations Board [NLRB] has had outlandish delays in issuing decisions—on one occasion it took 7 years.

I urge my colleagues to oppose H.R. 5, and to start work on meaningful labor law reform.

□ 1000

LEGISLATION TO GIVE U.S. PROCESSORS FIRST CRACK AT WESTERN RED CEDAR ON NATIONAL FOREST LANDS IN ALASKA

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, our Northwest timber communities are facing a problem as gut wrenching as any I've seen. Reduced harvests, partly due to protection for the northern spotted owl, are triggering an economic disaster every bit as serious as that of the Great Depression.

We need to be creative and fight for ways to help our timber mills and communities survive economic chaos—and the bill I am introducing today is one way to do that. It would ensure that our own U.S. processors get first crack at national forest western red cedar in Alaska—potentially saving hundreds of jobs for processors in Washington State and the Northwest.

Right now, processors in Alaska are deciding they do not need this cedar—so they are shipping it to Japan. That is not fair—especially when our U.S. processors do need that red cedar.

My bill makes a simple statement, but one this Government all too often forgets: America first.

FIND A SOLUTION TO STRIKER REPLACEMENT PROBLEM

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Madam Speaker, if you have been listening to the 1 minutes thus far today, you get a pretty clear impression of the challenge we face in this House. We can either have a solution, or we can have a political issue.

Contrast the two issues that have been discussed. On the one hand, we have had H.R. 5 discussed, striker replacement. Unfortunately, there is a problem, but people do not want a solution.

Yes, there are some companies, a very few companies, who have not bargained in good faith. The solution to that is to clean up and expedite the process at the National Labor Relations Board.

However, people are suggesting that we ought to totally reverse all labor-management law and labor-management relations in this country, because they would rather have an issue than a solution.

Now, contrast that on the other side with the discussions you have heard this morning regarding educational reform. In that case, this Congress has withstood the test of bipartisan cooperation to do what is in the interest of America now and in the future. We did a bipartisan effort on testing. Today, in the Labor-HHS appropriation bill, we are setting aside the money, and we will be able to, between now and October 1, enact a solution, rather than simply create an issue.

WORKPLACE FAIRNESS ACT COVERAGE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Madam Speaker, with regard to Workplace Fairness Act coverage, Members need to understand that from the beginning there was no intention that H.R. 5 cover workplaces in which there was no union. Because concerns were raised that the bill could be clearer about expressing this intention, the committee approved an amendment I offered making it absolutely clear that H.R. 5 does not apply in a workplace where there is no union. The language is now explicit on this point.

We adopted my amendment in committee specifically in response to concerns raised by several members, constituents, and business groups. They were concerned about the bill's coverage of employees who were not involved in a bona fide collective bargaining dispute but merely walked off the job and then claimed protection under the bill when they chose to return to work. The bill does not cover such employees. Such spontaneous, undisciplined, and unpredictable economic work stoppages in the unorganized sector are not covered by this bill.

STRIKER REPLACEMENT BILL IS BAD FOR SMALL BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Madam Speaker, proponents of H.R. 5, the striker replacement bill, claim that it would not affect most small businesses because the vast majority of them are not unionized.

In fact, this bill would have Congress grant unions both the incentive and

the power to launch a huge organizing campaign aimed at small, nonunion businesses.

"Join the union and your job will be permanently protected. Don't join and you can be permanently replaced." This is the message that proponents of H.R. 5 want the U.S. Congress to send to American workers.

If H.R. 5 becomes law, the union bosses' gain will be the country's loss—in terms of higher labor costs, more frequent strikes, and the devistating ripple effect on suppliers, customers, subcontractors, and related businesses.

My colleagues, I urge you to vote against H.R. 5. It's easy to say that you're for small business. But it's how you vote that really counts.

MR. PRESIDENT: KEEP YOUR PROMISE AND RESPECT WORKER RIGHTS

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Madam Speaker, during his 1988 campaign, President Bush promised to respect collective bargaining agreements between workers and their companies. Yesterday, that promise was broken. Just as this administration broke its promise against raising taxes on working Americans, the White House announced Mr. Bush would veto H.R. 5. I urge the President to reconsider.

Major corporations are making war against white- and blue-collar workers, their families, and the communities where they live. Just as they take advantage of tax loopholes, there is a loophole in labor law that permits firms to permanently replace workers who are on strike.

Companies can refuse to bargain in good faith. And when workers take a job action, firms can seize their pensions, cut their health benefits, and hire unqualified replacements to permanently fill their jobs.

Legislation awaiting House action would change all that. It would prevent workers from being permanently replaced, balance the rights of workers and management, and restore respect to the collective bargaining process.

Mr. President, don't break another promise to America's working families. Support H.R. 5, the workplace fairness law.

HORTON BAY, MI: 51ST STATE OF THE UNITED STATES OF AMERICA

(Mr. DAVIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS. Madam Speaker, I rise today to introduce legislation designating Horton Bay, MI, as the 51st State of the United States of America.

Now, Madam Speaker, you might ask why a village of 49 people should be granted statehood. If you know these 49 people, you would not have to ask.

This year thousands of people will make the trek to Horton Bay for a Fourth of July parade based on the premise that laughter is the best medicine. Here people pride themselves on not taking themselves too seriously. Where else can you see the world's only pizza eating goat? Where else can you see 49 people trying to earn statehood with the motto, "if Texas can do it, why can't we!"

Madam Speaker, the world needs more Horton Bays. July 4 is a day of good, clean fun in this unique little village on Lake Charlevoix. The least we could do is honor them by giving them a State of their own.

TIME FOR TAX FAIRNESS: STOP DROWNING THE MIDDLE CLASS

(Mr. EDWARDS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Texas. Madam Speaker, few principles are more important to our Nation than the concept of fairness. It is concept embodied in the very foundation of our democracy, the belief and conviction that all men and women are created equal.

Yet today we find ourselves in a time when children more and more are living in poverty. We find ourselves in a time when middle class families are not able to give their children the opportunity to reach their highest potential. We find the doors of our colleges and universities being shut to the middle class.

Madam Speaker, it is time for tax fairness. We do not ask that we soak the rich, but we demand that we stop drowning the middle class. It is time for fairness. It is time for recommitment to the ideals on which this country was founded.

GOVERNMENT SHOULD SERVE, NOT RULE

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Madam Speaker, the week before last Edward Rendell, the Democratic nominee for mayor of Philadelphia, said it is time to change some basic assumptions about the public sector. In a hearing in New York City, Mr. Rendel said:

> Government does not work because it is not designed to. There is no incentive for employees to do their best, so many do not. There is no incentive to save money, so it is squandered.

This is a liberal Democrat talking, not a conservative Republican. Yet he has put his finger on something that many people are feeling today. People are becoming angry with elitists in government who act like our rulers, instead of our servants. People are becoming sick of hearing governments who have doubled or tripled spending in a short time crying about budget shortfalls.

□ 1020

People are fed up with the civil service system that does nothing for good, dedicated employees but serves to protect lazy incompetent ones. There is a resentment in the land today toward government, particularly at the Federal level, and some Federal employees are going to have to soon stop demanding so much while giving so little in return.

WE NEED TAX FAIRNESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, tax fairness, yes, it is a big problem. It is such a big problem that everyone on both the right and left, as they have looked at it, realize that what we did during the Reagan era of the 1980's was to shift more and more and more taxes on the middle class. They are carrying the heaviest percentage burden they have ever carried in the history of America.

When President Bush campaigned in 1988, he campaigned on relieving some of this tax pressure for the middle class. But somehow he has forgotten that. It seems his entire domestic agenda is nothing but more highways and more executions. Maybe we could bind them and make a drive-in execution.

I think what we desperately need is tax fairness. If America's families could get a little more money, they would certainly be under a lot less stress. And a whole nation of dysfunctional families can soon become a dysfunctional nation.

I think we must work on tax fairness, and the Democratic Party must make that its No. 1 priority to make that Tax Code family friendly once again.

DEMOCRATS WANT TO INCREASE YOUR TAXES

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Madam Speaker, we hear attacks on Ronald Reagan and tax fairness all the time. Who controls the tax bills anyway? Who controlled the House of Representatives during the entire Reagan administration?

Some people would have Members believe that it was the Republicans, but I

can tell my colleagues that tax bills originate in the House of Representatives. And the House of Representatives, during the entire Reagan administration, was controlled not by the Republicans. The House of Representatives, where all tax revenue bills originate, was controlled by the Democrats.

So if we hear anything about a lack of tax fairness, let us face it. It was not the Republicans who were at fault for lack of tax fairness. It was the Members who control the House of Representatives, the House in which all tax bills originate.

So come on, let us not cry some crocodile tears. Let us get serious. Every time the Democrats talk about tax fairness, what they are really talking about is raising taxes on the middle class. Those are the people who end up paying the taxes. They know it and we know it.

OUR TAX SYSTEM NEEDS REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, yesterday we read all about the National Commission on Children's proposal for a $1,000 tax credit for each child in this country. This bipartisan commission spent 2½ years studying the problems that affect so many of our Nation's children, and they came to the conclusion that we need to reform our tax system. This news is hardly startling.

The tax system is unfair. My constituents tell me this every day. It is time to offer tax relief to working middle class American families. There are already three or four thoughtful proposals on this issue.

I propose the Middle Class Tax Relief Act which increases the personal exemption and even comes up with a workable revenue plan to pay for it.

Whether it is increased exemptions or tax credits, the message is clear. We cannot continue to neglect the needs of middle income families, the hard-working taxpayers who make up the heart and soul of our country and the children who represent our future.

The commission stressed the importance of strong families for the stability and healthy development of our children. This conclusion underscores our need to promote policies that bolster families.

It is time to enact tax reform that leaves families with more of their hard-earned dollars intact to make ends meet. We do not suffer from a lack of ideas or how to accomplish this. We suffer from a lack of vision and leadership in the White House.

Mr. Speaker, we have heard the reports and seen the evidence. The verdict is clear. It is time to stop neglecting those who are calling out for our help.

It is time to bring tax relief to middle class families in this country.

INTRODUCTION OF RESOLUTION CONCERNING UNITED STATES POSITION ON ENVIRONMENTAL PROTECTION AT 1992 U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT IN BRAZIL

(Mr. WALKER asked and was given permission to address the House for 1 minute)

Mr. WALKER. Madam Speaker, international economic integration is proceeding at a rapid pace. With the consequent economic development that accompanies such a process it is imperative that we also examine the unintended results of such growth. That is why I welcome the 1992 U.N. Conference on Environment and Development in Brazil.

This conference will examine the delicate balance between economic and environmental stability throughout the world.

The United States, as a leader in the environmental movement and as a leading economic power, must set an example for other nations to follow in determining the nature of the balance between growth and environmental stability. That is why Mr. HYDE, Mr. RITTER and I are today introducing a resolution which if adopted would urge the United States delegates to the Brazilian conference to weigh these factors in such a way as not to competitively disadvantage the United States while at the same time improving overall environmental quality.

I hope that the appropriate committees and the whole House will view this resolution with favor and will act on its adoption expeditiously.

H.R. 5 PROTECTS RIGHTS OF STRIKING EMPLOYEES

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Madam Speaker, shortly after the July 4 recess the House will consider, H.R. 5, the bill protecting the jobs of employees who exercise their right to strike.

Soon we will be hearing great cries of anguish from the other side of the aisle about this bill. Before the cries begin, let's be very clear about what this legislation does and what it doesn't do. It simply gives workers who go out on strike the right to have their job back when the strike is over and not be permanently replaced by workers hired during the strike.

A revolutionary concept? Hardly.

All we have to do is think back to the 1987 National Football League season. The NFL season opened without a player contract, and the first few games were played by—you guessed it—replacement players. My team the Dallas Cowboys, even won a few of these replacement games. The dispute was settled and, overnight, the replacement players were gone and the NFL regulars were back in uniform.

Now, there are people who would tell us that this very concept shouldn't be applied to other American workers.

Madam Speaker, why should assembly line workers have less rights than a linebacker for the Washington Redskins or the Dallas Cowboys. They shouldn't. It is that simple.

INFANT MORTALITY

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Madam Speaker, I believe that it's time for the Congress to help raise awareness of our Nation's infant mortality statistics. Since 1989, I have served as the cochairman of the Congressional Sunbelt Caucus Task Force on Infant Mortality with my good friend Dr. ROY ROWLAND. My involvement with this task force stems from my personal commitment to lowering our Nation's dismal infant mortality statistics.

In my home State of Florida, the Infant mortality rate is disturbingly high—during 1987, almost 11 infants died before their first birthday out of every 1,000 babies born. In fact, the Sunbelt region has the highest infant mortality rate in the Nation. I feel it is the duty of Congress to raise public awareness and encourage solutions at all levels of government—Federal, State, and local.

If we could encourage all pregnant women to seek prenatal care, not only will we have healthier babies but we will also have healthier mothers. Hopefully, these comments this morning will send a message to all Americans on the importance of this issue to them and to Members of Congress.

MEDICAL INSURANCE SHOULD ENCOURAGE PREVENTIVE HEALTH CARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Madam Speaker, as part of my program to introduce you to West Virginians, who are being denied access to adequate health care, I want you to meet Cecilia Wood, who lives in Ireland in Lewis County, WV. Her husband is a salesman and she used to teach school until she left teaching to take care of her children. She was covered by a private insurance policy.

In June 1990, she had precancerous cells burned off of her cervix. When the doctor contacted her insurance company about this, they dropped her cov-

erage and refused to cover the procedure because she had cancer. Now she lives every day without insurance.

Her insurance company will not cover her for a period of 2 years during which she must have clean Pap smears every 4 months.

People should be encouraged, not discouraged, to take preventative steps in their health care. She might have been hospitalized for major surgery with major medical bills, had she not taken these steps.

Cecilia Wood asked when the Congress and the administration are finally going to enact a medical policy that says that you are encouraged, not discouraged, from doing those things that are necessary to have adequate access to health care.

The Congress and the President must act now.

□ 1030

PROTECT AMERICAN JOBS: VOTE NO ON H.R. 5

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Madam Speaker, proponents of H.R. 5, the strike breeder bill, argue that companies use permanent replacement workers to bust unions. This claim is not only misleading, but it is entirely false.

Under the Federal Labor Relations Act, it is an unfair labor practice if employers commit any of the following activities: discriminate against union employees, refusing to bargain in good faith, and pretending to bargain in good faith. If employers commit any of these acts during a strike, workers must be reinstated to their old jobs. In addition, companies can be forced to pay fines for engaging in unfair labor practices. So if it were the intention of a company to break a union by hiring replacement workers, this would constitute an unfair labor practice and those who were replaced would be entitled to their jobs at the end of the strike.

Madam Speaker, I urge my colleagues not to be taken by the false claims made by proponents of H.R. 5. If this bill were to become law, it would promote strikes, cause disruption within our economy, and hurt our Nation's ability to compete against our trading partners. If our Nation's businesses are faced with negotiating labor contracts under this law, many will simply close up shop and head overseas. If you want to protect American jobs and the economy, you will vote no on H.R. 5.

NATIONAL RECYCLING MARKETS ACT

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Madam Speaker, all across the United States, we are running out of places to put our trash. In recent years, 83 percent of our Nation's annual 160 million tons of municipal solid waste has been stuffed in landfills, half of which are expected to be closed by mid-decade.

Recycling, after waste minimization, offers a way out of this crisis and has great untapped potential. Recycling provides a cheap source of quality feedstock materials and is an efficient use of natural resources. Recycling can save money, while reducing pollution, pollution control costs, and energy consumption. Recycling can also create competitive opportunities in the international marketplace.

Unfortunately, obstacles remain. Manufacturers claim that they would use more recovered materials if only reliable supplies of high-quality materials could be found. Waste managers, meanwhile, claim that they would institute more programs to recover recyclable materials if only they could find regular buyers for them.

Although many collection programs have been started and more manufacturers are using recovered materials, recycling is still only crawling forward. I believe the keys to improving recycling are to stimulate demand for recovered materials and to bolster and stabilize recycling markets.

That is why yesterday I introduced the National Recycling Markets Act which aims to accomplish precisely those objectives. I believe that we can no longer sit back and wait for progress to just happen. We must make it happen.

I encourage my colleagues to support the bill and join me in attempting to bring America a new era in recycling.

WHAT IS NEXT, CONGRESS?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, fat cats are buying savings-and-loan property from the RTC for pennies and selling them for millions, making a killing. Meanwhile, the working poor who desperately need homes cannot get a loan. Does that sound familiar?

But through all this, it is consistent, the taxpayer continues to get screwed by the lawyers, by the investors, and, in my opinion, the RTC.

I say it is time to call the RTC the Rectal Trespass Corporation of America. They earned it.

Let me say one thing: What is next, Congress? Interstate banking?

IN SUPPORT OF TARGETED INFANT MORTALITY INITIATIVES

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Madam Speaker, I rise today in strong support of the targeted infant mortality initiatives contained in the Labor, Health and Human Services, and Education appropriation bill for fiscal year 1992.

The committee bill contains several provisions for making the battle against infant mortality a national health care priority. Today's bill calls for a coordinated approach among various agencies charged with carrying out these initiatives, something we spotlighted in a congressional hearing I held in Birmingham 3 years ago.

In addition to increasing resources to fight infant mortality, the committee has rightfully emphasized that any program must be part of a community-wide, comprehensive initiative. We know that early, regular, high-quality prenatal care reduces low birthweight babies. Our challenge now is to make sure that every mother at risk learns about these programs and has access to them.

Efforts to reduce infant mortality are vital to my State because Alabama has one of the highest infant mortality rates in the Nation. Likewise, the United States ranks 20th among developed countries in the number of infant deaths.

The committee's bill will help reverse this trend. I urge by colleagues to join me in support of the targeted infant mortality initiatives contained in this appropriation bill.

IN CELEBRATION OF THIS COUNTRY COMING TOGETHER

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Madam Speaker, as we approach July 4 and the many parades that will take place across our great country to celebrate the homecoming of our Desert Storm troops, I want to tell this body about an experience that happened to me recently in my hometown of Mishawaka, IN.

Going to a homecoming ceremony for a homecoming troop, a Dave Barrett, the family presented him with a plaque that read, "We admire your courage, devotion, and patriotism to country." They then turned around to their Uncle Bob, who had served in the Vietnam war, unveiled a package, and presented a plaque that read, "We admire your patriotism, your courage, and your devotion to country."

Madam Speaker, we need the vets of not only the Persian Gulf war but the Vietnam war to join arms and march down our streets in celebration of this

country coming together not just in a victory in the Middle East but with this can-do spirit that we today in the 1990's are ready to take on the challenges that face our great Nation in education, in rebuilding our infrastructure, and in guiding this country to be the economic power with the Japanese and the Germans and ahead of them in the next century.

TRIBUTE TO HON. WILLIAM NATCHER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Madam Speaker. later today, the distinguished gentleman from Kentucky [Mr. NATCHER], the dean of the Kentucky delegation, will assume his spot just to my right, and with his customary aplomb and courtesy and courtliness steer through to passage the Labor, Health and Human Services and Education appropriation bill.

It has been my great fortune to serve with BILL for these past 20 years, and I would like to call to the attention of the Members in the body, the few of whom may not know it, that last week on June 20, Chairman NATCHER cast his 17,000th consecutive vote.

He came into this Chamber in January 1954. It happend to be, parenthetically, my senior year at Notre Dame. BILL came in here, and he has never failed to cast a vote on every issue since then.

I would say from the clarity of his eye and from the spring in his step and from the steel in his spine he will be here to cast 17,000 more votes.

SUPPORT APPROPRIATION FOR INFANT MORTALITY INITIATIVES

(Mr. PAYNE of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of Virginia. Madam Speaker, as a member of the Sun Belt Caucus on Infant Mortality, I am very concerned with the infant mortality rate in this country.

The United States ranks near the bottom of all industrialized nations with a rate of 10 deaths per 1,000 births.

This is not only a problem in urban areas.

This is a problem in rural America as well. The Fifth District of Virginia that I represent has one of the highest infant mortality rates in the Commonwealth of Virginia.

There is a model volunteer organization in my district whose goal is to develop child and maternal health programs that address the problems of infant mortality, low birth rate babies, and teenage pregnancy in southside Virginia.

The Save Our Children Coalition is headed by Dr. Marie Hooper, a gynecologist who came to Farmville, VA, through the National Health Services Corps.

Dr. Hooper has remained in Farmville and continues to serve poor, low-income women.

I commend Dr. Hooper on the progress she has made. I believe that the save our children coalition can serve as a model for other efforts around the country.

Later today we will vote on H.R. 2707, Chairman NATCHER's fiscal year 1992 appropriations for Labor, HHS, and Education.

For important infant mortality initiatives such as Save Our Children Coalition, $114 million has been appropriated.

I urge my colleagues to support this important measure.

□ 1040

UNEMPLOYED DESERVE TAX EXEMPTION

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Madam Speaker, we send billions of dollars overseas to help other countries with their problems. The Reagan and Bush administration gave big tax breaks to the rich in 1981. The Reagan and Bush administration had terrible trade policies which produced a trade deficit. We are running $300 billion a year in deficit. We owe $3.5 trillion in total deficit, and we are paying $200 billion in interest on that deficit. The consequences are that millions of Americans are unemployed and more people overseas are becoming employed.

Now, who do Members think that we are asking to pay for this fiscal irresponsibility and this nonsense? It is the unemployed. The people who are getting unemployment compensation, are being asked to cough up enough money to make up for the deficit.

I think these people need a boost to help give them the quality of life that has been taken away from them by the administration of this country. I am asking Members to cosponsor House Resolution 2492 that will correct this thing. Give a tax exemption to the millions of unemployed Americans in this country who are getting unemployment compensation.

SUPPORT FOR PROGRAMS TO COMBAT INFANT MORTALITY

(Mr. HARRIS asked and was given permission to address the House for 1 minute.)

Mr. HARRIS. Madam Speaker, I rise to congratulate Chairman BILL NATCHER on a job well done. Today, we will be considering the appropriations bill for Labor, Health and Human Services, and Education.

Of particular interest to me is the funding contained in the bill to combat the problem of infant mortality. I believe that the funding for the maternal and child health block grants and the community and migrant health centers will certainly help rural Alabamians. I am especially pleased that Federal dollars will be targeted to areas with high infant mortality rates.

Earlier this year, I was the chief sponsor of House Joint Resolution 194, to designate May 12, 1991 as Infant Mortality Awareness Day. This commemorative legislation became Public Law 102-43 in May. This is the second year I have sponsored this educational effort. I believe that as more Americans are made aware of our infant mortality rates, they will work harder to ensure that healthy babies are born. Every death of a child represents a tragedy for both the parents as well as the loss of the child's potential for our society. I would encourage all pregnant women to seek early prenatal care to ensure the birth of healthy infants.

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1991

Mr. DIXON. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2699) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1044

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2699, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 25, 1991, all time for general debate had expired.

Mr. DIXON. Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment and points of order at any point.

Is there objection to the request of the gentleman from California [Mr. DIXON]?

There was no objection.

The text of H.R. 2699 is as follows:

H.R. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

FISCAL YEAR 1992 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1992, $630,500,000.

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

OFFICE OF THE MAYOR

For a Federal contribution to the District of Columbia for the Office of the Mayor, $52,000.

METROPOLITAN POLICE DEPARTMENT

For a Federal contribution to the District of Columbia for the Metropolitan Police Department, $75,000, of which $25,000 shall be for an accreditation study by a recognized law enforcement accrediting organization and $50,000 shall be for community empowerment policing programs.

BOARD OF EDUCATION

For a Federal contribution to the District of Columbia, $1,100,000, of which $600,000 shall be for renovations to public school athletic and recreational grounds and facilities and $500,000 shall be for maintenance, improvements, and repairs to public school facilities under the Direct Activity Purchase System (DAPS): *Provided*, That the $500,000 provided for DAPS shall be returned to the United States Treasury on October 1, 1992, if the amount spent by the District of Columbia out of its own funds under DAPS and for maintenance, improvements, and repairs to public school facilities in fiscal year 1992 is less than the amount spent by the District out of its own funds for such purposes in fiscal year 1991.

DISTRICT OF COLUMBIA GENERAL HOSPITAL

For a Federal contribution to the District of Columbia General Hospital, $12,000,000, of which $10,000,000 shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, $1,000,000.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, $3,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $111,973,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated $8,326,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $1,000,000 shall be derived from the general fund and not to exceed $7,326,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further*, That the Mayor shall submit to the Council of the District of Columbia by October 1, 1991, a reorganization plan for the Department of Finance and Revenue that shall follow the directives and initiatives contained in the Report of the Committee of the Whole on Bill 9-151, the Fiscal Year 1991 Supplemental Budget and Rescissions of Authority Request Act of 1991, at 8-20 (March 25, 1991).

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $106,430,000: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $930,836,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That $50,000 of this appropriation shall be available at the discretion of the Chief of Police for community empowerment policing programs: *Provided further*, That not to exceed $25,000 of this appropriation shall be available solely for an accreditation study of the Metropolitan Police Department by a recognized law enforcement accrediting organization: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective September 30, 1989 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1992, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances

in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further*, That the staffing levels of each engine company within the Fire Department shall be maintained in accordance with the provisions of the Fire Department Rules and Regulations, if any: *Provided further*, That the reduction in the staffing levels of each two-piece engine company shall not take effect until such time as the Fire Chief certifies to the Committees on Appropriations of the House and Senate that the Department is taking all reasonable steps to reduce the expenses of the Department, including steps to reduce overtime, filling eligible vacancies, returning detailees to their intended positions, and other measures deemed appropriate by the Fire Department: *Provided further*, That when staffing levels are reduced, the pay and salary levels of fire fighter technicians shall be held harmless during the term of the collective bargaining agreement in effect on the date of enactment of this Act: *Provided further*, That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Firefighting Division of the Department: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $706,431,000, to be allocated as follows: $518,764,000 for the public schools of the District of Columbia; $1,100,000 for pay-as-you-go capital projects for public schools, of which $600,000 shall be for renovations to public school athletic and recreational grounds and facilities and $500,000 shall be for maintenance, improvements, and repairs to public school facilities under the Direct Activity Purchase System (DAPS): *Provided*, That the $500,000 provided for DAPS shall be returned to the United States Treasury on October 1, 1992, if the amount spent by the District of Columbia out of its own funds under DAPS and for maintenance, improvements, and repairs to public school facilities in fiscal year 1992 is less than the amount spent by the District out of its own funds for such purposes in fiscal year 1991; $84,200,000 for the District of Columbia Teachers' Retirement Fund; $73,495,000 for the University of the District of Columbia; $20,578,000 for the Public Library, of which $200,000 is to be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,290,000 for the District of Columbia School of Law; and $477,000 for the Education Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1992, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $877,033,000: *Provided*, That $20,848,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That $10,000,000 of this appropriation for the District of Columbia General Hospital shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992: *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et. seq).

PUBLIC WORKS

Public Works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $234,390,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,110,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act Amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $277,577,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $41,170,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

PERSONAL SERVICES AND NONPERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce authorized appropriations and expenditures for personal services and related nonpersonal services in the amount of $1,000,000 within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $310,928,946, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $17,707,000 shall be available for project management and $10,273,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That $1,100,000 for the public school system for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1993, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1993: *Provided further*, That upon expiration of any such project authorization the

funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $219,752,000, of which $38,006,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $51,690,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further*, That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the sources of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $2,000,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1993, shall be transmitted to the Congress no later than April 15, 1992.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. None of the Federal funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1991 shall be deemed to be the rate of pay payable for that position for September 30, 1991.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945,

approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1992, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1992 revenue estimates as of the end of the first quarter of fiscal year 1992. These estimates shall be used in the budget request for the fiscal year ending September 30, 1993. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking "sold before October 1, 1991" and inserting "sold before October 1, 1992".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 128. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 129. Sec. 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1991" and inserting "December 31, 1992".

SEC. 130. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 131. For the fiscal year ending September 30, 1992, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 133. (a) Up to 75 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1991 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of sections 142(d) and 144(d) of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; Public Law 96-122; D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 75 light duty positions that may become vacant under subsection (a) of this section are filled, a civilian employee shall be hired to fill that position or it shall be filled by an officer or member of the Metropolitan Police Department for a temporary period of time.

(d) The limited duty policy of the Metropolitan Police Department shall be that in effect prior to July 8, 1990, unless ordered by the relevant court.

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1992 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

This title may be cited as the "District of Columbia Appropriations Act, 1992".

TITLE II

FISCAL YEAR 1991 SUPPLEMENTAL DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $257,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2226 to 2227), $5,650,000 are rescinded for a net decrease of $5,393,000: *Provided further*, That of the $9,077,000 appropriated under this heading for fiscal year 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2226), to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, none shall be derived from the general fund and not to exceed $9,077,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That within fifteen days of the date of enactment of this Act the District of Columbia Retirement Board shall reimburse the general fund of the District by an amount not to exceed $818,000 for any expenses of the Board paid with general fund revenues in fiscal year 1991: *Provided further*, That the Mayor shall submit to the Council of the District of Columbia by October 1, 1991, a reorganization plan for the Department of Finance and Revenue that shall follow the directives and initiatives contained in the Report of the Committee of the Whole on Bill 9-151, the Fiscal Year 1991 Supplemental Budget and Rescissions of Authority Request Act of 1991, at 8-20 (March 25, 1991).

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $37,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public law 101-518; 104 Stat. 2227), $29,525,000 are rescinded for a net decrease of $29,488,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $10,774,000, of which an additional $3,600,000 shall be allocated to the Fire and Emergency Medical Services Department; an additional $84,000 shall be allocated to the Civilian Complaint Review Board; and notwithstanding any other law, an additional $7,090,000 shall be allocated for the

District of Columbia Police Officers and Fire Fighters' Retirement Fund: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2227 to 2229), $20,711,000 are rescinded for a net decrease of $9,937,000: *Provided further*, That notwithstanding any other provisions of law, of the funds available for fiscal year 1991, $225,000 of the amount allocated to the District of Columbia Judge's Retirement Fund are rescinded.

The following provision under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2228), is repealed: "*Provided further*, That at least 21 ambulances shall be maintained on duty 24 hours per day, 365 days a year:".

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $200,000 for the Public Library to be transferred to the Children's Museum.

Of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2229), $11,123,000 for the D.C. Public Schools; $10,000,000 for pay-as-you-go capital projects for public schools; $3,418,000 for the University of the District of Columbia; $41,000 for the Education Licensure Commission; $327,000 for the Commission on Arts and Humanities; and notwithstanding any other provisions of law, $23,650,000 for the District of Columbia Teachers' Retirement Fund are rescinded for a net decrease of $48,359,000.

The following provision under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2229), is repealed: "*Provided further*, That the amount allocated under this title for the public schools shall be increased, dollar for dollar up to $36,400,000, by the amount the annual Federal payment for fiscal year 1991 is increased above the current $430,500,000 Federal payment in fiscal year 1990:".

HUMAN SUPPORT SERVICES

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2229 to 2230), $11,227,000 are rescinded.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,965,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2230), $2,949,000 are rescinded for a net increase of $16,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $2,756,000.

REPAYMENT OF LOANS AND INTEREST

For an additional amount for "Repayment of loans and interest", $8,577,000.

REPAYMENT OF GENERAL FUND DEFICIT

The paragraph under the heading "Repayment of General Fund Deficit", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2231), is repealed.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $8,142,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $311,000.

SUPPLY, ENERGY, AND EQUIPMENT ADJUSTMENT

The paragraph under the heading "Supply, energy, and equipment adjustment", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2231), is repealed.

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal services adjustment", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518, 104 Stat. 2231), is repealed.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $73,570,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years for the Mount Vernon Square Campus project of the University of the District of Columbia, $39,134,000 are rescinded for a net increase of $34,436,000: *Provided further*, That $2,644,000 shall be available for project management and $3,212,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and Sewer Enterprise Fund", $23,633,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2232), $35,880,000 are rescinded for a net decrease of $12,247,000: *Provided further*, That $35,852,000 of the amounts available for fiscal year 1991 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $36,608,000 as provided under this heading in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2232): *Provided further*, That $15,477,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects instead of $39,609,000 as provided under this heading in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2232).

GENERAL PROVISIONS

SEC. 101. Sec. 112 of the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2234), is amended by striking "April 15, 1991" and inserting "May 17, 1991".

SEC. 102. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1991 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1991".

The CHAIRMAN. Are there any points of order?

Are there any amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Page 31, insert after line 20 the following new section:

SEC. 135. (a) The Mayor shall ensure that the requirements of the Buy American Act apply to all procurements made with any funds provided under this Act.

(b)(1) If the Mayor, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the United States Trade Representative shall rescind the waiver of the Buy American Act with respect to the procurement of such types of products produced in that foreign country with funds provided under this Act.

(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(c) The Mayor shall submit to Congress a report on the amount of procurements from foreign entities made in fiscal years 1992 and 1993 with funds provided under this Act. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to any agreement described in subsection (b)(2), the Trade Agreements Act of 1979, or any international agreement to which the United States is a party.

(d) No contract or subcontract made with funds provided under this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

(e) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds provided under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(f) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Depart-

ments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, this is an agreement that was reached with the authorizing committee and the Committee on Appropriations on Buy American language.

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. DIXON. Madam Chairman, I am opposed to this amendment because I do not understand its total implications and how it would affect the District government. I have indicated to the gentleman from Ohio [Mr. TRAFICANT] that I would not ask for a rollcall vote. Also, his amendment is subject to a point of order, but I will not make that point of order.

Mr. GALLO. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey.

Mr. GALLO. Madam Chairman, we have no objections on this side.

The Chairman. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: Page 2, line 7, strike "$630,500,000" and insert "$611,268,000".

Mr. ROHRABACHER. Madam Chairman, this amendment, together with the next amendment I will offer, is another in the ongoing series of appropriations amendments aimed at holding spending to a 2.4-percent increase over the current level. If we could hold spending increases to 2.4 percent for the next 4 fiscal years, growth in revenues, with no tax increases, we would be able to catch up with growth in spending, and we would achieve a balanced budget.

Let me repeat that: If we can just hold spending growth to 2.4 percent, we are going to get control of the Federal deficit that threatens everything that we have in this country today.

Madam Chairman, I am pleased to be given the honor of offering this particular 2.4 percent amendment, because it is even more justified than any of the others.

It is true, Madam Chairman, that the District of Columbia government has taken a great turn for the better in the past year with the elections of Mayor Dixon, Chairman Wilson, and our own colleague, Mrs. NORTON. No one could be happier about the new, more realistic attitude in the District building than I. But, as a member of the D.C. Committee and Republican chairman of its Fiscal Affairs and Health Subcommittee, I have to note that this Congress has already been extremely generous with the District of Columbia and will still be very generous if my amendment passes.

Last week, the House passed the authorization bill for the Federal payment, setting the Federal payment level for fiscal year 1992 at $630 million. This in itself represented a 32-percent increase over the level of fiscal year 1990.

The Appropriations Committee has decided even this is not enough. Not only did they nudge up the regular Federal payment to $630.5 million, they added four extra Federal payments, making the total Federal payment, not including the pension fund contributions, to $643.7 million, or 35 percent above the fiscal year 1990 level.

I am offering two amendments to get us to a reasonable level of spending. The first reduces the regular Federal payment from $630.5 million to $611.3 million. The second amendment takes out all the additional Federal payments that take this bill beyond the level of the authorization bill we just passed here on this floor last week.

Madam Chairman, Congress is facing a budget deficit of over $400 billion. That is over a billion dollars a day in the red that we are spending. With this massive deficit, we cannot give even the most beloved and deserving Federal agencies as much as we might like them to have. Neither can we do that for the D.C. government.

It is time to say, "Enough is enough." And locking in a 25-percent increase over 2 years, plus 2.4 percent more is going to have to be enough. I ask my colleagues to support this small step toward fiscal sanity and ask them to vote for my amendments.

Madam Chairman, if we are going to have a viable government, if we are going to have the resources we need to do what is necessary for the well-being of our citizens across the United States of America, we have to be responsible.

□ 1050

We have to come to grips with this deficit and holding the spending level at 2.4-percent increase across the line is a very responsible and a very effective way of getting control of the deficit without causing the maximum degree of pain. If we do not get control of the deficit now with these very reasonable approaches of keeping growth to 2.4 percent, in the future we are going to face, and it is in the near future, a mammoth crisis that will overwhelm this body and overwhelm the well-being of the American people.

The young people who watch this debate in the galleries are going to be strapped with a debt that is going to knock the legs out from the economy in which they will live. They will not have jobs. This body will not be able to allocate money for the projects that they think are necessary because this body will be overwhelmed with red ink.

It is unfair. It is absolutely irresponsible for us to go on with this unrestricted spending. My proposal is a modest proposal keeping the growth of spending to 2.4 percent, and this can be done in the District of Columbia as well as other spending bills.

Mr. DIXON. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I rise in opposition to this amendment for several reasons.

First of all, let me point out that this bill is within the 602(b) allocation.

Second, the House authorizing committee on which this Member from California sits, passed out an authorization for $630 million 2 weeks ago.

Third, the Federal payment, in my opinion, has been long overdue for an increase. As the delegate from the District of Columbia pointed out yesterday, the last time the Federal payment was increased was in 1984. At that time it was set at $425 million and it has been held at $425 million since that time.

Fourth, it is important that since the District of Columbia has new leadership and they have really taken extreme measures to provide for not only a balanced budget, but curtailing their programs, they need every dollar in this bill.

The Federal payment is not a gift to the District of Columbia. It is in lieu of property taxes. We have cut them over the last 7 years and I think it is inappropriate to cut them now.

The second amendment that the gentleman from California recommends is cutting $12 million from the D.C. General Hospital. Public health is a serious issue in this community. It not only affects the citizens of this community, it can ultimately affect the tourists who come to visit.

There are 120,000 uninsured people that receive medical services here in the District of Columbia. Why the gentleman would select cutting health programs for people who are poor and uninsured, I do not understand.

Further, we all have a concern with the D.C. Board of Education and with the public school system. The gentleman's amendment would cut $1.1 million from renovations to public schools. We have all seen the rundown conditions of some of the public schools. The gentleman from New Jersey [Mr. GALLO] and I have been working on this project for the last 2 years. Why the gentleman has selected to cut $1.1 million from renovations and maintenance of public schools, I cannot imagine.

All in all, Madam Chairman, it seems very clear that the District government's new leadership is performing well. They are taking extraordinary measures to cut employment and to reduce their accumulated general fund deficit. And the projects that are funded in this bill involve health and education and are well supported by the testimony we received. And they are certainly supported by the authorizing committee.

Madam Chairman, I would ask Members to vote against this amendment.

Mr. GALLO. Madam Chairman, I move to strike the last word, and I rise in opposition to the Rohrabacher amendment.

Madam Chairman, this amendment would reduce the Federal payment from $630.5 million to $611 million.

Our bill as it currently stands is consistent with the authorization bill that only recently passed this House by unanimous voice vote.

It is also in compliance with the budget resolution and within our 602(b) allocation.

The House approved the higher Federal payment because of its faith in the new leadership of the District, its understanding about the current financial crisis in our Nation's Capital and because it is our best opportunity in years to help put an end to the problems in the District and put this city back on the right track.

Let's not waste this opportunity.

It may be an easy budget vote to vote in favor of this cut, but I urge my colleagues to reject this cut and support our efforts to restore pride in our Nation's Capital.

Mr. AUCOIN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong support of this piece of legislation.

The District of Columbia has impressive new leadership in city hall, and I think this bill reflects the confidence of Members of Congress in that new leadership; so at a time when we all have very, very high hopes for a new era in this Nation's Capital city and in the District government, I find it surprising and I find it deplorable that the President is once again threatening to veto this piece of legislation, this bill that provides pass-through funding and funding for the District of Columbia.

Why is the President willing to veto money for such things as the Children's Hospital, for education, for public safety here in the Nation's Capital? Well, it is because the bill allows the District the same degree of local control over abortion funding, with local taxpayers' dollars for poor women that is currently enjoyed in every other city in every other State in the land. That is the reason.

I find that an incredible statement, an incredible fact; nevertheless, it is true.

I guess I only have one message for the President, and it is this: "Mr. President, you have already paid your debt to the antichoice extremists several times over. I urge you to sign this piece of legislation and get on with the Nation's business."

Mr. WALKER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in favor of the amendment of the gentleman from California.

This is the balanced budget amendment, and the gentleman from California has described it very adequately and accurately; but I would remind the Members that really the question here is one of priorities, because what the gentleman from California is attempting to do is assure that as we consider spending in the House, we consider the option of ultimately balancing the Federal budget.

Now, I realize that is a difficult thing, but there are an awful lot of Members of this House, in fact I would say the vast majority, in fact I would say three-quarters of the Members of this House have gone on record at some point in their districts saying they favor a balanced budget.

Now, a lot of those Members of Congress who say that they voted against the constitutional amendment to balance the budget because they said, "Well, we ought not burden the Constitution. We ought to have the guts to stand up and do what is right and cut the spending."

Well, that seemed to me and to others to be a challenge. If in fact we are going to stand up and cut the spending, then what you have to do as spending bills come through, you have to have some standard that assures that the end product is a balanced budget.

In this particular instance, the gentleman from California has described accurately how we would achieve that. If you can hold for 4 fiscal years a spending level at 2.4 percent above the 1991 levels, in other words, 2.4 percent each year, you can get to a balanced budget by the fiscal year 1995.

A lot of the American people would like to see us get to a balanced budget by 1995. The reason why they would like to see us get there is they are disturbed by the increasing problem of massive Federal debt and the interest payments that go with it. We could very well by 1995, as we proceed down the route we are going, end up paying more interest each year than we pay for national defense, and then the burden of that ongoing for the next generation of Americans is just absolutely unbelievable.

So some of us have determined that regardless of the consequences that are involved in some of the decisions that are being made, we think that the highest priority ought to be a balanced budget and we ought to hold the line to that balanced budget.

□ 1100

Now, believe me, this does not bring about any great sacrifice. We take all of the priorities that the committees have determined and simply put a spending cap on these priorities so that the spending cap reflects a 2.4-percent increase. So no priorities are going to be eliminated.

This is simply going to be trimmed down to fit within a balanced budget. In this particular case I think the committee accurately described what would happen: The Federal payment would be trimmed back.

I realize in the District of Columbia that will not be popular. I would say to the Members of this body, think about the priority. Are you more in favor of the Federal payment to the District or are you more in favor of doing something that will ultimately help us—just help us, this does not do it all by itself—help us to get to a balanced budget?

Later on today I will be offering a similar amendment to the HHS bill. There it is a much tougher decision, I would say, for the Members. There are a lot of hard-nut programs that you have to trim back a little in order to get to a balanced budget.

But the fact is we ought to be willing to do that too if we are going to achieve a balanced budget at some point for our society.

So that is the real issue here. It is a matter of priorities. Some people are going to decide to them increasing the Federal payment to the District is more important than a balanced budget. Fine, go ahead and vote that way if that is your sense of priorities. I am sure your constituents will understand.

To me, the balanced budget is such that I think that that is what is important to do.

Yesterday we had a couple of Members come to the floor, and their attempt to cut Federal spending was to take $42,000 away from the protection of the Vice President's children. I would say that saving several million dollars in this amendment might get us closer to a balanced budget over the long term than the kinds of games that we play on the floor with a few thousand dollars here and there.

So, I would ask the Members to support the Rohrabacher amendment. The Rohrabacher amendment does do the job in this particular bill of moving us closer to a balanced budget, something that I think a majority of the American people would like to do.

Mr. SMITH of Florida. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I yield to the gentleman from California [Mr. DIXON] the chairman of the subcommittee.

Mr. DIXON. I thank the gentleman for yielding.

Madam Chairman, I think the last speaker, the gentleman from Penn-

sylvania, points out quite clearly the problem with the D.C. budget. In essence, what he says is you can vote for a cut in this bill for political purposes. He says the next bill, the Labor-Health and Human Services Appropriations bill, is going to be harder to cut. He is exactly right.

This bill has no constituency. So what he says to you is that it is going to be harder to cut the next bill, but you can show the folks back home that you are for cuts by cutting the Federal payment, the money that is owed the District of Columbia in lieu of property taxes.

There have been a half dozen bills on this floor, and none of them has been able to take a 2.4 percent cut. Why? Because there are important programs in those bills that affect their constituents. And, yes, it is much more difficult to make a cut in Mr. NATCHER's bill, the Labor-Health and Human Services and Education bill, and very easy on this one.

But what is fair for some should be fair for all. You cannot balance the budget of the United States by constantly cutting the Federal payment to the District of Columbia.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding, because I just want to point out to the gentleman that there have been a number of bills on the floor where the 2.4 percent amendment has not been offered because the bill itself was below the 2.4 percent limit. So, in fact, the committee itself in several instances has determined a sense of priorities where the priorities in the bill are below the 2.4 percent.

Mr. DIXON. On those bills that a cut has not been offered, it was because they were within their 602(b) allocation. Our bill is also within our 602(b) allocation, but it is easy to offer an amendment to cut it for political reasons to show that you are for budget cuts.

Mr. WALKER. If the gentleman would yield further, all I would say to the gentleman is there are no politics involved here. We are offering this amendment to every one of the bills that come out here which is more than 2.4 percent above last year's spending. We are offering it to every bill which is more than that above 1991 spending.

So the issue is perfectly clear.

Mr. DIXON. The gentleman makes my point. On all of those bills where he has offered his amendment, the amendment has not passed.

Mr. WALKER. That is right.

Mr. DIXON. This bill is within the 602(b) allocation. What the gentleman suggested was this was an easy one to cut because there is no program here that affects any Member of Congress except the Delegate from the District of Columbia. That is clearly what he suggested when he said it would be much more difficult to cut Mr. NATCHER's bill that funds Labor, Health and Human Services and Education programs all across this country.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding further.

Madam Chairman, I want to point out to the gentleman I hope that was not my remark. What I said to Members was that this was a question of priorities, and I still believe it is a question of priorities and Members can make their own judgment as to whether it is an easy priority or a hard one.

Mr. SMITH of Florida. Well, I am glad the gentleman took the time, and I am glad that I yielded to him in the last few seconds, because I think that makes the chairman's point even more clear. This is a matter of priorities, and the reality is that those who keep insisting on these amendments are drawing priorities against people.

This is another one of those votes we are being asked to take against people, against American citizens who somehow become, for at least some Members on the other side, the lowest priority in this country.

This is not for projects, it is not for programs, it is not for a space station; it is not for anything but people.

And, Madam Chairman, this is to run the District of Columbia, the Federal share of what it costs to run the District of Columbia, for the loss that they sustain by virtue of having no tax revenues from the property which we have usurped to run this country, to put our Federal buildings on, et cetera.

This is what we are now talking about.

This amendment, as the chairman characterizes it, is easy because there is no constituency to fight against it. The trouble is it is not fair.

It may be easy, but there is no fairness here at all. This is not where you should draw the line on priorities.

People on the other side were willing to vote 2 weeks ago to spend a quarter of a billion dollars out of the HUD programs to put that into a space station. That is what the vision of their priority is. But that is not what most Americans really see as priorities. They want to see Americans as a priority, the people themselves as a priority.

I would urge all of the Members of this body to reject this type of prioritization, notwithstanding it is done in the name of deficit budget cutting.

Madam Chairman, I would urge people to remember what the chairman said.

Mr. BLILEY. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, this is indeed a matter of principle. This is the Nation's Capital. All of us have a constituency here, all of us have visitors who come here every year, 18 million of them a year.

Fifty-five percent of the property in this District is tax exempt. I dare say there is hardly another community in America with such a high percentage. We have height limitations on the District so that they cannot increase the height of their buildings and there by increase their tax base.

There are countless numbers of demonstrations every year for which the District has to supply police and other safety personnel.

We have heads of state who come and require police escorts, special protection, all of which underscores the responsibility that we have.

Yes, we have to be mindful of the budget, and the authorizing committee was mindful. The Mayor had originally requested 30 percent of local revenues as a Federal payment and had requested it for 5 years in the authorization. Realizing the budget problems that we have, the committee cut back the authorization to 24 percent, and we also limited it to 3 years.

We are not just talking about $20 million here, we are talking about restoring dignity, restoring relations between the District Building and indeed this House of Representatives.

□ 1110

If we vote for this amendment, we are inviting a failure of the Mayor and the Council to be able to come to grips with the massive problems they face. They do not have an easy task now, and we will surely see, in my opinion, the Mayor coming back to this body next spring for another supplemental. We do not want that.

I would remind my colleagues that Federal outlays based on constant 1982 dollars have risen 7 percent between 1977 and 1991. Yet the Federal payment measured in constant 1982 dollars has fallen by 5 percent. We cannot expect the District of Columbia to balance the Federal budget alone. All of us have a responsibility, and I would hope that the Members would reject this amendment.

Ms. NORTON. Madam Chairman. I move to strike the requisite number of words and I rise in opposition to the amendment.

Madam Chairman, I appreciate the kind remarks of the gentleman from California [Mr. ROHRABACHER], who offered this amendment. I appreciate his thoughtful study of the problems of the District of Columbia and his support for the concept of the Federal payment, but I want to associate myself with the remarks of the chairs on both sides of the aisle, with the remarks of the distinguished chair of the subcommittee of the Committee on Appro-

priations, the gentleman from California [Mr. DIXON], the ranking member, the gentleman from New Jersey [Mr. GALLO], and the ranking member of the authorization committee, the gentleman from Virginia [Mr. BLILEY].

Madam Chairman, I would note that I associate myself with the remarks from both sides of the aisle because this measure has come to this body with most unusual support, not only with a 10-to-2 vote out of the authorization committee, but in the Appropriations Committee and the subcommittee it had unanimous support.

I remind this body, Madam Chairman, that this bill broke precedent in another way. The Speaker of this body, Mr. FOLEY, and the minority leader, Mr. MICHEL, both sent letters to Members of this body supporting the bill containing this appropriation. Mr. MICHEL came to the well to speak for the Federal payment formula.

Madam Chairman, the District of Columbia lost close to $1 billion during more than 5 years of no increases. We have not tried to recover that amount. We recognize that we will never recover that amount. We remind this body that we did not stop delivering services to the Federal Government during this period of extreme drought in our Federal payment. What did we do instead?

Madam Chairman, what we did was to increase our own taxes by 50 percent in 5 short years. I submit that the residents of the District of Columbia, Madam Chairman, have made their contribution to balancing the budget by 1995 because we have taxed ourselves and absorbed expenses properly charged to the Federal Government during the last 5 years.

Madam Chairman, our residents are at this moment absorbing $200 million in cuts this fiscal year, and in the next fiscal year we will absorb another $200 million in cuts, for a cumulative $400 million in cuts. We come to this body not with our hands held out but with very clean hands, having dug even deeper into our own pockets. We, who are second per capita in taxes paid in the United States, say to the Members that this is the posture in which we come to this body, Madam Chairman, and our Mayor needs support, no lip service, as she now embarks on yet another and more difficult mission to downsize the District, which is what this body has asked her to do. She is attempting what very few Mayors have attempted successfully. She needs the support of this body now more than ever.

Mayor Sharon Pratt Dixon has won great support and respect in this body from her first day in office. She announced that there would be cuts by the District government before she came to this body, and that is one of the primary reasons she has won such respect in this body. Her respect is not without reason, and the way to respond or to show our respect to her is not simply by compliments but by voting this measure which she has requested. And we should understand that she requested less than she knows she needs. She has gone back to the businesses of the District already for increased taxes.

Madam Chairman, the reform that is underway is not free. It cannot be accomplished without the strong support of this body. This body will send a very negative signal to the residents of the District who thus far have supported the Mayor when she has asked them to do very, very difficult things—we will send a very negative signal if we vote to weaken the appropriation. The responsible thing is not always to cut; the responsible thing to do with this measure is to follow the Appropriation Committee's lead.

Ms. MOLINARI. Madam Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, first of all, we have several issues we have to examine when we are talking about this amendment, and it is important for everyone to understand that no one is asking for us to cut the amount of money that is going to the District of Columbia, just as the other proposals at 2.4 percent are not asking for cuts in the level of Federal spending on the various spending bills that are coming before this body.

What we are talking about is limiting the growth in Federal spending. That means there are no cuts taking place in Federal spending, but Federal spending is being brought under control, and the increase in Federal spending is being kept to 2.4 percent. This idea that we are cutting spending in any way is just giving a false impression of what the central issue is.

The central issue is that either we are going to control deficit spending or in a very short period of time deficit spending is going to control us. We must get Federal deficit spending under control or it is going to overwhelm this body. There are people who are crying, "Whoa," and that is true. We are saying, "Watch out, something is coming." There is a wave of deficit red ink that is headed in our direction and that is going to drown our society.

That is what this debate is about. It affects not just the District of Columbia payment, the money that we are giving to the District of Columbia. We are saying that we have to control the amount of increase in Federal spending, that we must keep it within 2.4 percent on the spending bills that come before this body. If we do that, future generations, those young people who watch us on C-SPAN, who watch us in the halls here, and who watch us debate, can be assured that their futures will be brighter because we are not spending the money that should be available to them and their representatives 10 years down the line. If we do not get Federal spending under control, what will happen is that their elected representatives will never have this option because they will be spending all the money on interest payments. Is that the legacy of democracy we want to leave the young people of this country? I say that holding down spending to 2.4 percent is a very reasonable and responsible approach. We are not calling for spending cuts. Let us note that if my proposal is accepted, spending for the District of Columbia would still be 28-percent higher than it was for fiscal year 1990. So what is all this about cutting spending?

□ 1120

I am saying that we can still have spending that is still 28-percent higher than it was 2 years ago. This is a tremendous increase in spending. But we have got to get control of it. One way to do it is to set this overall limit.

One of the side benefits of this is that local government in the District of Columbia will have to set priorities. We applaud the new mayor, Sharon Pratt Dixon, for the fact that she has taken some strong leadership positions and made some tough decisions. But let us note that the District of Columbia, before she came in to make these reforms, and we want to encourage her to make more reforms, that it was the most bloated local government in the entire United States of America. That is why these reforms were absolutely justified.

Madam Chairman, we have to have that same sort of decisionmaking that Mayor Sharon Pratt Dixon is making here in the District of Columbia. We have to have that same courage at the Federal level. We have to be able to prioritize. If we just keep passing more and more spending, saying that we are not even going to set a limit on how high that spending can go, we are asking on one to make the responsible decisions of what should and what should not be increased.

Let me note that we are not talking about spending for hospitals being cut, nor all of the other things one hears that touches one's heartstrings. We are not talking about cutting spending to those. We are talking about keeping control on the growth in spending of those institutions, not actually cutting the amount of money that they will have when the whole process is over.

Madam Chairman, is it wrong to say let us try to make our hospitals and our institutions more effective by making sure that we just do not pour more money on more money, and that we will actually limit the growth, thus ensuring the quality of life of the young people who will follow us and generations of Americans to come? This is a very responsible approach,

and I would ask Members to support my amendment, which is part of an overall program to try to get control of the Federal deficit.

Mr. GEKAS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I fall in line with many of the Members who want to see a balanced budget come about. I have strenuously supported all measures up to now throughout the entire incumbency that I have enjoyed in attempting to reach that hallowed place of the balanced budget, and I will continue to do so. But for the moment, I will lapse from that ecstasy of reaching the balanced budget, for an important reason.

Madam Chairman, I believe that the entire country was looking with disgust and dismay at the leadership of the District of Columbia for the last several years, and that that seeped over into a disgust that the Congress of the United States felt about what was happening in its neighborhood in the District of Columbia. But it is new day, and the new breath of fresh air that the new Mayor has brought in has restored a sense of confidence in the citizens themselves of Washington, DC.

Madam Chairman, more importantly, for our purposes, it has given the Members of Congress and the people across the land a new vision of possibilities for self-government at the highest level here in Washington, DC.

Madam Chairman, we cannot at this moment feel great about the new Mayor and the new breath of fresh air, and then rip away from her the modest tools that we are providing with these appropriations. Even though I feel they may be budget busters under the terminology that we use, this is an emergency situation. It is just as much an emergency situation as those kinds of emergencies which would compel the gentleman from Pennsylvania and the gentleman from California, my fellow colleagues, that kind of emergency which would make even them bander away for a while from an effort to reach a balanced budget. That is how strong I feel about it.

Madam Chairman, I want to see this Mayor succeed. I want to see the neighborhoods brought back to a sense of order. I want the partnership and neighborhoodship between the Congress of the United States and the District of Columbia to flourish. This is an excellent time to do so.

I was in a taxicab this morning with a taxi driver who lives in the District of Columbia, who said he did not vote for Dixon; he voted for one of the other candidates that were on the ticket at that time. But he is so glad, even though he made a mistake, that the populace did not make a mistake, and that it is a change for the better.

Madam Chairman, we have to endorse that change for the better and support the District. This is part of our domain. This is our neighborhood. This is part of the future of our country, from the standpoint of the search for better government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 270, not voting 9, as follows:

[Roll No. 197]

AYES—153

Allard
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bentley
Bereuter
Bilirakis
Boehner
Brooks
Broomfield
Bunning
Burton
Byron
Camp
Campbell (CA)
Campbell (CO)
Clement
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
English
Fawell
Fields
Gallegly
Geren
Glickman
Goss
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (SD)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lent
Lewis (FL)
Lightfoot
Lipinski
Livingston
Luken
Machtley
Marlenee
McCandless
McCollum
McCrery
McEwen
Miller (OH)
Moorhead
Murphy
Neal (NC)
Nichols
Nussle
Orton
Packard
Pallone
Patterson
Paxon
Penny
Peterson (MN)
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skelton
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wylie
Zeliff
Zimmer

NOES—270

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chandler
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Gradison
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—9

Ackerman
Callahan
Early
Harris
Hopkins
Martin
Michel
Rhodes
Sundquist

□ 1146

Mr. OXLEY and Ms. WATERS changed their vote from "aye" to "no."

Mr. HYDE and Mr. GUNDERSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: Beginning with page 2, line 14, strike out all through page 3, line 19.

Mr. ROHRABACHER. Madam Chairman, my second amendment should be less controversial and easier for my colleagues to accept. It merely removes the additional special Federal payments that the committee has added that go beyond the level of the authorization bill we just adopted on the floor last week.

The provisions struck by this amendment add additional special Federal payments totaling $13.2 million for agencies of the District government that can be funded perfectly well under the regular Federal payment. If there is any fiscal discipline in this House at all, surely we can draw the line here. Let us at least say that we are not going to pile money on top of more money, ignoring even our own authorization ceilings.

If the House adopts this amendment, the bill will still contain a Federal payment for fiscal year 1992 of $630.5 million, still slightly above the authorized level of $630 million. For that reason, I understand that my colleague, the ranking member of the District of Columbia Committee, will not be opposing this amendment. I ask my colleagues to vote for this amendment to simply reiterate what this House did last week.

□ 1150

Mr. DIXON. Madam Chairman, this is the last amendment I know of, and we will be moving to final passage after this amendment.

I rise in opposition to this amendment, Madam Chairman. This is really a mean amendment. It goes further than the 2.4 percent across-the-board cut, in my opinion.

The gentleman from California reaches in and he pulls $75,000 from the police department. On what basis? I do not know. He reaches in and he pulls $1.1 million from the Board of Education. On what basis? I do not know.

There is a health crisis in this city in the sense of health service delivery. The D.C. General Hospital is the only public hospital in this city and it serves the indigent and the underinsured people of the district. In a bipartisan manner, the gentleman from New Jersey [Mr. GALLO] and I thought that they needed an additional $12 million to keep that hospital operating effectively. The gentleman from California, just arbitrarily reaches in and pulls that out. He says that, in fact, they can do without this money. The committee on which he serves has had no hearings on this subject.

Mr. ROHRABACHER. If the gentleman will yield, he did attribute something to me that I did not say.

Mr. DIXON. Madam Chairman, I will be glad to yield when I complete my remarks. Let me make my statement first.

The gentleman reaches in and he pulls $12 million from the D.C. General Hospital. That hospital serves a constituency of at least 120,000 people, mostly uninsured, but certainly underinsured people.

There has been testimony that that hospital is about to burst at the seams. Certainly, our committee took hours of testimony on the state of health here, and I think this $12 million is not only richly deserved but desperately needed. I ask all Members to oppose this cutting amendment.

Mr. ROHRABACHER. Madam Chairman, will the gentleman yield?

Mr. DIXON. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Madam Chairman, my position was not that the hospital did not need the money, but that that money could be available from the Federal payment, from the rest of the Federal payment, rather than breaking the ceilings that we had set. I am not at all suggesting that the hospital does not need the money. I am suggesting if it does need the money that there are ways to get that money from the Federal allocation that we have already set, rather than breaking our own limits.

Mr. DIXON. Madam Chairman, I can only speak for myself, but the ranking member and I have gone over the details of this budget with the rest of the committee. We are satisfied that the District needs every dollar in this budget. And this bill is within the 602(b) budget resolution allocation.

I ask for a "no" vote.

Mr. BLILEY. Madam Chairman, I move to strike the requisite number of words. Madam Chairman, I will not take the entire 5 minutes. I had not planned to speak, but I must speak.

I agree with the gentleman from California that these appropriations should have been authorized. I ask the chairman of the Committee on Appropriations and the ranking member that, in the future, that these requests, since we now have a fixed formula payment, be referred to the Authorizing Committee.

However, my colleagues, I beg all Members, do not throw the baby out the bathwater, literally. Twelve million for D.C. General Hospital, which has an emergency room which treats thousands of patients every year that have no insurance. We have closed one hospital on Capitol Hill. We cannot afford to have another one closed.

For my Republican colleagues, I beg those Members not to throw out this $12 million on a technicality.

We send money to Bangladesh. We send money to Ethiopia. We send money to a lot of place. It is right that we do so. Let Members not forget the uninsured people here at home, and take care of D.C. General Hospital.

In the future, let Members make sure that these come through the authorizing process. I urge a rejection of the amendment.

Mr. GALLO. Madam Chairman, I move to strike the requisite number of words. I, too, rise against this amendment.

Some of the areas that we are talking about were outlined by the chairman of the committee, the gentleman from California [Mr. DIXON], and are very important to the District itself. There are other areas that are also very important.

We are talking about additional foot patrol in the District of Columbia. I do not think there is a person on this floor that does not want to see that, in an effort to bring about more in the way of law and order.

There is an amendment set aside, only $25,000, to have the District police department accredited, making outside individuals coming in for an accreditation process, not only for the police, but also for the training center. This is an important part of the overall bill.

I would like to stress to my colleagues, that it is very important that we defeat this amendment.

Ms. NORTON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I simply want to make one final plea on behalf of the residents of the District. It is very hard to reform a government when we are in the midst of a fiscal crisis. The District is trying to do that at this time. This body has been very kind over the past 6 months to the Mayor of our city and to the residents of our city. We ask you to continue to help our city reform itself.

Members of this body have had wonderful things to say about the reform that is under way in the District of Columbia, and about the actions of our new Mayor, Sharon Pratt Dixon. Our new Mayor is very appreciative. Our residents are very appreciative for the response of this body to our concerns.

I ask Members to continue to support the District of Columbia as we dig into our own pockets, deeper than we are asking Members to dig, to support ourselves.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. INHOFE

Mr. INHOFE. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. INHOFE: Page 31, insert after line 20 the following new section:

SEC. 135. None of the funds provided in this Act may be used for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the curent structure and grounds located at such property.

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. INHOFE. I yield to the gentleman from California.

Mr. DIXON. Madam Chairman, I have no objection to this amendment and am happy to accept it.

Mr. INHOFE. Madam Chairman, just a brief explanation of the amendment. This does not call for any cuts. For those Members who are aware, this merely precludes the use of Federal funds for a massive reconstruction at the Eastern Market.

□ 1200

The current Mayor of the District of Columbia is not planning to do anything with this for some time. I do not know of any large group that is opposed to this, but at least it gets it on the table and precludes these funds from being used.

These are funds, however, that can be used for bringing it up to code and doing things that actually become necessary.

Madam Chairman, I think the committee chairman is in support of this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. INHOFE].

The amendment was agreed to.

Mr. PANETTA. Madam Chairman, I rise in support of H.R. 2699, the District of Columbia appropriations bill for fiscal year 1992. This is the 10th of the 13 annual appropriations bills to be considered by the House.

The bill provides $700 million in discretionary budget authority and $690 million in estimated discretionary outlays, which is identical to both the level of domestic discretionary budget authority and outlays as set by the 602(b) spending subdivision for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its three remaining regular bills.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 24, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2699, the District of Columbia Appropriations Bill for Fiscal Year 1992, scheduled to be considered on Tuesday, June 25, subject to a rule being adopted.

This is the tenth regular Fiscal Year 1992 appropriations bill to be considered. The bill is equal to the discretionary budget authority and outlay 602(b) spending subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact Sheet]

H.R. 2699, DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102-120)

The House Appropriations Committee reported the District of Columbia Appropriations bill for Fiscal Year 1992 on Thursday, June 20, 1991. Floor consideration of this bill is scheduled for Tuesday, June 25, 1991, subject to a rule being adopted.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $700 million of discretionary budget authority and $690 million in estimated discretionary outlays, the same as the Appropriations 602(b) subdivision for this subcommittee. A comparison of the bill with the funding subdivisions follows:

COMPARISON TO DOMESTIC SPENDING ALLOCATION

[In millions of dollars]

	District of Columbia Appropriations Bill		Approp. Committee 602(b) Subdivision		Bill Over (+)/ Under (−) Committee 602(b) Subdivision	
	BA	O	BA	O	BA	O
Discretionary	700	690	700	690		
Mandatory[1]						
Total	700	690	700	690		

[1] Conforms to the budget resolution estimates for existing law.

Note: BA—New budget authority; O—Estimated outlays.

Following are major program highlights for the District of Columbia Appropriations Bill for fiscal year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Federal payment to the District of Columbia	630	630
Federal contribution to retirement funds	52	52
D.C. General Hospital	12	2

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Mr. DIXON. Madam Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BEILENSON) have assumed the chair, Mrs. KENNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2699) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, had directed her to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 123, not voting 9, as follows:

[Roll No. 198]

YEAS—300

Abercrombie	Dorgan (ND)	Jefferson
Alexander	Downey	Jenkins
Anderson	Durbin	Johnson (CT)
Andrews (ME)	Dwyer	Johnson (SD)
Andrews (NJ)	Dymally	Johnston
Andrews (TX)	Eckart	Jones (GA)
Annunzio	Edwards (CA)	Jones (NC)
Anthony	Edwards (TX)	Jontz
Applegate	Engel	Kanjorski
Aspin	Erdreich	Kaptur
Atkins	Espy	Kennedy
AuCoin	Evans	Kennelly
Bacchus	Fascell	Kildee
Ballenger	Fazio	Kleczka
Barnard	Feighan	Klug
Bateman	Fish	Kolbe
Beilenson	Flake	Kolter
Bennett	Foglietta	Kopetski
Berman	Ford (MI)	Kostmayer
Bevill	Ford (TN)	Lancaster
Bilbray	Frank (MA)	Lantos
Bliley	Franks (CT)	LaRocco
Boehlert	Frost	Lehman (CA)
Bonior	Gallo	Lehman (FL)
Borski	Gaydos	Lent
Boucher	Gejdenson	Levin (MI)
Boxer	Gekas	Levine (CA)
Brewster	Gephardt	Lewis (CA)
Brooks	Geren	Lewis (GA)
Browder	Gibbons	Lipinski
Brown	Gilchrest	Lloyd
Bruce	Gillmor	Long
Bryant	Gilman	Lowery (CA)
Bustamante	Gingrich	Lowey (NY)
Byron	Glickman	Machtley
Campbell (CA)	Gonzalez	Manton
Cardin	Goodling	Markey
Carper	Gordon	Martin
Carr	Gradison	Martinez
Chandler	Gray	Matsui
Chapman	Green	Mavroules
Clay	Guarini	Mazzoli
Coleman (TX)	Gunderson	McCloskey
Collins (IL)	Hall (OH)	McCurdy
Collins (MI)	Hall (TX)	McDade
Conyers	Hamilton	McDermott
Cooper	Hammerschmidt	McHugh
Costello	Harris	McMillan (NC)
Coughlin	Hatcher	McMillen (MD)
Cox (IL)	Hayes (IL)	McNulty
Coyne	Hefner	Meyers
Cramer	Hertel	Mfume
Darden	Hoagland	Miller (CA)
de la Garza	Hobson	Miller (WA)
DeFazio	Hochbrueckner	Mineta
DeLauro	Horn	Mink
Dellums	Horton	Moakley
Derrick	Houghton	Molinari
Dicks	Hoyer	Mollohan
Dingell	Hubbard	Montgomery
Dixon	Hughes	Moody
Donnelly	Inhofe	Moran
Dooley	Jacobs	Morella

Morrison	Reed	Stenholm
Mrazek	Regula	Stokes
Murtha	Richardson	Studds
Nagle	Ridge	Swett
Natcher	Riggs	Synar
Neal (MA)	Roe	Tallon
Neal (NC)	Roemer	Tanner
Nowak	Rose	Tauzin
Oakar	Rostenkowski	Thomas (CA)
Oberstar	Rowland	Thomas (GA)
Obey	Roybal	Thornton
Olin	Russo	Torres
Olver	Sabo	Torricelli
Ortiz	Sanders	Towns
Orton	Sangmeister	Traficant
Owens (NY)	Savage	Traxler
Owens (UT)	Sawyer	Unsoeld
Oxley	Scheuer	Valentine
Panetta	Schiff	Vento
Parker	Schroeder	Visclosky
Payne (NJ)	Schumer	Walsh
Payne (VA)	Serrano	Washington
Pease	Sharp	Waters
Pelosi	Shays	Waxman
Penny	Sikorski	Weiss
Perkins	Sisisky	Weldon
Peterson (FL)	Skaggs	Wheat
Peterson (MN)	Skeen	Whitten
Pickett	Slattery	Williams
Pickle	Slaughter (NY)	Wilson
Poshard	Smith (FL)	Wise
Price	Smith (IA)	Wolf
Pursell	Snowe	Wolpe
Rahall	Solarz	Wyden
Rangel	Spratt	Yates
Ravenel	Staggers	Yatron
Ray	Stark	Young (FL)

NAYS—123

Allard	Hansen	Quillen
Archer	Hastert	Ramstad
Armey	Hayes (LA)	Rinaldo
Barrett	Hefley	Ritter
Barton	Henry	Roberts
Bentley	Herger	Rogers
Bereuter	Holloway	Rohrabacher
Bilirakis	Huckaby	Ros-Lehtinen
Boehner	Hunter	Roth
Broomfield	Hutto	Roukema
Bunning	Hyde	Santorum
Burton	Ireland	Sarpalius
Callahan	James	Saxton
Camp	Johnson (TX)	Schaefer
Campbell (CO)	Kasich	Schulze
Clement	Kyl	Sensenbrenner
Clinger	LaFalce	Shaw
Coble	Lagomarsino	Shuster
Coleman (MO)	Laughlin	Skelton
Combest	Leach	Slaughter (VA)
Condit	Lewis (FL)	Smith (NJ)
Cox (CA)	Lightfoot	Smith (OR)
Crane	Livingston	Smith (TX)
Cunningham	Luken	Solomon
Dannemeyer	Marlenee	Spence
Davis	McCandless	Stallings
DeLay	McCollum	Stearns
Dickinson	McEwen	Stump
Doolittle	McGrath	Taylor (MS)
Dornan (CA)	Miller (OH)	Taylor (NC)
Dreier	Moorhead	Thomas (WY)
Duncan	Murphy	Upton
Edwards (OK)	Myers	Vander Jagt
Emerson	Nichols	Volkmer
English	Nussle	Vucanovich
Fawell	Packard	Walker
Fields	Pallone	Weber
Gallegly	Patterson	Wylie
Goss	Paxon	Young (AK)
Grandy	Petri	Zeliff
Hancock	Porter	Zimmer

NOT VOTING—9

Ackerman	Hopkins	Rhodes
Baker	McCrery	Sundquist
Early	Michel	Swift

□ 1232

The Clerk announced the following pair:

On this vote:

Mr. Ackerman for, with Mr. Baker against.

Messrs. HYDE, LIVINGSTON, and SLAUGHTER of Virginia changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 2699, a bill just passed.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2707) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Madam Speaker, I ask unanimous consent that general debate be limited to not to exceed 30 minutes, the time to be equally divided and controlled by the gentleman from Michigan [Mr. PURSELL] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Madam Speaker, reserving the right to object, do I understand that this is just for the general debate?

Mr. NATCHER. Madam Speaker, if the gentleman will yield, yes, it is for general debate only.

Mr. WALKER. Madam Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky Mr. NATCHER].

The motion was agreed to.

□ 1235

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2707, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 15 minutes, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I am pleased today to bring before the House the bill H.R. 2707, which appropriates funds for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year 1992. This bill appropriates $203,219 million for the 3 cabinet Departments and the 17 independent agencies which come under its jurisdiction. This includes $10,874 million for the Department of Labor, $162,865 million for the Department of Health and Human Services, and $31,342 million for the Department of Education. These amounts are described in detail in House Report 102-121 which was filed in the House last Thursday.

Mr. Chairman, I will highlight these amounts for the House in a minute but first I want to say that it is an honor and a privilege for me to chair the subcommittee which develops the bill we bring before you today. It deals with the issues which are so important to our country—health, education, job training, and safety, to name a few. You have heard me say many times that when you take care of the health of your people and educate your children, you continue living in the strongest country in the world. I will tell Members honestly, however, that this is the most difficult bill which I have worked on since I became chairman 12 years ago. The limitations imposed by last year's budget summit agreement have meant that there is not enough money to do the things which the committee believes are necessary. We have been able to provide many of the increases which we believe the House supports but there are also many areas where the amounts in the bill are not adequate. We know that; but the additional amounts are just not available for 1992.

I also want to say at this point that it is an honor and privilege for me to serve on the Appropriations Committee with my big chairman, JAMIE WHITTEN. As a member of the subcommittee, he has helped us down through the years on this bill, and we appreciate his support. As you know, this is the first time in many years that we will be presenting this bill to the House without Silvio Conte. We all miss Silvio; he was one of the ablest Members of the House, and no one was more concerned

about the programs in this bill than he was. We are pleased to have CARL PURSELL as our new ranking member, and I want to thank him for the support he has given us throughout the hearings and the markup. I also want to thank each of the other members of the subcommittee who worked many days putting together this difficult bill.

Mr. Chairman, despite the limitations imposed on the committee by the budget summit agreement, we believe that the bill we bring before you today is a good one. We have tried to strike a careful balance among many important program needs and the concerns of the Members. We have had 13 weeks of hearings, which included testimony from 478 public witnesses and 127 Members of Congress. We have received 1,455 written requests from Members. In trying to accommodate all these concerns, we have faced difficult choices. As many of you have heard me say, we were short by about $1.7 billion compared to the amount we believe could have been fully justified. The President's budget proposed some good increases, such as the $498 million increase for biomedical research, but he financed them with program cuts that Congress has traditionally rejected—areas like health professions training, community services, libraries, low income home energy assistance, impact aid category B, State legalization assistance grants, and Medicare user fees. This year we did not have the funds to restore all the cuts and also provide all the increases we would have liked.

We had to set priorities for our scarce dollars, and our highest priorities went to the areas our committee feels are investments in the future of this country: elementary and secondary education and biomedical research. I am pleased to report that our bill provides a $2,458 million increase over 1991 for education, including a $250 million increase for Head Start. The National Institutes of Health receives a $548 million increase over 1991—enough funding to support approximately 6,000 new research grants.

This year, we heard persuasive testimony from Members of the House, particularly our women Members, about the need for increased research into conditions that affect women. Within the funding provided for NIH, we have made research into women's issues our highest priority. We have provided $25 million to start a multiyear women's health clinical trial, $30 million is added to the Cancer Institute for breast and ovarian cancer research, and more than $15 million is added in other Institutes for research in areas such as reproductive health, osteoporosis, and infertility. We also provide $50 million for the new breast and cervical cancer screening program, an increase of $21 million over last year.

I am also proud to tell Members that, for the third year in a row, the committee has provided $1 billion increase for chapter 1, for a total of over $7 billion for this vital program. With these additional funds, the program will serve about 70 percent of eligible students. The bill also includes substantial increases for vocational education, historically black colleges, math/science education, bilingual education, and the TRIO program. Of interest to the 55 Members who testified before our Subcommittee on Impact Aid, and the many others in the House who care about this program, we have restored category B payments to the 1991 level of $137 million.

Despite the constraints of our 602(b) allocation, we have been able to support increases for other programs of concern to the Members. The bill includes $1.88 billion for AIDS research, prevention, and treatment, which is $63 million above last year and $7 million above the President's request. Within this total, the Ryan White programs receive an increase of $26 million. Enough funding is provided to support the two cities that are newly eligible for assistance. Funding for childhood immunizations increases by $80 million over last year's level, to a total of $298 million. Additional funding of $20 million is provided for the Stewart McKinney homeless programs over the 1991 level, including a total of $37 million for the education for homeless children program. The bill includes $139 million for the infant mortality initiative proposed by the President, up from the $25 million allocated in 1991.

There are two areas, in particular, however, where the committee was not able to provide funding in the amounts which we would have liked. These are low-income home-energy assistance and State immigration grants. In the case of low-income energy assistance, the bill includes $1,600 million, which is $575 million more than requested by the President; $600 million of this amount, however, is in an emergency fund to be available if released by the President under the provisions of the 1990 Budget Enforcement Act. We would have liked to restore this cut completely but the outlays were just not available. In the case of immigration assistance, the President proposed to rescind the full $1,123 million currently available for 1992. The committee did not approve this, but we did delay the payment of these funds for 5 months until October 15, 1992. This gave the committee an outlay savings of $359 million which was used to fund increases throughout the bill.

In addition to highlighting the major funding issues in the bill, I also want to make Members aware that the bill includes two new general provisions, one requiring parental notification in family planning programs and the second prohibiting the Department of Health and Human Services from implementing the family planning regulations upheld in the recent Rust versus Sullivan Supreme Court decision, the so-called gag rule. I am deeply concerned that these provisions will trigger a veto from President Bush, but they represent the will of the majority of the committee.

In closing, I commend this bill to my colleagues. We have fully utilized, but not exceeded, our 602(b) outlay ceiling. We have done our best to meet the needs of the country with the resources we were allocated. We ask for your support.

H.R. 2707, the fiscal year 1992 appropriations bill for the Departments of Labor, Health and Human Services, and Education, and 17 related agencies, includes appropriations totaling $203,219 million, which is $2,563 million over the amounts requested by the President, and $18,494 million over the comparable amounts available for 1991.

Entitlement programs, whose funding levels are determined by authorizing legislation, comprise more than 71 percent of the bill's total appropriations. The bill includes $144,708 million for these entitlements, an increase of $117 million above the amount requested by the President and $16,177 million above the amounts available for these programs in fiscal year 1991.

For discretionary programs, whose spending is controlled through the annual appropriations process, the bill includes $58,510 million for fiscal year 1992, which is an increase of $2,446 million over the President's budget and $2,317 million above the amount available for fiscal year 1991. The committee has provided funding for currently unauthorized, ongoing programs at levels not in excess of fiscal year 1991 totals.

DEPARTMENT OF LABOR

The bill provides a total of $10,874 million for the Department of Labor, including $9,301 million for discretionary programs and $1,573 million for entitlements. The bill exceeds the President's request for discretionary programs at Labor by $213 million and the 1991 level by $322 million.

The bill includes $4,130 million for programs under the Job Training Partnership Act, an increase of $64 million over the 1991 level. This total includes $898 million for the Job Corps, which is $31 million over last year's level. This amount is sufficient to maintain the current centers and 41,338 training slots. The Dislocated Workers Program receives $577 million, which represents a $50 million increase over last year's rate. Community services employment for older Americans is supported at $390 million, an increase of $48 million over the request. Trust funds and general funds for State unemployment insurance and employment service operations total $3,157 million, $156 million above the 1991 level.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The bill includes $162,865 million for activities administered by the Department of Health and Human Services. For discretionary activities, the bill includes $24,553 million, which is an increase of $556 million over the amount requested by the President and $517 million below the comparable amount available for these programs in 1991.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

The bill provides $139 million for the infant mortality initiative proposed by the President, of which half is targeted to community and migrant health centers. This is an increase of $114 million over the funding provided in 1991. The bill restores the President's proposed reductions in health professions training, providing a total of $302 million for these activities. The bill also provides $74 million for minority health initiatives, compared to a 1991 funding level of $31 million. AIDS programs are funded at $283 million, of which $247 million is appropriated for the three titles of the Ryan White Act—an increase of $26 million over last year's funding.

CENTER FOR DISEASE CONTROL

The bill includes $1,391 million for the Centers for Disease Control, which is $79 million above the 1991 level. Major funding increases include: $80 million above 1991 for childhood immunizations to ensure that all children under the age to 2 can be vaccinated, and $21 million above last year for the new breast and cervical cancer screening program.

NATIONAL INSTITUTES OF HEALTH

The bill includes $8,825 million for the 20 appropriations which together fund the programs of the National Institutes of Health [NIH], including funding for AIDS research. The total for NIH is $548 million above the amount available in 1991 and $50 million above the administration request. Funds provided will be sufficient to support approximately 6,000 new research grants, consistent with the 4-year financial management plan established by Congress last year. The committee identified $146 million that could be reallocated within the President's request, principally from savings associated with recent revisions to the indirect cost circular and the blocking of the transfer of funds to the Agency for Health Care Policy and Research. These funds, along with $50 million in additional funding, were provided to the Institutes consistent with high priority needs identified during committee hearings. These areas include: funding for research into the special health problems of minorities and women, especially breast and ovarian cancer; prostate cancer; cystic fibrosis; pediatric AIDS; conditions of aging, especially Alzheimer's disease; kidney disease; and lupus. The committee provides almost $15 million to continue the Shannon grant program begun in 1991.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

The bill includes $2,918 million for these activities, of which $1,657 million is for currently unauthorized, ongoing programs. This is $11 million below the 1991 funding level and $131 million below the President's request. For currently authorized substance abuse activites, the bill provides $1 million above the administration request. Mental health research funding increases by $36 million over 1991, or 8 percent.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

The bill includes $115 million in general funds and Medicare trust funds, a decrease of $7 million below the President's request and the same as the 1991 level. The committee has included a limitation of $13 million on transfers from the other Public Health Service agencies, including NIH, CDC, ADAMHA, and HRSA, compared to the $50 million transfer requested by the President.

HEALTH CARE FINANCING ADMINISTRATION

The bill includes $59,899 million for the 1992 program level for the Medicaid program, which is $92 million above the administration request and $8,344 million higher than the 1991 level. For Medicare contractors $1,714 million is provided, including $257 million in a contingency for possible shortfalls in funding for beneficiary and provider inquiries and appeals. Also, provided is $21 million to continue the rural hospital transition demonstrations and $10 million is included for the essential access community hospital program. The bill includes $195 million for facility survey and certification activities which was not requested, in order to meet current law requirements.

SOCIAL SECURITY ADMINISTRATION

The committee recommends that $4,582 million be expended from the Social Security trust funds for administrative costs of the Social Security retirement, survivors, and disability program. This is $375 million more than the comparable 1991 operating level. Also $100 million is provided in a contingency fund to support the costs of unexpected workloads.

ADMINISTRATION FOR CHILDREN AND FAMILIES

The administration announced the creation of this new agency in April 1991. It will eventually consolidate what was formerly the Family Support Administration, the Office of Human Development Services, and the Maternal and Child Health Block Grant Program in the Health Resources and Services Administration.

The bill includes $15,162 million for the 1992 program level for family support payments to States, which is $1,167 million above the 1991 level and the same as the administration request; $1,000 million is provided for the Job Opportunities and Basic Skills Training Program; $1,600 million is provided for low income energy assistance programs, of which $1,000 million is allocated for the regular low income home energy assistance block grant program, and $600 million is provided in an emergency fund, to be made available upon submission of a request by the President designating it as an emergency; $294 million is provided for the refugee and entrant assistance program, which is $117 million below both the 1991 level and the President's request. The amount provided assumes that the cash and medical assistance program will be phased out after March 31, 1992. The committee delays the availability of $1,123 million in State legalization assistance grants until October 15, 1992. The President proposed to permanently rescind these funds. The committee restores the community services block grant to a level of $421 million. The President has proposed to terminate most of these activities. The bill provides $850 million for the child care and development block grant and child care licensing improvement grants, an increase of $105 million over the budget request and $250 million over the revised 1991 level of $600 million. The 1992 amount is partially funded through a reduction in the 1991 grants.

Within the Office of Human Development Services, the Head Start Program receives $2,202 million, an increase of $250 million over the 1991 level and $150 million over the President's request. An increase of $21 million is provided for comprehensive child development centers.

DEPARTMENT OF EDUCATION

For the Department as a whole, the bill includes $28,266 million, an increase of $5,383 million over the 1991 level and $1,685 million over the President's request. The amount for discretionary programs is $23,444 million, which is $2,458 million, or 11.7 percent, above the 1991 level, and $1,690 million over the President's request.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

The bill includes $7,065 million for chapter 1 of the Elementary and Secondary Education Act, which is $999 million above the 1991 level and $851 million above the administration request. The amount provided includes $5,805 million for basic grants to local school districts and $645 million for concentration grants. Also included is $100 million for the Even Start Program, and $38 million for capital expenses for private school students.

IMPACT AID

The committee bill provides $765 million for impact aid, $16 million below the 1991 level and $145 million over the budget request. This amount includes $586 million for category A and $137 million for category B payments, which are the same as the 1991 levels.

SCHOOL IMPROVEMENT

The bill includes $1,578 million for the 21 activities which together comprise the school improvement account. This total is $93 million above the 1991 level and $77 million above the President's request; $607 million is provided for drug-free schools. Funding for math and science programs increases by $38 million over 1991 to a total of $240 million.

EDUCATIONAL EXCELLENCE

The bill provides $500 million for educational excellence activities and permits the Secretary to allocate up to $250 million to new education initiatives if they are authorized by December 31, 1991. The bill provides that not less than $250 million of the increase is for the Head Start Program. This is $190 million less than the President's request for a new education package which must be considered by the authorizing committees.

BILINGUAL AND IMMIGRANT EDUCATION

The bill provides $249 million for these activities, which is $51 million above the 1991 level and $48 million above the request.

SPECIAL EDUCATION/REHABILITATION SERVICES

The bill provides $2,823 million for special education, which is $206 million above the 1991 level and $93 million above the President's request. The rehabilitation services and disability research account is funded at $1,999 million, which exceeds the 1991 appropriation by $109 million.

VOCATIONAL AND ADULT EDUCATION

The bill appropriates $1,371 million for the Carl D. Perkins Vocational Education Act, an increase of $367 million over both the 1991 level and the President's request. Included within this total is $1,077 million for basic grants, an increase of $220 million over 1991; $100 million for tech prep, an increase of $37 million over 1991; and $100 million for new supplemental grants for the acqusition of vocational education equipment and related program improvements. The bill also provides $280 million for adult education, an increase of $41 million over 1991.

STUDENT FINANCIAL ASSISTANCE

The bill provides $6,853 million for student financial assistance, which is an increase of $139 million over both the 1991 level and the President's request. This amount restores $156 million to Perkins loans and $64 million to State student scholarships, both of which the President proposed to eliminate. The committee bill maintains the maximum Pell grant at $2,400. Supplemental educational opportunity grants are funded at $570 million, an increase of $50 million over 1991 and $223 million over the President.

GUARANTEED STUDENT LOANS

The bill includes $3,106 million for the guaranteed student loan liquidating account, which is the current estimate of the funding that will be required to meet program obligations associated with loans borrowed prior to fiscal year 1992. This amount is $2,276 million below the 1991 appropriation for guaranteed student loans and the same as the budget request under current law; $2,867 million is also available under permanent law for loan subsidies and related administrative expenses for new loans made in 1992.

HIGHER EDUCATION

There is $120 million provided for historically black colleges and universities, an increase of $12 million over the request and $2 million over the 1991 level. Special programs for the disadvantaged [TRIO] receive $395 million, an increase of $51 million over 1991 and the same as the President's request.

LIBRARIES

The bill restores the funding for the library programs to the 1991 level $143 million. The President had proposed to reduce funding to $35 million. The bill includes $5 million for training.

RELATED AGENCIES

The bill includes $1,213 million for 17 related agencies. This amount is $12 million below the request and $54 million above the 1991 funding level. The total includes $253 million for 1994 funding for the Corporation for Public Broadcasting. Full funding of $315 million is provided for railroad retirement dual benefits.

□ 1240

Mr. PURSELL. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, I thank Chairman NATCHER for yielding the customary allotment of time. I also want to take this opportunity to congratulate the chairman on his completion of this year's bill and thank him for the outstanding leadership he has provided.

Last week our chairman was honored for casting his 17,000th consecutive vote in this House. At that time, the gentleman from Kentucky rose to say he counts it a distinct privilege to serve with his fellow Members of Congress. I wish to pause for a moment to comment on what a privilege it is for me to serve on this subcommittee with Mr. NATCHER.

As our chairman, Mr. NATCHER has earned the respect of Members from both sides of the aisle. His bipartisan style of leadership and evenhanded approach are appreciated. The genuine respect of his colleagues continues to be the hallmark of Mr. NATCHER's very distinguished career.

I also wish to congratulate the members of the Labor, Health, and Human Services, Education Subcommittee staff—Mike Stephens, Mark Mioduski, Bob Knisely, and Susan Quantius.

Likewise, I wish to thank and congratulate the Republican members of the subcommittee for their work and support—Mr. PORTER, Mr. YOUNG, and Mr. WEBER.

I also must acknowledge Education Secretary Alexander, Labor Secretary Martin, and Health and Human Services Secretary Sullivan for their testimony, support, and input throughout our process.

Mr. Speaker, I rise today in support of this appropriations bill. Although this is not a perfect bill, and there are places where it can be improved, I still believe, overall, it is a good bill.

This is a bill which outlines the priorities and programs of importance to the vast majority of Americans—programs which provide needed health care to the elderly, programs which provide access to medical treatment for the sick, programs which bring hot meals to the homes of our older population, programs which support our schools and institutions as they teach our young, programs which equip our workers with new skills and knowledge, programs which, in total, serve the people of this Nation.

As one of the Members of this body who remains concerned about the budget deficit and the level of government spending, I must point out that the increase in discretionary spending, in terms of budget authority, has been held to inflation—$53.6 billion, which is up only 4.1 percent. In terms of outlays, discretionary spending is set at $58.1 billion, representing an increase of 8.4 percent.

As the ranking minority member on the subcommittee, I would like to make some personal comments regarding three important areas.

First, I continue to be concerned about the accountability of our departments, agencies and their contractors. I believe there have been some celebrated examples of the misuse of funds which happens when we fail to hold funding recipients accountable. Providing better management of Government resources must remain a top priority within all of the departments and agencies included in this appropriations bill.

Second, I would like to draw attention to the need for field visits. Since becoming ranking minority member, I personally have placed an emphasis on conducting field visits to gain a better understanding of the programs we fund.

My visits have included Job Corps Centers in New York and Detroit, AIDS Health Centers, visits to the National Institutes of Health campus in Maryland, the Centers for Disease Control in Atlanta, hospitals, the Office of Education Research and Improvement [OERI], an OERI lab in Illinois, and many schools. Through these field visits, I have gained valuable knowledge and insight into a number of areas. I have seen firsthand the types of work going on, I have observed the levels of staffing, and I have had the opportunity to discuss the impact of Federal programs with those on the front lines.

These types of visits also demonstrate the interest of Members of

Congress, as well as our resolve to truly oversee the operations we fund. I will continue to emphasize field visits as a means of providing better leadership and management at the congressional level.

And third, I wish to comment on the construction of two NIH buildings named for two individuals who have played a very major role in our nation's health care policy.

One of the buildings, now under construction, will bear the name of my predecessor on the subcommittee, Silvio Conte. I would be remiss in not making mention of the loss we all have felt by the passing of the gentleman from Massachusetts. For many years, Silvio Conte served as the ranking minority member on the Labor, Health and Human Services, Education Subcommittee. He was dedicated to providing leadership in the critical areas encompassed in this bill, and his tireless efforts still serve as an example.

The Conte Building, which will be used for child health, is scheduled for completion in the fall of 1992. This building now has added significance as a tribute to our departed friend.

The other building, now in the planning stages, will bear the name of our chairman, who I referenced at the onset. The Natcher Building will be a fitting tribute to one of the leaders in our Nation's health care community.

Mr. Chairman, Mr. NATCHER has done an excellent job already in describing many of the components of our bill. And, rather than repeating this information, I would like to draw attention to two areas I deem of the utmost importance—prevention and education.

This bill provides funding for a number of very important programs which promote prevention in health care. Throughout the course of our many hours of testimony, we again heard of the important role of prevention in health care. Nowhere does the old adage that an ounce of prevention is worth a pound of cure better apply than in health care. In these days of skyrocketing health treatment costs, we are finding that prevention can save tremendous amounts of pain, suffering, and dollars. To that end, I wish to cite a number of programs:

Immunization—we have increased the funding for immunization programs by $80 to $300 million. Through grants to the States and localities, these funds support immunization programs against measles, mumps, rubella, poliomyelitis, diptheria, pertussis, tetanus, and influenza.

Infant mortality—the subcommittee has provided $140 million for Secretary Sullivan's infant mortality initiative. Through this initiative funds are made available for the improvement of health care access for high-risk, low-income pregnant women and children.

Biomedical research—we have set matching funding at $8.8 billion, up more than $500 million from last year. This provides operational and research funding for the entire National Institutes of Health. Included in this amount, we have designated $15 million for the Shannon Grants Program which will be used to encourage the Nobel Laureates of tomorrow. In this endeavor, I must thank Mr. EARLY and Mr. PORTER for their invaluable assistance and support.

Women's health initiatives—the subcommittee has provided $100 million for research and implementation of important women's initiatives. This includes quite a variety of programs, such as $25 million for women's health trials, $30 million to continue breast and ovarian cancer research, $10 million to the Office of Research on Women's Health, and $50 million for the CDC to carry out its program of breast and cervical cancer screening.

Minority health—the subcommittee, with the encouragement of Mr. STOKES, has provided significant funding throughout the bill for minority health incentives. This includes $23 million for the Disadvantaged Minority Health Improvement Program in the Health Research Service Agency, and $10 million for research grants in the Office of Minority Health Research at NIH. During the course of our hearings, we learned of the continuing disparity between the health status of white and minority populations. Also, at my urging, this funding includes $3 million for the study of Lupus, a disease which primarily affects black women.

Bone marrow registry—at the urging of Mr. YOUNG we included $16.3 million for the national bone marrow registry. The establishment of the National Bone Marrow Donor Program has provided a national resource for the treatment of diseases of the blood and cancer. I might also mention that Mr. YOUNG continues to be our national leader in this area, having worked on the bone marrow registry for 6 years.

Rural health—thanks, in part to the help of Mr. WEBER, the subcommittee has designated $101 million for the National Health Service Corp. The NHSC Program provides health manpower resources to areas, populations, and facilities which find it difficult to recruit health care providers.

Today, there is much discussion about the financial problems being faced in the delivery of health care in this Nation. And, while this remains an area for further investigation and debate, I believe we all could agree upon the value of prevention. This bill provides the funding for research programs which, in turn, provide the types of biomedical knowledge needed for prevention. As we learn more about diseases and illnesses, we learn more about the means of preventing these diseases and illnesses.

Mr. Chairman, this bill also includes funding for our Nation's education programs. Education provides us with a challenge of a different nature than health care. Education in the 1990s will be the key to our competitiveness in a world economy and marketplace.

Toward that end, our subcommittee has included funding for several initiatives which I wish to mention:

Head Start—we have increased the funding for Head Start by $250 million, to $2.2 billion. As you know, the Head Start Program provides comprehensive support and development services to children from low-income families.

Even Start—the subcommittee has increased this funding by $40 million to $100 million. Targeted for disadvantaged children between the ages of 1 and 7, and their parents, Even Start will provide State block grants for model joint-education programs.

America 2000—if authorized, this bill would provide $250 million for the innovative America 2000 initiative. The America 2000 plan represents a dramatic shift the funding of new and innovative approaches to education.

Higher education—an increase of $139 million for Student Financial Aid, to a total of $6.8 billion.

In summary, Mr. Chairman, I believe this appropriations bill includes many of the priorities of our Nation. These programs are of critical importance to the everyday lives of millions of Americans. I support this bill and ask my colleagues to join with me in voting for it.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the full committee, one of the able Members of the House. Mr. Chairman, all down through the years, the gentleman from Mississippi has helped us with this bill, and we appreciate it.

□ 1250

Mr. WHITTEN. Mr. Chairman, I appreciate this opportunity to say a word about our chairman of this subcommittee, the vice chairman of the full committee, the gentleman from Kentucky [Mr. NATCHER].

As my colleagues know, he has a wonderful record of attendance, at voting, but really it is not how long one serves, it is how well one serves. I do not believe in the history of this Nation we have had anyone who could equal the gentleman from Kentucky [Mr. NATCHER], my friend, in his service to the people of his district, State, and Nation. Truly he has done and does a great job. In the process, he has earned the respect and admiration of all Members of this House.

Mr. Chairman, I am proud to be a member of this subcommittee. All members of this subcommittee do a fine job especially the gentleman from Michigan [Mr. PURSELL] the new ranking minority member taking over for our dear departed colleague Silvio Conte, who served so well for so many years.

I say to my colleagues, whatever your age may be, if you look around and remember how conditions were that you first remember and see the progress that we've made, you can realize just how sound a job we have done.

It is encouraging to see our subcommittee under the chairmanship of the gentleman from Kentucky [Mr. NATCHER] give attention to Americans and America. We have got to give our country that attention, because our country is what all of our money is based on. An educated, healthy population, with adequate housing, food, and nutrition from a strong agricultural base, provides the foundation for our national strength and future.

Mr. Chairman, this bill includes funds for all phases of education, both higher and secondary, including universities, colleges and community colleges, vocational education, disadvantaged education, adult education, and historically black colleges, including Mississippi Valley State University at Itta Bena, MS.

It is directed to meeting the health and other needs of our people, all of which is spelled out in the report accompanying this appropriations bill—H.R. 2707—which I shall not list here. This bill looks after our people and our country. We must look after the people's health and education, but in the same breath we must look after the physical health or our own country because it is our country to which we have to look to to take care of all the needs that we have.

Mr. Chairman ours is a great country. We need to take care of all of it in order to maintain a strong, healthy nation. Strength and health that can come only from protection and developing the Nation's resources—our real wealth.

Mr. Chairman, in addition to being a member of this subcommittee, I am serving my 13th year as chairman of the Appropriations Committee, and I assure you no chairman and no subcommittee, does a better job than BILL NATCHER and the members of this subcommittee.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. YOUNG], a great Congressman who has been an outstanding leader on bone marrow transplants.

Mr. YOUNG of Florida. Mr. Chairman, most of our constituents know that most Members of Congress are pretty powerful and pretty influential, but I doubt that very many of our constituents know that Members of Congress on occasion have an opportunity to play a role in a miracle.

In the 2 minutes that I have today I am going to talk about just one of the many good features of this bill, and that is the miracle of one human being being able to give life to another human being through a bone marrow transplant.

It is such a dramatic weapon in the fight against leukemia, other types of blood cancers and, in fact, some 60 other types of fatal blood diseases.

I have a chart that I am going to show that says it much better than I can. Since the Members of Congress became involved in the National Marrow Donor Program, look at the chart. Look at how just in the last year the number of donors in the registry has grown, really a dramatic story, and each and every Member of this House of Representatives deserves tremendous credit for having played a role.

This second chart relates to the first chart. They look almost identical. This second chart shows the number of people who had no chance for life, but who have now had a bone marrow transplant through the registry that we created. And look at the numbers, how they have gone up so dramatically again in the last year.

This is a relatively new program. Its seed was planted right here in the U.S. House of Representatives. We could not find a sponsor. So we went to the U.S. Navy; the Navy agreed to be our original sponsor. And they are still very much involved in this program through research and recruiting; and both the research and recruiting has been tremendously successful.

Now the National Institutes of Health is also involved as the official sponsor, and is doing a tremendous job.

Finally, I am going to hold up a chart here for all Members to see. This is an 800 number, 1-800-654-1247. Members can call this number if they would like to be a volunteer donor. If anyone happens to see that number and would like to call, they are open 24 hours a day.

A major recruiting effort was conducted last year right here in the House by Members of Congress, and if my colleagues will recall, we had a recruiting day when some 50 of our colleagues came in, signed up, and took a simple blood test to be a donor.

The gentleman from New Jersey, JIM SAXTON, was one of the heroes who was tested that day. Later on this summer when we have more time in a special order, I am going to list all of the heroes who have played a major role here. Our colleague from New Jersey, however, JIM SAXTON, is just about to become a donor and there are two other Members in the House who also are just on the verge of being donors.

The simple blood test required to become a part of this program does not hurt. It enables people to join a program that saves lives, and each one of my colleagues can feel really good because they have all played a major role in getting this program to the point that it is today.

It is a miracle saving lives.

The National Marrow Donor Registry now includes 362,613 volunteers who have indicated their willingness to give the living gift of life to a matched, unrelated patient in need of a life saving marrow transplant. In the past month alone, 31,000 volunteers have joined the registry and since this time last year the size of the registry has more than doubled.

This dramatic growth in the registry has enabled the program to identify an increasing number of matched donors with the end result being a life saving marrow transplant. In just 3½ years, the national registry has provided a second chance at life for 741 patients suffering from leukemia and 60 otherwise fatal blood disorders. More than 40 unrelated marrow transplants now take place every month and in the past 12 months there has been a 100-percent increase in the number of transplants.

The secret to the success of this program is people—people who are willing to help a complete stranger in need. And the secret to encouraging people to volunteer to become potential marrow donors has been a nationwide effort to educate and recruit marrow donors. That has been accomplished with funds appropriated by this Congress over the past 5 years.

My colleague from Kentucky, BILL NATCHER, the chairman of our Appropriations Subcommittee which funds the National Institutes of Health, and CARL PURSELL, our ranking member, and all the members of our subcommittee have been true heroes in this effort by supporting my request for funds to administer the growing national registry, to defray the cost of laboratory tests for tissue typing volunteers, and for research to perfect the marrow transplantation technique.

The largest share of the Federal support for this program actually has come from the Navy, where we originally established the program in 1987. My colleague from Pennsylvania, JACK MURTHA, the chairman of our Defense Appropriations Subcommittee, our ranking member JOE MCDADE, and all the members of our subcommittee also have been unwavering heroes in their support for the program.

My limited time does not enable me to tell you about every hero that has contributed to the success of the National Marrow Donor Program, but each of my colleagues, without whose support the program could not have grown, can take great pride in their role in saving lives. Many of my colleagues have taken up the cause in their own districts and have held numerous, very successful donor recruitment campaigns that have contributed to the growth of the donor rolls. My colleague from New Jersey, JIM SAXTON, and my colleague from Virginia, FRANK WOLF, have taken a special interest in donor recruitment efforts.

While we can all take great pride in this program's record of success, we must be aware that much work remains ahead. Although we will find matched donors for as many as 500 patients in the next 12 months, we need to understand that there are as many as 12,000 other patients whose only chance at life is an unrelated marrow transplant. With funds included in this legislation, and in the Defense appropriations bill approved earlier this month, our donor recruitment efforts will move forward to build a large, ethnically diverse registry that will give every patient an opportunity to find a matched donor. The success of our program already has spread around the world as mar-

row continues to cross geographic, ideological, and political borders every month to save lives.

Funds included in these bills also will enable us to continue to give special attention to the need to increase the number of minority donors. Although black Americans, Hispanics, and Asian-Americans remain seriously underrepresented, we have made great progress in this regard over the past 12 months. During that time, with the funds appropriated by this Congress, the number of minority volunteers has increased sixfold.

Mr. Chairman, marrow transplantation and the National Marrow Donor Program truly are modern medical miracles. Through this program, lives are being saved every day here and throughout the world.

I know, because my oldest daughter, Pamela Ernest, has been given a second chance at life through the gift of marrow from her brother. Pam was lucky. She had an identical matched brother and sister to donate marrow. More than 70 percent of the Americans in need of a marrow transplant are not as lucky. For them, there is no matched sibling donor. Their only hope rests in the National Marrow Donor Program.

With the continued support of the Appropriations Committee and this Congress, we will continue our efforts in the weeks, months, and years ahead to increase the donor rolls so that we can find a matched donor for every patient in need of a marrow transplant. This is a promise that I have made to hundreds of patients throughout our Nation, including my good friend Grant Hartley of St. Petersburg, FL, and together we can see that this promise becomes a reality and that each of these children, teenagers, and adults are given the opportunity to take advantage of the miracle of marrow transplantation.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I wanted to take this time to thank the committee for accepting my amendment which added $40 million above the President's request for childhood immunizations. The administration's budget, even though it was an increase over last year's spending level, was still, in the view of most experts, woefully short in meeting the needs in this area.

U.S. immunization rates for childhood diseases, such as polio, measles, rubella, mumps, and other diseases like hepatitis B, are woefully inadequate. They are embarrassingly low.

We rank 17th in the world in terms of our overall immunization rates for some of these diseases. In fact, if you take a look at the immunization rate for minority populations in this country, we rank 56th in the world, well below countries such as Botswana.

I think that is a national disgrace, and I think it is a public health danger, and I am very pleased that the committee made as one of its top priorities the addition of this $40 million above the President's budget for this very important item.

I am also pleased that the committee recognized the need to provide additional educational opportunities for middle-class Americans through its strengthening of the SEOG Student Aid Program.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], an outstanding leader on our committee.

Mr. PORTER. Mr. Chairman, I commend Chairman NATCHER and CARL PURSELL for the excellent work they have done on this bill. The choices are very difficult, and BILL and CARL have done yeomen's work under extremely trying circumstances to produce a bill we can all be proud of. CARL has done an outstanding job as ranking member in his first year, getting up to speed in a very short time.

We had a very tight allocation, we had new programs to fund. We would have liked to have done more for many crucial programs. But this is a good bill that everyone ought to support.

Mr. Chairman, under these difficult circumstances, the staff was under extra pressure. I want to commend Mike Stephens, Sue Quantius, Bob Knisely, and Mark Mioduski. Their professionalism is unsurpassed in Congress. In addition, I want to commend Dr. Dave Recker, who just came on CARL PURSELL's staff. His expertise on the NIH will be a great asset to our side.

It is both an honor and a pleasure for me to serve on this outstanding subcommittee, with dedicated leaders and members and highly competent staff. We may disagree on some matters from time to time, but we always are able to work through and work out our differences and produce a bill that with fair accuracy reflects the values and priorities of our Nation.

Let me tell you some of the things that are in this bill, to give an idea of the breadth and importance of these programs.

For biomedical research, we are funding crucial research on chronic fatigue syndrome, a widespread and baffling disease which affects millions of Americans. There is money to track the disease and investigate the cause.

As the chairman mentioned earlier, we have a women's health initiative in the bill. But we also have an initiative on prostate research to investigate prostate cancer, the second leading cause of cancer deaths in men, and benign prostatic hyerplasia [BPH], the leading cause of surgery in men. We have money for cancer centers, which get research from the lab to the patient and funding for the Center for Medical Rehabilitation Research to help people with physical disabilities.

The bill helps communities whose tax bases have been obliterated by Federal installations—impact aid to compensate school districts for the cost of educating military dependents.

We are funding unemployment insurance administration to make sure that the States have the personnel and equipment to process unemployment claims. Without this program, no one in this country would receive unemployment benefits.

There are programs to resettle Soviet refugees. We have fought for years for their right to immigrate. With a very small Federal investment and the help of volunteer agencies across this country, we are successfully resettling these refugees. We are teaching them English, getting them jobs, and helping them find housing. With a little help, these people become productive, contributing members of American society some of whom ultimately learn to have a greater appreciation for our values and traditions than some of us.

We have money to help bring the National Museum of Health and Medicine—one of our Nation's finest museums—back to Independence Avenue where it belongs. And we continue the excellent work of the Peace Institute under the leadership of Ambassador Sam Lewis. This organization brings scholars and policymakers together to develop conflict resolution techniques to promote American values throughout the world.

Mr. Speaker, the related agencies often are overlooked in this bill, but are equally important as the programs for the three departments. The Corporation for Public Broadcasting provides alternative TV and radio services nationwide, and in many places is the only broadcast service available. The ACTION agency provides volunteer social work nationwide—drug counseling, senior services, and literacy training.

The Railroad Retirement Board is in this bill. This is the federally administered pension system for railroad employees similar to Social Security. We have a new Chairman at the Board and a new management representative. Together with OMB they have put together a new management initiative to streamline and improve management of the Board. This is a very important program to eliminate fraud, professionalize the tax accounting, improve debt collection and claims processing, and preserve the integrity of the trust fund. The funding for this initiative is conditioned on RRB meeting specific performance and money saving objectives according to a detailed 5-year plan.

Finally, this bill prohibits enforcement of the "gag" rule, an extremely important provision in light of the Supreme Court ruling in Rust versus Sullivan. Our bill prevents the Department of Health and Human Services from denying women information regarding their constitutional rights. This provision has broad and deep support on both of sides of the aisle, in many cases regardless of position on abortion because this is even a more fundamental question, one regarding the honest relationship between citi-

zens and their government, and I would urge the President to listen to the medical profession and from people all across the Nation and sign the bill when it comes to his desk containing the Porter amendment.

Mr. Chairman, this is a good bill. We have made the tough choices. We are within the allocation which is very tight. I commend Chairman NATCHER and CARL PURSELL, and I urge the Members' support of H.R. 2707.

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I rise in strong support of the bill before the committee.

Mr. Chairman, I rise in support of the fiscal year 1992 Labor, Health and Human Services, Education and related agencies appropriation bill. I would like to commend Mr. NATCHER, chairman of the subcommittee, and Mr. PURSELL, the ranking member, and my other distinguished colleagues for reporting a bill that provides services for a large number of the citizens of the United States. I feel that the committee has targeted several areas of need, including training for migrant and seasonal farmworkers, AIDS prevention, bilingual education, the Minority Disadvantaged Act, and programs for the elderly, and has allocated funds appropriate to these needs.

In the area of AIDS new funds were provided for the Ryan White CARE bill, including $7 million to reimburse dental schools which provide much needed services to AIDS victims. The services provided by these schools play a vital role in the detection and early intervention of AIDS and HIV related infections.

The bill also includes funds to continue programs of immunization, including hepatitis B, which is more contagious and prevalent than AIDS. The committee recognizes the need for immunizations of children in inner cities and children of recent immigrants and has targeted these two areas in its attempt to insure adequate immunization for all children entering school. An additional $1 million is included for the Centers for Disease Control to establish a demonstration project designed to address the serious problem of TB in minority populations in the inner city.

I am also pleased that this appropriations bill provides funding for a variety of aging programs such as the Community Service Employment Programs, meals, minority initiatives, as well as research and aging demographics and training. Although I would have preferred to put more funds in these programs, I feel that our commitment to the elderly of this country remains strong and unshaken.

Though I would like to have included much larger sums of money for Alzheimer's disease and related disorders research and other special aging initiatives, I am pleased that the committee, under severe budget constraints, has increased the funding for research on Alzheimer's and other diseases afflicting the elderly population. However, we still have a long way to go. It is critical that we continue our commitment to increase research, education, and service efforts on behalf of older Americans.

The Labor, Health and Human Services, and Education bill provides a significant increase for education programs, including $48 million in additional funding for bilingual education. These funds will allow the Department to augment its efforts in the areas of developmental bilingual education, family English literacy programs, and the training of bilingual personnel. I am pleased to see the committee demonstrate such a commitment to bilingual education.

As you well know, Mr. Chairman, there is a program of great concern to me which remains a problem within this bill. The deferral of funds to fiscal year 1993 for the State legalization impact assistance grants [SLIAG] will have an overwhelming effect on those States which have the largest influx of immigrants. This deferral will place a huge burden on the States to provide services for these immigrants. Under the landmark Immigration Reform and Control Act of 1986 Congress made a commitment to help the States with some of the costs associated with absorbing newly legalized aliens into their communities. The Federal Government has promised the States that it would share the financial responsibility for the costs of the Federal Government's decision to legalize millions of undocumented aliens. We should honor that commitment. Without SLIAG funds, health, welfare, and education services will be severely affected. Cuts in SLIAG funding would actually force the closure of some of the infrastructure that provides these services, affecting not just newly legalized aliens, but all citizens who use these services. Chairman NATCHER, you have played a vital and constructive role in assuring that SLIAG was funded.

While I am keenly aware of the budgetary circumstances under which this bill was funded, I must express my sincere hope that this situation can be rectified as we take our bill to conference with the Senate.

I commend Chairman NATCHER for presenting us with such a fine bill in a lean fiscal year. I support him in the tough decisions he made regarding programs so important to all the people of the United States and I urge all my colleagues to vote for this bill.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 2707, the fiscal year 1992 Labor-Health and Human Services-Education appropriations bill. This bill contains funding for the many programs which play an indispensable role in keeping citizens of our Nation healthy, educated, and employed. As a member of the subcommittee, I would like to commend the leadership of the gentleman from Kentucky [Mr. NATCHER], the chairman of the subcommittee.

During the subcommittee's deliberations on this bill, Chairman NATCHER often said that this would be a "good bill." True to his word, he brings to you today a bill which addresses the welfare and needs of all of our citizens. Funding levels contained in this bill reflect his leadership and unrelenting commitment to providing the American people with the labor, health, social service, and education programs they need and deserve. It is an honor to serve on this committee under his leadership.

I want to also express my appreciation to the ranking minority member of the committee, the gentleman from Michigan [Mr. PURSELL]. CARL had a difficult job of stepping into the shoes of our beloved Sil Conte. This was a difficult job, but Mr. PURSELL has done an outstanding job of working with all of us on this committee.

We drafted this bill in a climate of stifling fiscal constraints. Despite the limitations placed on us by the 1991 budget enforcement agreement, the committee found a way not only to maintain current funding levels, but to increase funding for AIDS, biomedical research, infant mortality, Head Start, immunizations, compensatory education for the disadvantaged, and many of the other programs funded under this bill.

Specifically, H.R. 2707 provides $144.7 billion for entitlement programs, a $16.2 billion increase over the amount provided last year. For discretionary programs, $58.5 billion was provided, an increase of $2.3 billion over the fiscal year 1991 levels.

I am particularly pleased to note that $319 million was provided for the infant moratlity initiative. This represents an increase of $114 million over the 1991 level. Of this amount, half is designated for healthy start, the President's proposal, and half for infant mortality grants to community health centers in targeted regions. This proposal is of special interest to my constituents in Cleveland, OH; 1988 data compiled by the Health Resources Services Administration indicates that the infant mortality rate in Cleveland is the sixth highest in the Nation. With an average rate of 16.9 deaths per 1,000 live births, the rate of infant death in Cleveland is higher than that of certain Third World countries.

The bill also provides approximately $88.6 million in funding for programs authorized by the Disadvantaged Minority Health Improvement Act. This is about a $30 million increase over last year's level. Programs funded under this act support the education, training, and recruitment of minority students and personnel in the health professions. Funds also will be used for the coordination and support of research, treatment, and prevention efforts directed toward ending the disparities between the health status of whites and minority Americans.

In addition to programs funded under the Disadvantaged Minority Health Improvement Act, other initiatives benefiting minorities include a $10 million appropriation for the National Institutes of Health, Office of Minority Health. These funds will be utilized in research areas which disproportion-

ately affect minority Americans. This action, combined with funding of the Disadvantaged Minority Health Improvement Act programs, signals the committee's commitment to increasing resources in the areas of minority health and training.

In the area of AIDS, the bill provides approximately $1.87 billion for research, education, and other activities directed at the prevention and treatment of AIDS. Currently, there are an estimated 172,000 reported cases of AIDS in this country; and, it is estimated that 1 million persons in the United States are infected with the disease. What is equally significant is the fact that women constitute one of the fastest growing segments of the AIDS population. For this reason, language contained in this bill directs the Centers for Disease Control to give enhanced attention to the gender-specific effects of the disease.

Also contained in this bill is an appropriation of $5 million for a family support centers demonstration. Authorized by the Stewart McKinney Homeless Act last year, these centers will provide comprehensive supportive services to low-income individuals and families, with a focus on those previously homeless or at-risk of becoming homeless and residing in government-assisted housing. Under the authorization language, gateway grants also are to be provided as part of the demonstration. Gateway grants will provide onsite education, training, and related supportive services to young residents of public housing.

In addition to these health and human service initiatives, I am particularly pleased with the action the committee took in reference to education. The bill provides $31.4 billion for education programs, representing an increase of $4.3 billion over 1991 levels, and $1.7 billion over the President's request. The bill gives its highest priority in funding to the compensatory education for the disadvantaged program, providing $7.1 billion for chapter I grants, representing an increase of $1 billion over the 1991 level. For the handicapped, $2.6 billion was provided, a $170 million increase over 1991 and $56 million above the President's request. Head Start will receive $2.2 billion, an increase of $250 million over 1991 and $150 million over the President's request. Increased funding also is provided for our Nation's college students, bringing the total student aid appropriation to $6.9 billion in fiscal year 1992, $139 million more than the amount provided last year.

Furthermore, recognizing the historic and crucial role historically black colleges and universities play in educating African-Americans, and other minority students, the bill provides $100 million to support the title III undergraduate program, strengthening historically black colleges and universities. This represents a $12.2 million increase over both the President's request and the 1991 amount. The graduate program authorized under title III will receive $12 million.

Howard University, one of our Nation's preeminent historically black colleges would receive $213 million, $22 million above the budget request. The bill also endorses the continuation of the legal training for the disadvantaged [CLEO] and the special programs for the disadvantaged [TRIO] programs. The President proposed no funding for CLEO, and recommended the consolidation of the TRIO program, a program which assists low-income persons who are potentially first-generation college students. The committee accepted neither of these recommendations.

Finally, I am pleased to note that the bill provides $3.2 billion for the State unemployment fund, and puts a mechanism in place which provides for the release of additional funds to States, automatically, should the level of unemployment workload exceed that estimated in the President's budget.

Mr. Chairman, we all are aware of the budget caps which limit our ability to be totally responsive to all of our domestic needs. Despite these caps, we have produced a bill which, in unequivocal terms, reaffirms Federal support for those Labor, Health and Human Service, and Education programs which need to be at the top of our list of priorities. More importantly, passage of H.R. 2707 gives us the opportunity to let the American people know that Congress not only knows what they want, but we are responding to their needs. For these reasons, I urge my colleagues to support passage of this vital measure.

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Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. WEBER], an outstanding Member of Congress, who has done outstanding work in rural legislation.

Mr. WEBER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 2707, the Labor-Health and Human Services-Education appropriation measure for fiscal year 1992. This is a fiscally responsible measure providing much needed funding for programs meeting the basic needs of the American people.

I would like to take this opportunity to thank our subcommittee chairman, BILL NATCHER, and our new ranking Republican member, CARL PURSELL, for their excellent work in developing this appropriations measure. We faced an extraordinarily tough funding situation in our subcommittee this year, necessitating hard choices among worthy, competing programs and needs. With the leadership of Congressman NATCHER and PURSELL, I believe we are bringing a balanced measure to the floor today, one that serves the American people well and makes wise use of taxpayers' dollars.

This measure puts our Nation's children first. We have provided $138.6 million to fund Secretary Sullivan's healthy start initiative to attack the serious problem of infant mortality in our inner-city and rural areas. For every dollar we invest in prental care, we save $3 in health care costs for low birthweight babies. We have also included an increase of $80 million for childhood immunization programs, realizing that for every dollar we spend on immunizations, we save $10 in health care costs.

The first of the education goals announced at the education summit is that every child start school ready to learn. To help realize this goal, we have provided a $250 million increase for the Head Start Program.

One of the major concerns of rural Americans is access to health care. In Minnesota and many other rural areas, severe and growing shortages of physicians, nurses, physician assistants, and allied health professionals are seriously eroding access to primary care and forcing hospitals to close. I wish to particularly express my appreciation to our chairman and ranking member and to my colleagues on the subcommittee for agreeing to increasing funding for the National Health Service Corps scholarship and loan forgiveness programs by $10 million—an almost 20 percent increase. That is a big increase, but it will go to good use. These programs provide highly effective, immediate, and long-term relief to our rural communities most severly affected by health professions shortages and will help us achieve our goal of eliminating shortage areas by the year 2000.

In addition, the measure before us restores funding for other programs important to maintaining and improving access to care in rural areas, including the rural health care transition grant program, health professions education programs, and nursing education. I will work with my colleagues as the appropriations process continues to further strengthen funding for these programs.

Another national priority I have worked with my colleagues on the subcommittee and Congressman TOM COLEMAN to meet is math and science education. The number of our talented college graduates choosing graduate studies in math amd science and careers as researchers and educators is sharply declining, placing the quality of math and science education in our elementary, secondary, and post-secondary schools and our Nation's progress and international competitiveness at grave risk.

The measure befores us provides a $5 million increase for the Coleman fel-

lowships, which provide assistance to graduate students in the sciences and math who are needy and who are planning careers in research and education.

I urge my colleagues to join me in voting for this appropriations measure. Like many of you, I am opposed to provisions in the measure prohibiting the Department of Health and Human Services from implementing regulations to clarify that abortion is not a method of family planning. I pledge to work as the process continues to remove these provisions.

But overall, this measure merits your support. It is a fair and balanced bill which meets pressing domestic needs and makes wise use of taxpayers' dollars.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I am happy to yield to the gentleman from Missouri, the distinguished author of the program

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman's leadership on the Committee on Appropriations to secure an increase again this year in the funding for this area where we will be able to produce and provide 1,800 new Ph.D.'s in math and science, American citizens who will go out and teach other American citizens in the future, and I want to thank the gentleman from Kentucky for his continued support as well.

I rise in support of H.R. 2707, the Labor, Health and Human Services appropriations bill. This bill contains a substantially increased appropriation for education in 1992. I would like to commend Chairman NATCHER, ranking member PURSELL, and the members of the committee for their hard work in bringing forth this legislation.

I would specifically like to address my support to the increased appropriation contained in the bill for part D of the Higher Education Act, Graduate Assistance in Areas of National Need.

Our graduate education programs produce the people and the knowledge this Nation needs to maintain and sharpen its competitive edge. But despite the fact that the United States has the largest and most advanced higher educational sytem in the world, our technological superiority is in jeopardy. Our R&D work force is increasingly sustained by foreign nationals, as the number of U.S. citizens pursuing scientific careers declines. Some alarming statistics bear this out:

In 1972, 80 percent of physical science doctorates awarded by U.S. universities went to U.S. citizens; by 1988, that percentage had dropped to less than 65 percent.

In engineering, the percentage of Ph.D's earned by U.S. citizens dropped from 67 percent in 1972 to 46 percent in 1988.

Foreign students, faculty, and industrial scientists bring with them a rich array of talent; but it is a source of talent which will become increasingly unreliable as the demand for their talent—and the capacity to support it—increases in their native countries. The dramatic development of science and technology in the countries with which we compete is evident:

Europe continues to overtake the United States in its investment in civilian R&D. In 1989, the combined civilian R&D expenditures for the European Community and the European Free Trade Association exceeded ours for the first time.

The United States now trails France, Germany, Japan, and the United Kingdom in the percentage of students selecting engineering as their first degree, and we are only slightly ahead of Japan in the percentage selecting the natural sciences.

It is anticipated that unless something is done, a sharply increased demand for Ph.D.'s in the United States will outstrip a comparatively level supply before the turn of the century. In the natural sciences and engineering, alone, it is estimated that if current trends continue, the Nation could face an average annual shortfall of 9,600 Ph.D's between 1995 and 2010.

As ranking member on the Subcommittee on Postsecondary Education, I was deeply involved in the development of the Graduate Assistance in Areas of National Need Program during the last reauthorization of the Higher Education Act. This program was specifically developed to help our Nation's universities address this critical problem by directing resources to doctoral programs in areas of national need such as mathematics, sciences, engineering, and foreign language and area studies.

Under the program, 3-year grants are awarded on a competitive basis to deserving graduate departments to provide them with the necessary resources to increase the number of students educated in their doctoral programs. Institutions can receive grants averaging nearly $200,000. These grants are used to provide students with stipends of up to $10,000 and funding to support the costs of their tuition, fees, and other program costs.

I am pleased that the Congress has funded the program at progressively increased levels of funding in each of the 4 years since it has been authorized: $7.7 million in fiscal year 1988; $12.8 million in fiscal year 1989; $15.8 million in fiscal year 1990; and $24.9 million in fiscal year 1991. These appropriations, totaling over $60 million, have enabled 350 new and continuing institutional grants to award approximately 4,000 student traineeships.

The appropriation proposed in this legislation would bring funding for this program to the level of $30 million in fiscal year 1992. This level of funding will enable grants to be given to approximately 150 institutional departments enabling up to 1,800 students to receive traineeships in academic year—fiscal year 1992–93.

Recently the Subcommittee on Postsecondary Education heard testimony on the topic of graduate education and on this program in particular. In the hearing Dr. Peter May, chairman of the mathematics department at the University of Chicago testified to the positive impact this program is already having on the enrollment of U.S. citizens in doctoral programs. He reported that in academic year 1988–89, only 43 percent of the Ph.D's granted in mathematics by U.S. universities went to U.S. citizens but that 56 percent of students in the Ph.D pipeline were U.S. citizens. Dr. May attributed this progress in large measure to the increased opportunities for U.S. doctoral students made possible by the National Need Program.

Mr. Chairman, I would again like to thank Chairman NATCHER and the members of the committee for their assistance in funding this important program. I urge my colleagues to support the adoption of this measure.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, this particular year was the most difficult of the 17 years that I have been on this committee with this bill. In these eyes, this bill is $2 billion underfunded in moneys that can be spent productively and in the best interests of the people of the United States.

I also see this bill as being improved from what they had, and I think it was a fine year for the chairman, and the ranking member who succeeds my good friend Sil Conte did really a noble job.

Mr. Chairman and members of this committee, the money in this bill is funded to what the expert witnesses suggested the money should be funded to. The first thing the committe did was, at the request of the gentleman from Wisconsin [Mr. OBEY], increased immunizations $40 million. The gentleman from Wisconsin [Mr. OBEY] suggested an additional $40 million, so this is $80 million more than the 1991 budget for immunizations.

The committee raised the NIH $50 million from the President's mark, which, in this Member's eyes, is still considerably short. The staff redistributed $145 million in reducing bureaucracy, and improving the NIH budget. I think the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] did a good job with this bill considering the obvious shortage of available funds.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, because the time is very limited at this point, I will wait until we get into the amendment process to engage in a colloquy with the distinguished chairman and the ranking member, if I can, concerning the level of funding for the President's antidrug programs that are contained in this bill.

I have been concerned that, in a number of the appropriation bills that have been coming through, the level of funding has been below the President's request, and I am concerned about the message this sends to our communities, our schools, and other areas.

I would look forward to that colloquy when we get to the amendment process.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, the gentleman from Kentucky [Mr. NATCHER]

has produced again another masterpiece.

As Chairman of the Subcommittee on Elementary, Secondary and Vocational Education, I commend him.

He, under most difficult budget constraints, put the dollars in education where they will yield the most in real dividends.

I especially commend him for the increase of $250 million in Head Start. All studies indicate that the educational, social, and fiscal return on these dollars is enormous.

The increase in chapter 1 will improve the academic achievement of children who are performing below the appropriate age level.

Mr. Chairman, Mr. NATCHER's bill will do much to help achieve the goals for education set out by the President and Governor's of this Nation.

I salute Mr. NATCHER for being Mr. Education.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, it would take me 100 minutes to say thank you to the chairman, the gentleman from Kentucky [Mr. NATCHER], and to the ranking member, the gentleman from Michigan [Mr. PURSELL], as well as other members of the Committee on Appropriations, for the parents and for the children of this country.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, on behalf of our Committee on Appropriations, especially our subcommittee, I say to the gentleman from Pennsylvania [Mr. GOODLING], I want to thank you. All down through the years you joined with us, you worked hard, and there is not a Member in this House who knows more about education and health than you do and works any harder to see that these programs are fully funded and fully authorized.

I just wanted to make that statement.

Mr. GOODLING. I thank you, Mr. Chairman.

I want to thank the committee on behalf of the parents and the children for the 12-percent increase in chapter 1, for $100 million in Even Start, which will give us for the first time a State formula grant program where we are helping the illiterate parents become more literate and, at the same time, teaching them what it is that they can do to help their own preschool children become preschool-ready for reading; for the migrant children, we say thank you for the 9.2-percent increase; for the President's increase in education program, we thank you; for the graduate assistance in areas of critical need, we thank you, and for all of those who benefit from Head Start, we say thank you.

Mr. Chairman, I rise in support of H.R. 2707, a bill providing appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1992.

First of all, I want to once again commend and thank Chairman NATCHER, the ranking member Mr. PURSELL, and the members of the Labor-HHS-Education Subcommittee, for their continued generous support of and leadership in the vital policy and programmatic areas encompassed by this bill.

In particular, I want to express my appreciation for their continued leadership in Federal support for education, which they have certainly reaffirmed through this bill by providing the Department of Education with a 12-percent increase in discretionary funding over the current fiscal year. Since I have always viewed chapter 1 of the Elementary and Secondary Education Act of 1965 as the backbone of the Federal effort to help all disadvantaged students in school, I was particularly gratified with the bill's recommended funding level for basic grants to local educational agencies, a 12-percent increase over the Congressional Budget Office's fiscal year 1992 baseline level for these grants.

When I appeared before the Labor-HHS-Education Subcommittee in early May, I also recommended substantial increases in the funding of two other chapter 1 components, the Even Start Program and the Migrant Children State Agency Program. In the case of Even Start, I pointed out that everything we had learned about the program's results indicated that it definitely warranted an accelerated rate of expansion. Needless to say, I was delighted to find that H.R. 2707 recommended doubling Even Start's level of funding for the coming fiscal year, and that the level provided—$100 million—will for the first time permit the program to make the transition to a State formula grant activity, and will thus allow local education agencies in all States to participate in the program.

As for the Migrant Children Program, I noted that while our efforts to help these children had been very rewarding—most particularly through the accomplishment of reducing their dropout rate by 40 percent over a decade—even though the funding of the chapter 1 account as a whole had increased dramatically over these past few years, this has not been reflected in the funding of the Migrant Children Program. I am pleased that H.R. 2707 recommends a 9.2-percent increase over the current fiscal year's funding level for this program.

I want to thank the Appropriations Committee for its careful, and to the extent possible favorable, consideration of President Bush's educational excellence initiatives. I was pleased to find that the Appropriations Committee had taken the exceptional step of providing bill language which reaffirms the role of the authorizing committee. This bill also permits the initial funding of such educational improvement initiatives as may be authorized through new legislation if such is enacted prior to the end of the year.

The committee's understanding of the significance of the Graduate Assistance in Areas of National Need Program continues to be reflected in the consistency with which it has supported its growth. H.R. 2707 recommends increasing its funding level by 20 percent over the current fiscal year. This increase will permit the number of fellowships made available under this program to jump from 1,493 during this year to 1,799 during fiscal year 1992.

In my testimony early last month, I urged funding Head Start during the coming fiscal year at the $2.3 billion level which had been assumed for the program in our budget resolution. I was very pleased to see that this bill assures that Head Start's fiscal year 1992 funding will be not less than $2.202 billion, which definitely puts the program in the growth path envisioned for it in the budget resolution.

In closing, Mr. Chairman, I would like to once again extend my thanks to the entire Appropriations Committee, which has continued to demonstrate its responsiveness to some of the most pressing needs of our society.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, let me thank the gentleman from Kentucky [Mr. NATCHER], the distinguished chairman of the HHHS Appropriations Subcommittee, for the outstanding job he does for the House of Representatives and the Nation.

Mr. Chairman, I rise in support of the amendment the gentleman from Florida [Mr. SHAW] will offer on this floor in a few minutes. It attempts to restore some $134 million to the appropriations for drug abuse treatment and prevention that are now below what the President has asked for. I know, and the gentleman from Florida [Mr. SHAW] knows, that this amendment is out of order.

But I rise because it is the concept which I support, and because the so-called drug czar has seen fit to politicize this issue by having a press conference yesterday on the Capitol steps. He did no ask me or other members of the committee whether we could work with the administration to restore the funds. He did not ask why the President of the United States had failed until yesterday to send a bill that would authorize the funds. He did not ask for Democratic Members to join with him and his Republican Members

in order to make certain that this is a bipartisan issue.

The issue of drug abuse is too important to believe that we can do it as Democrats or Republicans. As chairman of the Select Narcotics Committee, I have never had a Democratic meeting in order to achieve a legislative goal, and I do hope that in the future the drug czar will attempt to achieve the goals of this administration in a bipartisan, apolitical manner.

As chairman of the Select Committee on Narcotics, I especially want to comment on the funding in the bill for drug abuse treatment, prevention, education, and research programs. For authorized antidrug activities, the amount recommended in the committee's bill is slightly over the President's proposal. Unfortunately, however, the total amount in the bill for antidrug programs is somewhat below the President's request.

The shortfall occurs because many of the increases requested by the President are for continuing programs or new initiatives that are not currently authorized. While I recognize that the amounts requested by the President may be subject to points of order on the floor, I believe the House should be doing all that it can to fully fund the President's requests, and I would support such efforts.

The discussion over drug funding should not be a partisan political debate between Republicans and Democrats. Yesterday, the President's Drug Policy Coordinator, Governor Martinez, came to Capitol Hill for a press conference with the minority leader, Mr. MICHEL, and several Republican House Members to announce the introduction of the administration's Treatment and Prevention Act of 1991. This bill implements the demand side of the President's drug strategy and requests authorization for a number of the funding proposals the Appropriations Committee was unable to consider in the bill before us today.

Governor Martinez singled out by name Members of the House on this side of the aisle who should take the lead in restoring funds requested by the administration. Drug abuse and drug crime do not lend themselves to Republican or Democratic solutions. Our approach to these problems must be bipartisan.

It is time to get serious about the drug problem and work together to come up with the money we need to support effective programs. We do not need to just throw money at the problem for the sake of saying we are increasing drug spending. We are already spending billions of dollars on drug programs and the amount spent has increased very rapidly in recent years. Now it is time to ask not just "How much," but "What are we getting for our investment?"

The administration wants America to believe that we are winning the war on drugs. The truth is that serious drug abuse and drug crime remain as intractable as ever, destroying individuals, families, and entire communities at great cost to our society.

If we are truly committed to fighting a war on drugs, we have to be prepared for the long haul. Partisan politics has no place in our antidrug strategy. No problem threatens the long-term security and prosperity of our Nation more than drugs.

Drug abuse and drug crime are truly national emergencies. I agree with the chairman of the Appropriations Committee, Mr. WHITTEN, who, in speaking on the Justice appropriations bill a few weeks ago, said we should handle a national emergency of this sort by taking it out from under the budget ceilings as the President has done in other areas.

Today, I call on the President to join with the Congress in declaring drug abuse and drug crime national emergencies and to work together to find the resources necessary for an effective drug strategy. The budget agreement has not stopped us from finding billions of dollars to bail out failing financial institutions, to fight a Persian Gulf war and to aid the refugees that war left in its wake. Protecting the American people from drugs is no less of an emergency and demands no less of a response.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise to voice my distress and anger over the Appropriations Committee's decision to slash the budget for Low-Income Home Energy Assistance Program by 38 percent. The impact of this cut will devastate low-income families throughout the United States, but will weigh most heavily on families in Maine and other cold weather States.

Maine is particularly dependent on LIHEAP as a major source of its assistance for home heating. The State served over 53,000 households in 1990 with an average assistance level of $280. In fiscal year 1991 Maine received $23.5 million—33 percent less in program funds than 1985-86—and this includes over $4 million in supplemental assistance that the State received due to the excessive cost of heating fuel this past winter. The State is finding itself forced to serve more households with less resources. This situation cannot continue.

The committee's recommendation would cut Maine's funding by nearly $10 million. It is estimated that at this level of reduction, over 17,000 more households in Maine will be literally left out in the cold.

I have heard the argument that LIHEAP is no longer necessary since the program was only intended to help households cope with the oil price crisis of the 1970's. Well, we only need to look at the last 2 years to see why LIHEAP is still vital. In 1989 the average price for fuel oil was 75 cents per gallon. This past winter, the average cost of fuel oil had increased to $1.10 per gallon and reached a high point of $1.35 per gallon.

As a result, the average Mainer's fuel bill has increased from $600 per year in 1989 to $880 this year. But, the average level of LIHEAP assistance in Maine only covers an amount equal to that price increase alone. When you consider that two-thirds of Maine's LIHEAP customers were at or below the poverty level, it becomes apparent just how much of an impact the committee's proposal will have.

Certainly we face tough economic times and budgetary constaints but to make these cuts on the back of our low income families is unconscionable. LIHEAP currently only serves 25 percent of eligible households and pays an average of less than 25 percent of their total home energy bills. If the committee's funding level for fiscal year 1992 is maintained, almost 2 million more households will be unable to receive assistance.

Regrettably, the committee has attempted to hide its action behind the creation of an energy assistance emergency fund of $600 million. These funds would only be released if the President submitted a formal request designating the need as an emergency as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

Now, we are all painfully aware of this administration's position with respect to LIHEAP and its intention to eliminate the program entirely. These are not the people that we want to be making the decisions as to whether or not there is an emergency need for funding.

Access to affordable home heating oil is a necessity, particularly in areas like Maine where cold weather creates a demand for heating oil much earlier than other areas of the country.

Mr. Chairman, we manage to find room in our $1.3 trillion budget for all manner of bricks and mortar and pork, of both domestic and foreign vintage. Can we not provide funds sufficient to prevent Americans from freezing in the winter?

I urge my colleagues to seek full funding for LIHEAP by the conferees when this bill goes to conference. The Low-Income Home Energy Assistance Program is far too important to the well-being of our low-income families.

Mr. STUDDS. Mr. Chairman, I rise to express my frustration at the process we have set up that forces us to weigh the relative importance of Head Start versus job training money. Not cancer treatment versus the superconducting supercollider. Not childhood vaccine programs versus the space station. But cancer treatment versus low-income energy assistance and AIDS funding.

I recognize the constraints under which members of this subcommittee are operating. There is not enough money to fund all of these programs and cuts have to be made. But to slash by 40 percent funds to help low-income people heat their homes is criminal. From $1.6 billion to less than $1 billion.

Is this any way to remember Silvio Conte? Is this what happens when the champion of an important Federal program is no longer here to protect it? Is this the tribute that this body pays to his memory?

Silvio Conte was passionate about many subjects. But there was none that incited him more than the notion that this House, and this Congress and this Government would be willing to allow poor people to suffer—and in

some cases, die—in homes that they were unable to heat.

This cut comes on top of 40-percent reductions in this program since 1981. We are not talking about cutting off Federal funds from middle-income Americans, or even Americans who are just poor. We are talking about telling people whose average incomes are only $6,000 a year—the poorest of the poor—that we cannot help them any longer.

Even at current levels of spending, less than 25 percent of eligible households are served by LIHEAP. With a 40-percent reduction, as many as 2 million families could be cut off from energy assistance this winter.

This cut will be devastating in my State and my district. Last year the Massachusetts budget included $11 million for fuel assistance. This year the budget was zero. There was less money for more applicants. And this was an unusually warm winter. What are we going to do if we have a normally cold winter?

In my district alone, there were over 1,000 new applicants for assistance. When I told the individuals who administer the program about these cuts, they were flabbergasted. They serve children and families, the disabled, and hundreds of elderly on fixed incomes. These people are already struggling to pay electric bills that are among the highest in the Nation. Without the LIHEAP Program to fill their oil tanks, they will have to choose between heating and eating.

This is not a choice they should be forced to make.

Mr. SHARP. Mr. Chairman, the Labor-HHS-Education appropriations bill is of very special importance because it sets much of the human resources agenda for the Nation. All of the needs served by this bill are in their own way worthwhile. Yet there is seldom enough money to go around.

In this way, the Labor-HHS-Education bill for fiscal year 1992 is no different than in the past. However, in one important way this bill is very different than in past years; and that is in respect to funding for LIHEAP, the Low-Income Home Energy Assistance Program which was cut by nearly 40 percent last year.

LIHEAP provides critical assistance to the poor and elderly by helping them pay for their energy bills. Although LIHEAP serves over 6 million households in all 50 States, funding for this program has steadily declined from $2.1 billion in 1985 to $1.6 billion in fiscal year 1991.

The reason for this decline has been a combination of the availability of oil overcharge money to the States and a lack of support by the administration. The oil overcharge money was a temporary excuse that we never accepted and that has now largely run out. Unfortunately, oppostion by the administration has become a permanent fixture.

In order to address the conditions that had led to a decline in funding the program, last year Congress passed a four-year authorization for LIHEAP. This authorization contained a number of revisions designed to improve the operation of this program and raised the authorization level for fiscal year 1992 to $2.23 billion.

The fiscal year 1992 budget resolution passed earlier this year recommended funding LIHEAP at the Congressional Budget Office baseline of $1.675. Although the program could have used additional money, the CBO baseline would have been sufficient to preserve services at the fiscal year 1991 level and was adopted as a concession to fiscal reality.

After passage of the budget resolution, a majority of the authorizing subcommittee that I chair wrote to the Appropriations Committee requesting that the Labor-HHS Subcommittee be given sufficient funding to accommodate the recommended level for LIHEAP. In a separate letter, 231 members of the House also wrote to express their support.

If the overall priorities laid out in the budget resolution had been followed, then the share of funding made available to the Labor-HHS-Education Appropriations Subcommittee would have been enough to give adequate funding to LIHEAP. However, the outlay level made available to the subcommittee was below that necessary to maintain all of the programs in this bill at a current services level. Regretfully, something had to give, and unfortunately LIHEAP was selected.

This appropriations bill includes funding for health, welfare, and education. As a result, Members voting on this bill have been put in an impossible situation requiring them to choose whether they would rather be wise, warm, or well. We should not have to choose between these necessities, and that is why we had gone to great lengths to avoid this no-win dilemma.

I am therefore extremely disappointed that the Appropriations Committee was not able to set priorities in a way that would have followed the budget resolution and protected this program. Therefore, I would like to make it very clear that I do not support the cut in the LIHEAP Program in this bill and will work to restore it.

Furthermore, I would like to call on the President and the Appropriations Committee to reconsider their position on funding for this program and to pledge to work with the authorizing committees and other Members to raise the funding for this program. Hopefully, this kind of cooperation will lead to a way around this unwinnable dilemma.

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Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Chairman, as chairman of the Subcommittee on Health and Safety, I sincerely applaud the chairman on behalf of the Occupational Safety and Health Administration and the Mine Safety and Health Administration.

The 6-percent increase in funding for OSHA exceeds certain inflation levels, and therefore permits OSHA to continue expanding some of its operational activities for the first time in 20 years.

The House has now crossed a $300 million mark for OSHA which is quite a way to celebrate OSHA's 20th anniversary. Of course, we would be more appreciative if the agency received more dollars, but we understand the problems involved.

I stand in very strong support of this legislation.

Mr. Chairman, I rise in strong support of H.R. 2707, the appropriations bill for the Department of Labor, Health and Human Services, and Education.

We all know what constraints the House has been operating under in this year's appropriations process. We can all recognize the difficult task faced by Appropriations Committee and subcommittee members as they grapple with funding programs that are critical to the well-being of every American family knowing full well that we can only stretch the dollars so far.

Given those constraints, I commend both BILL NATCHER, the gentleman from Kentucky, and CARL PURSELL, the gentleman from Michigan, the chairman and ranking Republican, respectively, of the Subcommittee on Labor, HHS, and Education, for the product we have before us. This bill shows their true sensitivity to the needs of many Americans—workers, students, and others.

As the chairman of the Subcommittee on Health and Safety, I applaud the efforts in this bill on behalf of the Occupational Safety and Health Administration [OSHA] and the Mine Safety and Health Administration [MSHA]. Given the funding constraints, I can understand why the National Institute for Occupational Safety and Health [NIOSH] was frozen at the 1991 funding level, but I am concerned that such a freeze could have a serious—and negative—impact on research in critical areas of occupational safety and health, most notably in agricultural and construction safety and health.

The 6-percent increase in funding for OSHA exceeds current inflation levels and, therefore, permits OSHA to continue expanding some of its operational activities. For the first time in 20 years, the House has crossed the $300 million mark for OSHA, quite a way to celebrate OSHA's 20th anniversary.

Of course, we would be more appreciative if the agency received more dollars with which to work, but the increase offers OSHA an opportunity to complete a number of major projects, especially the promulgation of a chemical process safety standard, a revised asbestos standard, and better means of addressing the constant problem of 2,500 construction fatalities and 200,000 serious construction injuries each and every year.

I am especially gratified to see the work of the subcommittee in modifying the language which restricted OSHA from enforcing regulations and standards in business with fewer than 10 employees. The bill before us now permits OSHA to provide technical assistance to those employers, to conduct inspections in response to an employee complaint, to take actions necessary to protect employees for imminent dangers and health hazards, and to follow up on accidents in which even one employee is killed or hospitalized.

This latter point is most important. Right now, if an accident occurs at a construction site, for example, and fewer than five workers are hospitalized, the employer does not even have to notify OSHA within a specified period of time.

In our legislative activities, we are preparing to revise this flaw in OSHA's administrative program. It is our contention that when a worker is injured seriously enough to be hos-

pitalized, that accident should be treated in at least the same way a fatality is handled—virtually immediate notice to OSHA, followed by an OSHA inspection.

These reporting requirements should be consistent for all businesses, whether there are 500 employees or 5 employees.

It is my understanding that an amendment will be offered later to revise this language so as to prevent OSHA from learning about such accidents unless there are five hospitalizations.

I urge my colleagues to defeat this amendment.

The threat to workers' lives is not measured by the size of the workplace. An employer with 5 workers who does not meet safety and health standards is endangering the lives of those employees just as much as the employer with 500 or 5,000 employees who also ignores the rules. We must allow OSHA the opportunity to investigate those accidents that result in fatalities or serious injuries, especially when an injured worker is hospitalized.

The Appropriations Subcommittee is to be especially commended for its attention to funding for MSHA. By increasing MSHA's funding by 7½ percent, we are providing an opportunity for the agency to continue its efforts to reduce deaths and injuries.

Many of us can remember those days when the annual death toll in the mining industry, both coal and metal-nonmetal, topped the 300 per year mark.

Today, in part due to shrinkage of activity in mines, in part due to a shift toward more automated equipment, and in part due to the activities of MSHA, mining fatalities have been under the 100 mark for the past several years.

But that doesn't mean we can afford to relax our efforts. Mining is hazardous work. There are any number of things that can go wrong in a mine—improper ventilation, blocked passages, methane, coal dust, and so forth—that might result in roof falls, explosions, or fires. And, when you are a mile or more underground, when something goes wrong, there are few places where you can escape tragedy.

Whether we agree that MSHA is doing or has been doing the best job it can, that agency, like OSHA, needs our support so that it can continue to prevent those incidents that tragically take lives.

And that is why I am disappointed that there is no increase in funding for NIOSH. We need more research into occupational diseases and illnesses. We need more study of indoor air quality and the effects of bad air or poor ventilation on workers. We need more examination of the 10 leading causes of occupational injuries and illnesses.

By freezing the funds for NIOSH, we jeopardize those activities. Yes, there are still funds for some research, but some will have to be cut back. Some will never get started.

If the scientists who are scheduled to do the research leave the agency because their projects are trimmed or eliminated, then, even when the dollars are available, they will not be—and this critical research in occupational safety and health will never be done.

I can only hope that the other body will see fit to provide additional dollars for NIOSH so that during the conference on this bill, we can do our best to keep critical studies going.

As a member of the Postsecondary Education Subcommittee of the Committee on Education and Labor, I want to say a few words about student assistance funding in H.R. 2707.

I am pleased that the Subcommittee on Labor, HHS, and Education recognized that our authorizing committee has the responsibility for reauthorizing the Higher Education Act, but, at the same time, expressed its concern that the administration's Pell grant proposal would have eliminated more than 400,000 students.

I am disappointed that the bill provides $24 million less in Pell grant awards than provided in last year's appropriations bill, but the $100 million contingency fund to cover unanticipated program costs may mean that program dollars will not be used for those purposes.

I commend the subcommittee for appreciating the value of the Perkins loans, which are low-cost loans for needy students which are administered by individual institutions.

It was a sad day when the administration recommended no funding for this critical program, but at least we in the House realize its value and importance.

Thus, while I do have some reservations about portions of H.R. 2707, I do understand the limitations placed on Mr. NATCHER and Mr. PURSELL in trying to achieve a great bill. I commend them for bringing to us a good bill and I urge my colleagues to support its passage.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, whereas I appreciate the good work of the Labor/HHS Subcommittee, I am greatly, disapppointed that the subcommittee has decided to dramatically cut the funding the President has requested for drug treatment and prevention programs. These cuts will mean that 250,000 fewer Americans will be able to obtain drug treatment. That's right—250,000. That is unacceptable, and Members should know exactly what they are voting for in this bill when it comes to drug treatment.

An important part of what the subcommittee left out of this appropriation bill is the President's request for $68 million for new drug treatment spaces. Worse still is the fact that this bill would cut $33 million from current drug treatment services. That is simply unreasonable to those of us who believe that illegal narcotics remain our most important national security issue.

That is why in a few minutes I will be offering an amendment that will restore $134 million of the President's requests for our most important national drug treatment and prevention programs. Without this spending, 16,000 Federal and 64,000 State and local drug treatment slots will be lost. That means up to 250,000 Americans won't have the drug treatment they desperately need.

This is not the only area in which some in the Congress have tried to emasculate the President's program for fighting the war on drugs. Already, $383 million has been stripped from the administration's anti-drug budget request. Here are some highlights:

The sum of $41 million cut from the State Department budget, including $19 million slashed from military assistance to Andean countries fighting the drug traffickers; $202 million cut from the Justice Department, including $42 million from DEA, which among other things will result in 90 fewer DEA agents;

Along with the cuts in treatment programs in this Labor/HHS bill, this represents a major blow to our Nation's efforts in combating substance abuse, drug trafficking, and violent crime associated with the drug trade.

We all know some advances have been made in our Nation's fight against drugs. But I strongly agree with my good friend, CHARLIE RANGEL, that we cannot let down our guard. We cannot declare victory, turn tail, and head for home. That seems to be what some in this Congress are willing to do. We should not let it happen.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of the Shaw amendment to restore the $134 million requested by the President for drug treatment programs.

Mr. Chairman, if this amendment is not adopted, there will be 16,000 fewer Federal drug treatment spots in 64,000 fewer State and local treatment spots. With the drug epidemic threatening the very social fiber of our Nation, such a loss of treatment opportunities is both outrageous and unacceptable.

Present estimates, according to chemical health experts, show 5.5 million Americans are chemically dependent and in need of treatment. This amendment obviously represents only a modest attempt to respond to this compelling need, given our budget constraints. Turning our backs on the essential treatment component of our antidrug abuse efforts is not only shortsighted, but simply wrong.

Mr. Chairman, I know firsthand the value of treatment for chemical dependency. Without such an opportunity, that I received 10 years ago, I wouldn't be here today, given my 12 years of alcohol abuse.

Mr. Chairman, based on my experiences of the past 10 years working with other alcoholics and addicts, I can tell you, that treatment does work and the need for more treatment opportunities for Americans who want help is overwhelming.

Mr. Chairman, I have heard virtually every politician call the drug and alcohol abuse epidemic our country's most pressing domestic problem. Today, Members of Congress have the opportunity to put their votes where their rhetoric is.

The day has arrived for Congress to take a stand on the drug problem. We cannot afford to let these critical treatment slots go unfunded. We cannot afford to cut funding for the States' treatment programs.

Mr. Chairman, I plead with my colleagues on both sides of the aisle to vote for this critical drug treatment amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I want to call to this body's attention a funding decision that highlights our Nation's misguided priorities. What I refer to is the Appropriations Committee recommended funding level for the Low-Income Home Energy Assistance Program [LIHEAP]. Last year, this vital program was funded at $1.4 billion; this year the committee has recommended a funding of $1 billion. This is above the administration's request of $925 million, but far below the current fiscal year and, more importantly, the level of need.

LIHEAP provides home heating assistance to people receiving public aid, the elderly and those who are living below the poverty line. This means that our most vulnerable citizens—children, senior citizens, and the ill and disabled—are at risk. For many, the help they get from LIHEAP means the difference between heating their homes and risking illness or death from exposure to the cold.

Just as I cannot understand how we can opt to fund a space station over housing, redundant and excessive weapons systems over school lunches and scholarships, I fail to comprehend how we can cut funding for home energy assistance. Obviously, Mr. Bush, with the help of the Appropriations Committee, does not intend for one of his "thousand points of light" to shine in the homes of those in need of assistance to pay heating and lighting utility bills.

As I lament the skewed priorities and values of this country, I wonder when we will realize the error of the decisions we make today. I only hope that when we are awakened to the realities of our actions, it is not too late to right the wrongs and solve the problems that misguided fiscal policy was wrought.

Mr. MOODY. Mr. Chairman, I rise in support of the provision in the Labor-HHS Committee bill that overturns the administration's gag rule to outlaw the discussion of all family planning options in clinics supported by title X funds. I urge my colleagues to support the committee bill as it is without any changes to this provision.

The Bush administration's gag rule is poor health policy, discriminatory against a certain group—poor women—and probably violates the first amendment.

The gag rule sets up a two-tiered system of medicine based solely on income. It also denies health care professionals the right of free speech.

I cannot support any program that gags a health care professional from giving all legal medical options to a patient. To do so would be both unethical and immoral.

The gag rule would require doctors, who are sworn to provide the best possible health care to those they treat, to violate the Hypocratic oath. That would be forced, in effect, to practice political medicine.

The even greater danger of this policy is its broader implications. We should not allow the administration to gag free speech in order to pursue a specific political agenda: Ending legal abortions.

A policy of politically controlled speech could be applied to other programs such as doctors receiving Medicare funds, lawyers receiving public defender funds, school teachers receiving Federal funds, or lawyers receiving public defender funds. I fear where this policy could eventually lead.

Congress needs to act quickly to reestablish the right to free speech for every American, regardless of whether or not they receive Federal funds.

Today with this legislation we have a chance to eliminate the gag rule policy and by doing this confirm our committment to free speech. We can also remove the shackles of political control over professional medical opinion. And finally, we can erase the proposed two-tier system whereby low income women receive different medical advice from all others when facing crucial personal decisions on pregnancy.

Mr. BILIRAKIS. Mr. Chairman, I would like to take this opportunity to thank Chairman NATCHER and Mr. PURSELL for addressing one of my concerns about health care access for medically underserved communities.

Last year, Congress reauthorized the National Health Service Corps Programs. I was personally interested in the bill for a number of reasons but particularly because of a health care crisis in my district. In early 1990, a community and migrant health center in Dade City, FL, was forced to eliminate obstetric services when a national health service corps obstetrician-gynecologist resigned from the facility. Because the doctor left before his commitment with the National Health Service Corps had been completed, the clinic was not prepared for his departure and did not have the resources to hire a replacement.

National Health Service Corps medical professionals who break their commitment to the Government are required to pay a penalty fee based on the number of years served in the corps and the amount of money owed to the Government. This particular doctor's contract was bought out by a private group of doctors who wanted him to join their practice. As a result, obstetric services were discontinued in the Dade City facility and expectant mothers were forced to deliver their infants in a nearby hospital emergency room instead of the hospital maternity ward.

Even more disheartening is the fact that the penalty money went directly to the general revenue fund—not to the community clinic where the money was desperately needed. I felt this needed to be changed and saw an opportunity to do so when the Energy and Commerce Committee was considering the reauthorization of the program.

When the committee considered this bill, I authored an amendment, which was unanimously approved, that would provide some relief to health centers that lose their corps professionals prematurely. My provision created a special fund under the National Health Service Corps targeted specifically for clinics that lose health professionals before their commitment has been completed. The purpose of the fund is to enable clinics to operate at full capacity instead of allowing the overall health delivery system to decline when a corps professional resigns unexpectedly. The fund would assist these facilities with recruitment and replacement of another health professional. The money for this fund would come from the penalty dollars paid by health professionals who defaulted on their National Health Service Corps loans.

Through this bill, the fund will receive $1.5 million in fiscal year 1992. It is my hope that this special fund will prevent other health centers from closing their doors on their patients who are in dire need of health services.

Again, I am very grateful to the Appropriations Health Subcommittee for including my request in their appropriations bill for fiscal year 1992.

Mr. ENGEL. Mr. Chairman, I rise to express my concern about the reduction in funding for the Low-Income Home Energy Assistance Program [LIHEAP] included in H.R. 2707, the Labor Health and Human Services and Education appropriations bill. This program provides important energy assistance to many low-income people in this country.

In fiscal year 1991, LIHEAP received an appropriation of $1.6 billion. H.R. 2707 would reduce funding for LIHEAP to $1 billion in fiscal year 1992 with an additional $600 million being available as a contingency, under a Presidentially granted energy assistance emergency fund. The chances of the President making this money available are considered very unlikely.

LIHEAP provides energy assistance to low-income children and families, the disabled and many fixed income senior citizens. The average family income of a LIHEAP recipient is $6,000 a year. People in this income bracket traditionally spend 65 percent of their income on rent and utilities, which leaves them with very little money for other expenses. If this reduction is allowed to take place, my home State of New York stands to lose $88 million, which would translate into 250,000 fewer people being served by this program.

LIHEAP has a strong history of helping people stay warm during the long winter months. In December 1989, when we had an unexpected cold streak, the LIHEAP program helped many families afford the cost of heating their homes.

Mr. Chairman, LIHEAP is an invaluable program. I urge my colleagues to do everything possible to see that full funding for this program is restored.

Mr. DURBIN. Mr. Chairman, I rise in support of this bill to fund our Nation's health, education, and training programs. I particularly want to call attention to the funding provided in this bill for the National Institutes of Health.

Mr. Chairman, just a few weeks ago, we had a debate here on the House floor in which Members described the multitude of medical benefits they envisoned from the building of the space station. According to one Member:

> [T]here are medical solutions that await us up there. The space station is a solution to a lot of the medical mysteries that lie wasting away in veterans' hospitals.

Another Member said:

> The laboratory will give us unique opportunities to study cardiovascular disease, hypertension, osteoporosis, anemia, diabetes, and the basic immune functions. Such re-

search can lead to new medicines to treat diseases like cancer and AIDS.

Yet another Member told this body that space station-based research may actually lead to a cure for cancer. A cure for cancer.

Mr. Chairman, it may well be that a decade or more from now, after we spend from $40 billion to $100 billion on a space station, we may see some medical research spinoffs. But this body is required to make choices and set priorities, and I believe the National Institutes of Health offer us a greater potential for medical breakthroughs. We need to give more emphasis to the potential for medical discoveries that can happen through the programs funded by this bill, rather than focusing on the vague promises and hopes of a space-based medical miracle in the future.

A broad coalition of voluntary health organizations which promote research on the prevention, treatment, and cure of variety of diseases, joined together in the following statement regarding the National Institutes of Health. They said:

Since World War II, better than half of the 100 scientists that have been awarded the Nobel Prize in medicine and physiology had prior support from or experience at the NIH before being honored. No other research institution comes close on this measure of excellence.

They went on to say:

This unparalleled expertise has led to a long list of major discoveries. These include: identifying the cause of and possible treatments for AIDS: defining the genetic markers for diseases such as Huntington's disease and cystic fibrosis; developing recombinant DNA technology; discovering vaccines against hepatitis B and influenza; developing the immunosuppressant cyclosporin; refining the powerful antibiotic penicillin; and determining the linkages between smoking and lung cancer.

Finally, they noted that when our Nation's research priorities are placed elsewhere, opportunities for medical breakthroughs are missed. They said:

Significant opportunities recently missed at NIH due to funding limitations included projects to: evaluate the role of suppressor oncogenes on lung, colon, and breast cancer; develop a monoclonal antibody treatment for multiple sclerosis; investigate the use of immunosuppressants in treating Crohn's disease; and manage childhoold asthma.

Mr. Chairman, only one-fourth of the NIH grant proposals that have been identified as worthy of support each year are actually funded by NIH. The other three-fourths of these proposals are left unfunded despite their potential to lead to medical discoveries that could save lives and alleviate human suffering.

I am pleased that the Appropriations Committee was able to provide $50 million more for NIH than the President requested. I believe we need to do even more. If we want to maximize our ability to tap the scientific community for medical advancements, we need to reorient our Nation's research budget to focus more on what we can do now through expanded NIH funding rather than on what we might be able to do a decade from now if the space station is built.

Mr. HORTON. Mr. Chairman, I wish to express my strong support for the Low-Income Home Energy Assistance Program [LIHEAP]. I find it tragic that H.R. 2707, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1992 which passed the House today severely cut funding for this vital program.

The House Appropriations Committee slashed LIHEAP by nearly 40 percent to $1 billion. Additional moneys can only be released if the administration, which sought the funding reductions in the first place, declares an emergency. While I understand the need for fiscal constraint in this era of budget deficits, a reduction of 40 percent in LIHEAP is inequitable and irresponsible.

I represent six counties near Lake Ontario in upstate New York. As one can imagine, winters can be extremely cold in this region and LIHEAP is a critical program for many low-income people in my district. Federal assistance for high heating costs is not a wasteful Federal subsidy in my congressional district. Quite simply it saves lives.

I also serve as dean and chairman of the New York State congressional delegation. We in New York will lose more than any other State in the country in energy assistance if the present spending reductions remain in the bill. Hundreds of thousands of New Yorkers who need our help to meet energy costs will lose benefits while literally millions more will suffer nationwide. Further, it is estimated that LIHEAP funding for our State will fall by $87.5 million. Given the budgetary crisis we are experiencing in New York, our State government will certainly be unable to make up the shortfall.

I urge members of the Appropriations Committees in both bodies to raise the current level of funding for the Low-Income Home Energy Assistance Program before enactment of H.R. 2707. We must do all in our power to ensure that an adequate level of funding for LIHEAP be restored to meet the basic human needs that are addressed by the program.

Mr. WOLPE. Mr. Chairman, I wish to join with my colleagues and express support for the Low-Income Home Energy Assistance Program [LIHEAP].

I strongly support LIHEAP. It provides critical assistance to many low-income elderly, disabled, and families with children in my district.

Earlier this year, I testified before the Appropriations Subcommittee on Labor, Health and Human Services, Education, urging funding for LIHEAP at the current services level of $1.675 billion—the amount approved by Congress in the fiscal 1992 budget resolution.

Not only did LIHEAP not get funded at the current services level, the committee cut LIHEAP funding by $600 million below last year's level. The committee proposes a program of $1 billion.

This action is extreme. It represents a cut of more than 40 percent below the amount necessary merely to maintain the current level of services for the program.

I only pray that our next winter in Michigan—and throughout the Northeast and Midwest—is a mild one. If it is not, this major funding reduction will cause great hardship for many low-income people. I shudder to think of the consequences of our failure to adequately fund this essential program.

LIHEAP provides critical assistance to some of the most vulnerable members of our society. It meets a basic human need. Far too many low-income households—families with children, the disabled, and fixed-income elderly—must choose between heating their homes and other necessities. Nearly 60 percent of LIHEAP households are families with incomes under $6,000 per year.

Unfortunately, the need for LIHEAP has grown while available resources have not kept pace with that need. During the past decade, the number of federally eligible households increased almost 28 percent. At present, only a quarter of eligible households receive help. Despite this growth, LIHEAP appropriations have declined more than 20 percent between fiscal 1986 and 1991—and by an even larger amount if inflation is factored in.

The committee's action continues this downward trend. For Michigan, this funding reduction means real hardship. Michigan would lose more than $31 million resulting in almost 95,000 households being eliminated from the program. Alternatively, payments would be significantly reduced for current recipients.

On such a beautiful day as today, it is hard to think about winter. But I am fearful our failure to act today will come back to haunt us. This winter, when children and the elderly are freezing, our failure to act will be all too apparent. Maybe then we will correct our mistake here today and adequately fund LIHEAP.

I do hope the House Appropriations Subcommittee will do everything possible to secure adequate funding for LIHEAP during the conference with the Senate.

Mr. POSHARD. Mr. Chairman, I believe the activities this bill funds are some of the most important in the Federal Government. Protecting our workers, educating our young people, and caring for the sick are services which I am proud the Federal Government provides.

But, one very important and worthwhile program which has felt the pain of the budget ax is the Low-Income Energy Assistance Program [LIHEAP]. The $600 million cut in LIHEAP's regular funding will make it very difficult for many, many Americans, including a large number in my district.

The individuals and families in southern Illinois who receive LIHEAP help are the lucky ones. I have received lots of letters from people who were not able to qualify for LIHEAP, and are having a very difficult time making ends meet.

Mr. Chairman, I urge all of my colleagues involved with this legislation to increase the program's funding when the bill goes to conference with the Senate. LIHEAP is vital to millions of Americans and it is a program which this House should wholeheartedly support.

Mr. MARKEY. Mr. Chairman, the 1980's dealt Low-Income Home Energy Assistance Program [LIHEAP] recipients a devastating double blow. The first punch came in higher energy costs, as the energy bills facing low-income households nearly doubled over the decade. The average residential energy expenditures by low-income families increased to nearly $1,000 up from just $575 a decade before. This increase has come despite good-conscious efforts to conserve energy through Federal and State weatherization programs, which has succeeded in dropping energy consumption in low-income households by 13 percent over the same decade.

The second punch came as appropriations for the program dropped by over a third from the 1982 level. As a result, the average annual LIHEAP heating benefit had decreased from $173 to $124 by 1989.

Today the House goes for the knockout with a disastrous 40-percent cut in LIHEAP funding from its level just 1 year ago. This means that LIHEAP funding will drop as much in 1 year, from fiscal year 1991 to fiscal year 1992, as it did throughout the entire 1980's. Such a cut would terminate energy assistance for as many as 2 million families nationwide.

As the chairman of the New England congressional energy caucus, I have heard from colleagues from our region on both sides of the aisle who are outraged by ths draconian cut. Over 100,000 New England households will lose their energy assistance if the proposed 1992 allocation is maintained. In my own State of Massachusetts, over 40,000 families will be cut from the program as the Federal contribution drops by over $27 million.

LIHEAP recipients are the last group that should pay through drastically cut services. Even before the proposed cuts, LIHEAP is able to serve fewer than 25 percent of eligible households and on average pays less than 25 percent of those recipients' energy bills. The majority of these recipients have annual family incomes of under $6,000 and devote 65 percent of their income to rent and utilities. In my State of Massachusetts, two out of five LIHEAP recipients are elderly and face even greater financial pressures because of this.

LIHEAP helps the poorest of the poor meet one of humanity's most basic needs. It is not, as the administration has argued, an obsolete program designed for the energy crisis of the 1970's and no longer needed. LIHEAP helps the poor meet the personal energy crisis that comes in the mail from their utility companies at the end of each month. As the impact of the recession cuts deeper into the income levels of America's poor, more and more households are in vital need of LIHEAP's assistance.

Last year the House and the Massachusetts delegation lost LIHEAP's champion and most eloquent spokesman, Silvio Conte. Although his name will forever be associated with the good works of the LIHEAP Program, each year Silvio helped craft a bill that would strike the right balance between the many worthy programs to which he gave his support—from health research, to education, to child care.

Unfortunately, the bill before the House today does not succeed in striking such a balance. Mr. Chairman, I understand the tremendous budgetary pressures that have led to the choices in the Labor, HHS, and Education bill. Despite this, we are placed in an unacceptable position—choosing whether our constituents end up cold, dumb, or dead.

I urge my colleagues to reverse this perilous cut in LIHEAP in conference this year in order to protect those least able to afford the drastic consequences of such a severe cut.

Mr. HOUGHTON. Mr. Chairman, I rise in support of the Low-Income Energy Assistance Program [LIHEAP]. LIHEAP took a devastating cut in this bill—38 percent below last year's level. This cut means that 2.3 million families will not be able to receive LIHEAP benefits.

LIHEAP plays a vital role in the Northeast, assuring that 6 million families—the poor, elderly, and disabled—have adequate resources for meeting their home heating needs. Low-income families currently pay close to four times as much of their income for energy as the average family. In spite of program cutbacks, LIHEAP has remained the primary vehicle for assisting these families in meeting their home heating needs. During fiscal year 1991, the Northeast will receive close to $555 million in Federal funds for this purpose.

What does this program mean for the 34th District of New York? In the winter of 1990–1991, it provided aid to 30,032 households—one fifth of all the families in the district. In Allegany County, for example, 50 percent of the money was spent on emergency cases. If this money hadn't been there, these people would have lost their heat. Half of the recipients in Allegany County are elderly and nearly 60 percent must live on less than $6,000 per year.

Our only hope now is that the funding level can be brought up during the conference on this bill. I have spoken personally with Chairman NATCHER. He has assured me that he will do everything he can to restore funding for LIHEAP, and I am confident he will do his best.

Mr. Chairman, we provide hundreds of billions of dollars for people in need, but tell me—of all the human needs in the dead of winter—is there anything more important than providing warmth to those who cannot afford it otherwise?

Mr. GUNDERSON. Mr. Chairman, I am pleased to have this opportunity to speak in favor of the fiscal year 1992 appropriations bill for the Departments of Labor, Health and Human Services, and Education. I commend the efforts of the Chairman, Mr. NATCHER, and the ranking minority member, Mr. PURSELL, and the other members of the committee in producing a bill that addresses many of the educational needs of this Nation.

This bill represents a commitment to education, especially to the President's proposal, America 2000. America 2000 is a four-step proposal that would: Develop voluntary, national tests to help students reach new world class standards in five core subjects, create model schools for tomorrows' students, calls on corporations to work with schools and communities in upgrading necessary skills, and asks communities to adopt educational strategies.

The fiscal year 1992 bill contains $500 million for educational improvement activities that are authorized in law by December 31 of this year; $250 million is specifically allocated for America 2000. The $250 million contingency fund helps us to lay the foundation for the President's education agenda. This is a rare occasion where the House Appropriations Committee has provided funds for programs that have yet to be authorized. I assure my collegues, in particular, Chairman NATCHER and Mr. PURSELL, that the House Education and Labor Committee has every intention of authorizing all America 2000 initiatives and will work with President Bush and the Senate in seeing that this legislation is enacted prior to adjournment of the 1991 session.

Last year, the Congress passed the Carl Perkins Vocational Education Act. Having been very involved in last year's reauthorization effort, I am pleased that the appropriators have given a $400 million increase to vocational and adult education programs.

I would also like to thank the Appropriations Committee for the continuation of funding for Attention Deficit Disorder Centers. These information centers help educators, researchers, and parents respond to the educational needs of students with attention deficit disorders.

Although many education programs received significant increases, several education and health programs were not as fortunate. These include Pell grants and the alcohol, drug abuse, and mental health block grant.

The proposed fiscal year 1992 Pell grant allocation in the bill is somewhat disappointing. Once the House and Senate complete work on the reauthorization of the Higher Education Act, I am confident that the Congress will appropriate the additional dollars needed to match the reauthorized level and that Pell grants will also be made available to part-time students.

The proposed alcohol, drug abuse, and mental health block grant allocation for fiscal year 1992 is distressing. The $33.7 million reduction will be especially harmful to the States as they try to offer adequate prevention, treatment, and rehabilitation programs to all those who need such services.

As an advocate and trustee of Gallaudet University, I especially want to take this opportunity to thank Chairman NATCHER and Mr. PURSELL for the $910,000 increase in the proposed allocation for Gallaudet, a total appropriation of $73.172 million. Of the increase, $850,000 will be used for funding computers. The percentage of the student body that actively uses the computer system is 80 percent. The number has quadrupled over the past 3 years.

Gallaudet University has a very ambitious priority list for 1992. These initiatives include: Expanding research programs to promote the equalization of opportunities for all deaf individuals, increasing the use of technology as a tool for instruction, serving as a national and international source of information, and professional training for deaf and hard of hearing people. A particularly interesting project that Gallaudet will begin within the coming year focuses on communication. The provost and the vice president for administration and business are developing plans for research regarding effective sign communication in postsecondary classrooms.

Again, Mr. Chairman, I want to thank the distinguished chairman of the Labor, HHS, and Education Appropriations and the other members of the subcommittee for producing a bill that will improve many of our education programs and social services for fiscal year 1992.

Mr. LEVIN of Michigan. Mr. Chairman, I'd like to take this opportunity to join my colleagues in praising the work of the subcommittee on this appropriations bill and, in particular, to thank the gentleman from Kentucky, Chairman NATCHER of all the good work that has gone into this legislation.

The national unemployment rate rose from 6.5 percent to 6.9 percent last month. In my home State of Michigan, the news is even worse: The unemployment rate currently stands at 9.7 percent. For these people, the recession is far from over.

At times like these, working Americans who find themselves unemployed through no fault of their own rely on our unemployment insurance [UI] to see them through. But as members of the Appropriations Committee well know, the proper functioning of the UI program depends crucially on the administative funding provided under this bill.

When the recession deepened earlier this year, we faced a shortfall in administrative funding for the States. The committee provided the necessary moneys in the supplemental appropriations bill. The UI system was paralyzed in many places, unable to cope with the enormous new demands placed on it, and the extra funding helped ease the situation. The long lines at unemployment offices and delays in claims processing largely disappeared.

But providing additional money through the supplemental appropriation process is at best only a temporary solution. The real problem is the supplemental process itself, which often delivers too little relief too late. A system that takes three or four months to respond to the immediate needs of our workers is a system that doesn't work properly.

During committee consideration of the supplemental appropriation bill, I raised with Chairman NATCHER the idea of establishing a contingency reserve fund that would automatically pay out additional administrative moneys if there were unanticipated increases in unemployment. This idea was first brought to my attention by an alliance of employer and employee groups from Michigan, and I thought it was a good first step in solving the chronic shortages of UI administrative financing. In a bipartisan display of support, the entire Michigan delegation recently sent a letter endorsing this proposal and asking for its inclusion in the Labor-HHS bill this year.

I am pleased, therefore, to see that the committee has established a contingency reserve fund in this legislation, and I want to personally thank Chairman NATCHER for his cooperation in securing this important reform. He promised last March that the subcommittee would seriously consider the concept this year, and as always, he was true to his word.

I also want to note that the committee provided the full amount requested by the Bush administration for UI administration, not the significantly lower amount assumed in the budget resolution. This was a difficult but wise decision, all the more so because of the other pressing needs the Committee had to consider.

It remains to be seen whether these changes will completely protect the integrity of our UI program. Continuing budget pressures and a new, somewhat ambiguous, sequester procedure mean that adequate future funding for administering the UI program remains in doubt. I continue to think that making UI a mandatory spending program would both ensure the proper and efficient operation of our UI program and also protect other domestic programs from the large and growing needs of the States in administering programs like UI. But that idea will have to wait for another day.

On behalf of the working men and women of Michigan, I want to express my gratitude to the committee for a job well done, and I look forward to working with Chairman WHITTEN, Chairman NATCHER, and other members of the committee on this issue in the future.

Mr. ATKINS. Mr. Chairman, I rise today in support of H.R. 2707 as it was reported out of the Appropriations Committee. This legislation contains a provision, offered by Representative JOHN PORTER, that would prohibit any Federal funds from being used to enforce the administration's gag rule regulations. These regulations, promulgated by the Reagan administration, supported by the Bush administration, and declared constitutional by the Supreme Court, prohibit physicians from providing their patients with legal medical information.

The gag rule mandates that physicians provide women with half truths about the options available to them—even when their lives are in danger. In effect, the gag rule legalizes malpractice.

Any decision that a woman makes concerning abortion is painful, troublesome, and intensely personal. It is a decision that should be made by a woman, in consultation with her physician, and with her family when possible. Yet how can we expect a woman to make an intelligent, informed decision when she is not provided with all of the information necessary to make that decision? I would ask my colleagues, has there ever been a time that you asked your staff to provide you with less information about an important vote because it would help you make a better decision? I would hope not.

For 4 years, I have fought to reverse the international version of the gag rule, the Mexico City policy. In all of these years, I never imagined that I would be fighting to reverse such a misguided policy on a domestic level. It is inconceivable to me that two of the three branches of this Government would support regulations that so blatantly restrict free speech and the free flow of information—especially when that information could save a woman's life.

Mr. Chairman, 2 weeks ago the House voted to reverse the international gag rule and restore U.S. funding to nongovernmental and mutlilateral organizations that counsel women about abortion in countries where abortion is legal. I urge my colleagues to extend this same right to clinics within the United States that receive Federal funding. Let's get the government out of the doctor's office and allow women to be advised of all of the legal medical options related to a pregnancy. Support H.R. 2707 as it was reported out of committee.

Mrs. KENNELLY. Mr. Chairman, I rise in strong opposition to proposed funding cuts in LIHEAP—the Low-Income Energy Assistance Program. If our friend and colleague Mr. Conte were here on the floor today, clad in a plaid blazer, he would remind us of how critical this program is to the Northeast region of the United States. Though I am not as loud as my colleague was, nor as skilled in writing verse, my message is just as sincere and just as resolute.

Mr. Chairman, a 40-percent in this important program is just not acceptable. It is not reasonable for it hurts the very citizens that need energy assistance the most. There are many places in the budget that deserve trimming. LIHEAP is not one of them. Such a cut would eliminate 2 million families from the program or significantly reduce payments for current recipients. And it is important to remember that this cut is in addition to the already tedious strain this program has endured through the years.

During the past decade, the number of federally eligible households has increased by almost 28 percent. Further, at the present, only a quarter of the eligible households receive help. Despite this growth, LIHEAP appropriations have declined more than 20 percent since fiscal year 1986.

The committee's solution is to set up a contingency fund for release only if the President declares a national emergency. Pointing to the situation I have just described, Mr. Chairman, by my definition we are already in the midst of a national emergency. The ability to heat one's home should not be a privilege—it is hardly a frivolous expense. Home heating is a basic human need.

Mr. Chairman, I urge the conference committee to reexamine this issue with an eye toward maintaining funding levels for this critical program.

Mr. RANGEL. Mr. Chairman, a few few weeks ago several Members, including myself, recognized the 10-year anniversary of the AIDS epidemic. We called for continued vigilance against this great threat to our Nation's public health. Today, the strength of our convictions is being tested. And, I'm afraid, we are falling short of our stated goals.

I applaud the work of the Labor, Health and Human Services, and Education Appropriations Subcommittee. The distinguished chairman, Mr. NATCHER, has proven to be a true advocate for AIDS treatment and research. The bill before us includes a $63 million increase over fiscal year 1991. Within that increase is an additional $26 million for the Ryan White AIDS CARE programs. That's $26 million more than the President requested. Despite the expanding number of AIDS cases, including a one-third increase in my State of New York, President Bush thinks that emergency funding can remain level. I commend Mr. NATCHER for taking the lead on increasing resources for the Ryan White CARE Act.

Unfortunately, our cities will continue to suffer from the explosion in the number of AIDS patients. Recently, the U.S. Conference of Mayors reported dramatic increases in the number of AIDS patients. In New York City, anywhere from 125,000 to 235,000 people are affected with the HIV virus. By the year 1996, according to the U.S. Conference of Mayors, the number of AIDS cases in many cities will increase by more than 200 percent.

According to the U.S. Conference of Mayors, Federal AIDS-assistance funds are simply insufficient to meet local demand. Public resources cover a large percentage of AIDS cases. Service systems are strained. Federal funds provided under the Ryan White ACT are barely helping to ameliorate the burden placed on local governments. All the cities surveyed by the U.S. Conference of Mayors believe they will be unable to meet projected demand for HIV-related prevention, education, and health services. They are looking to the Federal Government for help.

I know members of the Labor-HHS-Education Appropriations Subcommittee, and oth-

ers of us in Congress, wanted to give a larger funding increase to the Ryan White CARE programs. It is a shame that last year's budget agreement prevents us from acting more decisively on such a critical issue. In order to rein in the deficit, we are forced to choose between feeding those who are already hungry or treating those who will soon be sick. The richest nation in the world should be able to do both. Once again, we see that the big party the Republicans threw in the 1980's had a price. Too bad the people who weren't invited end up footing the bill.

Mr. DOWNEY. Mr. Chairman, I rise in strong support of the bill providing appropriations for fiscal year 1992 for the Departments of Labor, Health and Human Services, and Education. I commend the work of Chairman NATCHER and his colleagues on the subcommittee in particular for their hard work on Older Americans Act programs.

We are all aware of the constraints imposed on us by the budget summit agreement. Nonetheless, this appropriations bill funds Older Americans Act programs at the same level as last year. In a short time, we will be considering the reauthorization of the act and we will have the opportunity to debate these programs more fully. I would note at this time the report language which urges the U.S. Administration on Aging to promote minority participation in Older Americans Act programs and to improve its data collection efforts. Both of these concerns have been mentioned to me by many in the aging community and I endorse this report language.

As chairman of the Aging Committee's Subcommittee on Human Services, I am especially pleased to note that the Appropriations Committee has restored the $47,500,000 cut that President Bush requested in the title V, Senior Community Service Employment Program. In March, I held a subcommittee hearing to examine the impact of this drastic cut on the people the program served. We learned that approximately 7,800 individuals would lose their jobs. These 7,800 people are elderly women and men with low incomes who are eager to work in public service jobs. They are willing to continue to contribute to their communities. There is no rationale for a cut like this, and I made the point to the Secretary of the Department of Labor when I met with her subsequent to the hearing. The Appropriations Committee is to be commended for rejecting this foolhardy and mean-spirited proposal. I only regret that so many people had to expend so much effort in staving off a cut that should never have been made, instead of working to increase the funding for the program. I urge the administration to heed this message and stop trying to weaken a successful program.

I also strongly support the Committee's action in continuing to fund the elder abuse prevention and treatment program, and the ombudsman program. Just last month, I held a hearing on the problem of elder abuse and it is clear that the Older Americans Act can play a pivotal role in the elder abuse efforts. A week ago, I met with the associate executive director of the Family Service League of Suffolk County, the agency which provides ombudsman services in my district. I heard how strapped they are for funds to run the program. Here I must emphasize that the ombudsmen in Suffolk County are all volunteers, who do their jobs under, at times, difficult circumstances. We should not be misled by the fact that these ombudsmen are volunteers—it still takes resources to run such an important program. I wish that we could provide increased funding for both these programs at this time, but it is not possible. However, I am encouraged that a number of my colleagues and I are working to develop a new elder rights provision of the Older Americans Act which we hope will strengthen the elder abuse, ombudsman, and other advocacy programs.

Finally, I must thank Chairman NATCHER for continuing to fund a demonstration program which I strongly believe in. The 1989 Omnibus Budget Reconciliation Act contained a provision I introduced, section 10404, the Intergenerational Demonstration Project for Disabled Children. This project grew out of the innovative Family Program of the National Council on the Aging. It seeks to determine whether the use of volunteer senior aides to provide basic medical assistance and support to families with moderately or severely disabled chronically ill children contributes to reducing the cost of care for such children.

The U.S. Administration on Aging has just issued its request for proposals for the funds for fiscal year 1991 and the continuation of this program through fiscal year 1992 is welcome news indeed. It is most important that we continue to fund this demonstration program and that we provide the resources for a thorough and comprehensive evaluation of this model.

Mr. ABERCROMBIE. Mr. Chairman, today the House is scheduled to vote on H.R. 2707, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1992. One billion dollars is included in this bill for the Low-Income Home Energy Assistance Program [LIHEAP]. Although $1 billion may appear to be a generous level of funding, unfortunately, it is actually a cut of almost 40 percent in 1 year. In fact, suggested funding for this program may affect as many as 2 million families across the Nation.

In Hawaii, we use some of the most expensive oil and electricity in the Western Hemisphere, yet the average incomes of our low-income citizens are comparable to the poorest of the Southern States on the mainland. LIHEAP, like food stamps, is one of the few grants available to working poor and recently unemployed families. For low-income Americans rising natural gas, electric, and home-heating-oil prices are not only a temporary irritation but a chronic drag on inadequate incomes, one whose weight has increased enormously since the energy crisis of the mid-seventies.

LIHEAP helps families with children and the elderly avoid loss of utilities and the health and housing consequences that follow, which, all too often, includes eviction. The majority of the recipients are families with incomes under $6,000. During 1990, the Honolulu Community Action Program, Inc.'s Low-Income Home Energy Assistance Program provided crisis intervention assistance to 760 households and energy credit assistance to 3,158 households. Without assistance to pay for utility bills, many of these households would be unable to pay for the higher costs and face the prospects of a utility shutoff. The elderly, disabled and low-income households on fixed incomes have the least amount of discretionary funds to cope with such changes.

I understand that Congress faces difficult budgetary decisions in this era of limitations. However, we cannot forget or ignore those who are less fortunate. Therefore, I urge the Members of this House to give special attention to the Low-Income Home Energy Assistance Program and its needs.

Mr. RAMSTAD. Mr. Chairman, I join in the plea of our distinguished chairman of the Select Committee on Narcotics Abuse and Control that we not politicize the antidrug abuse effort. Chairman RANGEL is to be commended for his bipartisan, apolitical approach to dealing with the deadly drug epidemic.

But this caveat does not dim the tragic reality of the drug problem which, unfortunately, is not adequately addressed by this legislation, H.R. 2707.

Mr. Chairman, 5.5 million Americans are chemically dependent and unable to get into treatment programs. Because the Shaw amendment was objected to on a point of order, $134 million requested by the President will not go to these drug treatment needs. That means 16,000 fewer Federal drug treatment slots and 64,000 fewer State and local treatment slots.

Mr. Chairman, it's simply wrong to let these critical treatment slots go unfunded. It's wrong to cut the States' treatment programs.

The consensus in Congress and throughout the country is that we truly need a comprehensive approach to the drug problem. Treatment is a crucial component of such an approach. As one law enforcement official said recently, "We could lock up every drug dealer and user in America, and we would still have a drug epidemic."

Cutting the President's request for drug treatment programs by $134 million is both shortsighted and tragic.

Mr. Chairman, I truly hope Members on both sides of the aisle will work in the bipartisan spirit cited by Chairman RANGEL to restore these critical treatment funds in the conference committee.

Mr. GALLO. Mr. Chairman, I rise today in support of the Labor, Health and Human Services and Education appropriations bill, H.R. 2707. I commend the work of the subcommittee especially the gentleman from Kentucky, Chairman NATCHER and the ranking member from Michigan, Mr. PURSELL.

This bill takes important steps in providing funding for many worthy programs. However, I was disappointed to see that the Low-Income Home Energy Assistance Program [LIHEAP] did not receive the full amount necessary to continue this important program.

The bill provides $1 billion for LIHEAP which is a reduction of $610 million from the fiscal year 1991 funding level. This means an estimated loss of $28 million for my home State of New Jersey. More importantly, this means that many families, approximately 103,000 in New Jersey alone, that have depended upon this program in the cold winter months will not be able to participate. Estimates show that the average recipient in my State would see their benefit decreased from $400 to $236.

I would encourage the subcommittee to work with the Senate to see if funding could be found in order to provide these needed benefits that so many families depend on.

Mr. GREEN of New York. I am pleased to rise in support of the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992. Of all the important and valuable programs funded by this bill, the one that is of special concern and interest to me is the Ryan White CARE Program, which targets desperately needed funding for the treatment of people with AIDS to those localities hardest hit by the AIDS epidemic.

As the Representative of a district within such a locality, I would have liked to see a much greater increase in fiscal year 1992 funding for Ryan White because the fiscal year 1991 appropriation fell far short of the authorization. However, understanding the severe fiscal constraints faced by the members of the subcommittee, I shall not take issue here with the level of funding provided. I should like to say, however, that I hope we continue to seek ways to build on the commitment first made back in 1982 by my esteemed colleagues, the gentleman from Kentucky [Mr. NATCHER] and the late gentleman from Massachusetts [Mr. CONTE], to provide the funding needed to address all aspects of the AIDS epidemic, including research, education, prevention, and treatment.

I should also like to thank the new ranking member of the Labor-HHS-Education Subcommittee, the gentleman from Michigan [Mr. PURSELL], for the interest he has shown in this devastating disease, especially his willingness to visit with me this week the Beth Israel Medical Center in my district, which provides outstanding service to people with AIDS. I look forward to our continued efforts to ameliorate this tragic epidemic.

Although the AIDS epidemic and funding for the Ryan White programs are my top priorities in the Labor-HHS-Education bill, there are two other programs within the bill that I wish to bring attention to. First, the office of refugee settlement and the refugee cash and medical assistance grant program are suffering reductions that will seriously hamper efforts to resettle the thousands of refugees who are waiting to come to the United States from many corners of the world. I believe we have a responsibility to help those who are drawn to our shores by the dream of a better life and would hope that we continue our efforts to find the resources to fulfill that commitment.

Second, the funding provided in this bill for LIHEAP, the program that provides energy assistance to low-income children and families, the disabled, and fixed-income elderly, represents a cut of nearly 40 percent. That cut potentially threatens 1.9 million families who require assistance for their basic energy needs, such as heating, light, hot water, and emergency cooling. I am troubled by such a drastic reduction that will affect so many of our most vulnerable citizens. I hope that this issue can be revisited at some point with better results.

On the positive side, the bill's denial of funding to enforce the gag rule on family planning clinics is an important blow on behalf of free speech and the sanctity of the physician-patient relationship.

In closing, Mr. Chairman, I wish to reiterate that I am fully aware of the constraints that guided the decisions of the gentleman from Kentucky [Mr. NATCHER], the gentleman from Michigan [Mr. PURSELL], and their colleagues on the subcommittee. Despite some disappointment I feel over the level of Ryan White funding, I shall vote for the Labor-HHS-Education bill and urge my colleagues to do so as well.

Mr. GOSS. Mr. Chairman, stop and think for a minute—today we are discussing a $204 billion spending bill, of which $145 billion is mandatory spending—money that must be spent just to perpetuate the status quo. If we do this without at least stopping to consider breaking the cycle of spending more money for health care that meets less and less of our needs, we are merely perpetuating the myth that nothing is wrong with our health care system.

When will we face reality? Our country is in a health care crisis and we cannot just roll merrily along as if nothing were wrong. When will we stop? When we spend 15 or 20 or 30 percent of our gross national product on health care instead of 11 percent? Today, almost half of our total health care spending is shouldered by the Federal Government. Our appropriations process has become so cumbersome that we are forced to gloss over major areas of concern in one enormous, kitchen-sink type bill. Every day I get dozens of letters from my constituents—they are fearful that Congress' only plan to cope with the out-of-control health care costs is to cut Medicare and Medicaid. So far, we haven't given them much reason to think otherwise. It's true, these programs have outgrown their original intent—they have become bigger than was ever anticipated and, most frightening of all, they still are not enough.

We cannot cut these programs indiscriminately, but we must find a more effective use of our health care dollar. To do this, we need a sign from our leadership that they are committed to real, meaningful health care reform. I urge my colleagues not to let the debate on this vital issue begin and end with today's votes. Let's not take the easy way out—let's consider the alternatives. Those of us working on the Republican health care task force have already begun to spell out creative proposals to address our health care challenges and we are most anxious to turn the attention of this House to these possibilities.

Aren't we concerned, as a body, about long-term care for our elderly? What about the cost of defensive medicine, a problem that can be alleviated with malpractice reform?

Can we continue to ignore the plight of the uninsured, whose numbers are growing daily? Mr. Chairman, we all know the money we appropriate is not monopoly money—it comes from the hard work of American families. Let's open our eyes and recognize that the majority of the funds in this bill are channeled into a broken system, a system in dire need of replacement.

Mr. TOWNS. Mr. Chairman, because of our reluctance to raise revenues to address pressing social needs we are faced with a crisis in funding for our low-income home energy assistance programs. I am certain that the subcommittee has great difficulty in meeting the sequestration targets; a choice between reductions in funding for breast cancer research, assistance to historically black colleges or minority health scholarships could not have been easy.

Yet, New York State faces the real possibility of losing $88 million for fiscal year 1992. In real terms, over 250,000 families will no longer be able to participate in the LIHEAP Program. LIHEAP recipients are low-income children and families, the disabled and many fixed-income elderly. These are families with an average yearly income of $6,000. Nearly 65 percent of this income traditionally goes to pay for rent and utilities, leaving little to cover other living expenses.

There is no greater argument for attacking the deficit problem through increased revenue than the choice we are presented with in this bill, to fund education and health programs or to deny energy assistance to low-income Americans. I have said repeatedly that we cannot cut ourselves out of this deficit. We only wind up robbing Peter to pay Paul and the people who suffer are those who can least afford it, poor and low-income Americans.

Mr. RANGEL. Mr. Chairman, I rise in support of H.R. 2707, the Departments of Labor, Health and Human Services and Education, and related agencies appropriations bill of 1992. I wish to recognize the efforts of the distinguished gentleman from Kentucky and his colleagues. In particular, I am quite gratified that they have recognized the continued crisis in health in the minority community.

As I read the report for this bill, I note that the Appropriations Committee recognizes the need to address the high incidence in minority communities of cancer, heart disease and, now, HIV-related diseases along with recurring threats of tuberculosis and measles, and other devastating health problems related to impoverished lifestyles. I concur with the report that alcohol consumption along with narcotics use as well as poor diet has exacerbated the poor state of health in the minority community. I share the committee's praise for the Health and Human Services Secretary's recognition that efforts be made to develop programs to encourage healthy lifestyles in the minority community.

That is why I am so pleased to see that the committee is urging the Secretary to consider funding demonstration programs to address the problems of lifestyle and minority health. Indeed, the report notes that the committee believes that inner-city hospitals can play a vital role in this effort. I concur. I do because in my district there is a minority run nonprofit hospital dedicated to the improvement of the health of the minority community. North General Hospital in the face of every adversity that an inner-city hospital can face has made extraordinary strides to reach out to the community and make a difference. North General has already begun to plan and to raise money in the private sector to establish a program to educate the minority community on healthy lifestyles and to track its efforts in doing so. If the Secretary is inclined to follow his own statements and the urgings of the committee to establish demonstration efforts to affect healthy lifestyles in minority communities, I could recommend no better institution than North General to undertake the responsibilty.

Mrs. MINK. Mr. Chairman, I rise today to express my strong disappointment in the limited funds allocated for research on ovarian cancer under the Labor, Health and Human Services appropriations bill. This bill designates $30 million for research in the areas of breast, ovarian, and prostate cancer.

The sum of $30 million is hardly adequate to support the kind of research needed for three major forms of cancers that afflict thousands of men and women in our society.

Furthermore, the grouping of these three types of research only diminishes the chances for more research dollars in the area of ovarian cancer. I see no reason why we should pit one type of research over another for research dollars.

This kind of allocation will only prove to perpetuate the medical gender gap that continues to shortchange women of the desperately needed funds for women's health research.

The critical lack of knowledge about ovarian cancer is just another example of the neglect in women's health research.

Ovarian cancer is a dangerous killer, that will strike nearly 21,000 women this year. The disturbing fact is that at least two-thirds of these women will die. Unlike breast cancer there is no early detection test to diagnose the disease in its early stages. In most cases once a woman is diagnosed the cancer is already in an advanced stage.

Mr. Chairman, for too long the women of this Nation have been silent and have been deprived of adequate attention to our health needs. I stand before you today to let this Congress know that we will be silent no longer and at every opportunity we will continue to press for equal access to the desperately needed funds to advance the health status of the women of this Nation.

Mr. SWETT. Mr. Chairman, I commend the Appropriations Committee for delivering an excellent piece of legislation at a time when our budget must be tight and there is not a lot of extra money to go around. But I want to call attention to one program that I believe both the President requested and the committee funded at far too low a level. That program is the Low-Income Home Energy Assistance Program, or LIHEAP. Unfortunately, this bill cuts funding to LIHEAP by more than one-third from last year's level. Such a substantial cut, even in these financially difficult times, will present serious difficulties for those who benefit from the program, and I strongly urge the committee to reconsider this action as it takes this bill into the conference committee.

Mr. Chairman, I come from a rural, northeastern area. My district in New Hampshire borders Vermont on one side, Maine on another, and Canada on another. As you might guess, my constituents face long, cold winters. So in New Hampshire, this program is not a luxury—it is a necessity.

Many working families rely on this program to help them make it through the winter. In the middle of winter, these families will have to choose between surviving subzero temperatures or going hungry. The money from this program goes to families who are working hard to pay the bills, but just need a little extra help to make ends meet. I don't think it is too much to ask that we get them this little extra help.

Mr. Chairman, I hope we can find some way to increase the funds allocated for this program—even by a little. I strongly urge the members of this committee to take a second look at this program and try to save some extra money for it in conference.

Mr. Chairman, I yield back what remains of my time.

Mr. DYMALLY. Mr. Chairman, I speak today on behalf of a program which I know the gentleman from Kentucky has always championed—Job Corps. I want to assure you that I am committed to working with you to assure that more youth in my congressional district, the State of California, and the Nation have access to the premier education and training program in this country, Job Corps.

I completely support the investment of funds included in the 1992 appropriations bill to enhance Job Corps. Increased drug abuse counselors, higher allowances, and improved facilities are needed, but there are also thousands of youth in Los Angeles who are unable to benefit from Job Corps because there are not enough centers or training opportunities.

Mr. Chairman, allow me to share with you some of the cases I see on any given day in the city of Compton. For instance, one of my constituents, 19-year-old Laverne, former gang member and drug dealer recently released from incarceration, is looking for a job to support his wife and young baby, but he is unable to find a job. He is a 10th grade dropout and needs a long-term, intensive education and training program, like Job Corps, to become self-sufficient. So far, such training programs do not exist.

Dorothy, an 18-year-old young mother of two is an eighth grade dropout. She had suffered a drug addiction, and completed a drug rehabilitation program. She is currently on welfare, and has been looking for a job to support her children. Dorothy has successfully stayed away from drugs for over 6 months, but without any hope of obtaining a job and improving her life, how long can we expect her drug rehabilitation to continue?

Dwayne, a 21-year-old African-American, whose mother recently died of breast cancer, graduated from Compton High School, but was unable to pursue a college education. Dwayne had only a minor drug arrest. He aspires to be a productive citizen of the community, but for the past 3 years he has been unable to find a job. Mr. Chairman, this is the story of so many youth in the city of Compton, CA, where over 51 percent of the population are under the age of 25. Law enforcement members of the Compton Police Department and other law enforcement officers who deal with these cases on a daily basis believe that allowing these troubled youth an opportunity in life will help them avoid further problems with the law.

On behalf of the 14 members of the California congressional delegation, who signed a letter endorsing the Job Corps 50–50 expansion plan because less than 1 percent of our youth are served by Job Corps, I am committed to helping you to increase Job Corps capacity. I look forward to working with you in the future to assure that Laverne and Dwayne and thousands of others at-risk-youth can join Job Corps to fulfill their dreams.

Mr. BUSTAMANTE. Mr. Chairman, I thank the chairman for the opportunity to emphasize the importance of retaining the appropriated funds for the State legalization impact assistance grant, commonly called SLIAG.

For the 23d Congressional District of Texas, the loss of SLIAG funding means that all who need education assistance and social service programs will suffer. This is not a program specifically for newly legalized residents and citizens, but a program that offers relief to existing overburdened State programs.

Most of you will remember that the purpose of SLIAG funding was to promote citizenship for newly legalized persons. We argued in 1986 that by providing amnesty and help in obtaining citizenship, the great number of undocumented residents would become citizens and vital contributions to this country. To deny them this assistance is to deny them full access to this country.

The original appropriation of SLIAG funds recognized that these State programs would suffer great stress when the amnesty provisions of IRCA went into effect. Although the anticipated impact was slow in coming, it arrived and the need remains. In spite of this well-documented need, we continue to divert funding.

It is my hope that we will correct the ommission of SLIAG funding during conference.

Furthermore, I wish to take this opportunity to thank the chairman, Mr. NATCHER, my friend Mr. ROYBAL, who sits on this committee, and Mr. FAZIO for their efforts. The importance of SLIAG funding to areas with high numbers of newly legalized persons cannot be overemphasized. Again, I urge the conference to restore SLIAG funding.

Mr. MACHTLEY. Mr. Chairman, communities across this country will be crippled if the cuts in the Low-Income Home Energy Assistance Act, so-called LIHEAP, are passed.

As reported by the committee, LIHEAP is funded at 40 percent below this year's funding level of $1.6 billion. This is $675 million less than the figure recommended in the fiscal year 92 budget resolution.

If these cuts in LIHEAP funding are enacted, it is estimated that more than 8,000 households in my State of Rhode Island will lose LIHEAP services. Across the country, almost 2 million families will suffer.

LIHEAP is a critical program that works for working people. Without this program, far too many people—families with children, the disabled, elderly on a fixed income—will be forced to choose between heating and eating. Nearly 60 percent of LIHEAP recipients are families with incomes under $6,000 per year.

Mr. Chairman, the emergency set-aside of $600 million is not an answer to underfunding this truly essential program. People should not be forced into desperation before the needed funds are released.

Mr. Chairman, reductions in LIHEAP will cause real pain for real people. I urge my colleagues to join me in working to restore in conference the funding needed to help ensure that low-income families across our country do not freeze this winter.

Mr. LEVIN of Michigan. Mr. Chairman, I would like to praise the members of the subcommittee, and particularly the gentleman from Kentucky, Chairman NATCHER, for including language in this appropriations bill that

would preclude the administration from implementing the so-called gag rule. I would like to add my voice to those of my many colleagues who are supporting this provision.

The gag rule is really a subtle form of censorship. By warping the doctor-patient relationship, this rule would force health professionals to violate their ethical oaths and legal obligations.

The notion that health care professionals should be restricted in what health care information that they can provide is contrary to the basic fabric of American society. It flies in the face of freedom of speech. It flies in the face of our efforts to increase healthy lifestyles. It flies in the face of common sense and logic. If we are going to restrict physicians and nurses in federally funded clinics from discussing all pregnancy-related options with their patients, what is the next step? Would it be constitutional to prohibit discussing the ill effects of drug abuse based on the argument that it might actually encourage drug use? Or prohibit physicians from warning patients about the dangers of AIDS because arguably it might encourage intercourse? Or prevent them from discussing specific options for treatment that might involve expensive procedures, because this might increase Federal health expenditures?

This provision preventing the use of funds from this bill to implement the gag rule is the right thing to do. It is the right step. Let us take that step, and let us make sure that the administration does not attempt to push us backward.

Mr. BALLENGER. Mr. Chairman, President Bush sent his education plan, America 2000, to Congress in early June. The proposal is a bold and innovative strategy to achieve excellence in education by restructuring and revitalizing America's education system.

I am particularly pleased this plan recognizes the important role that business leaders can play in our education process. I would like to mention a program I helped start in my congressional district. It is modeled after the I Have a Dream Program.

Basically, it is a scholarship program to encourage sixth graders to complete high school and go on to a college, technical, or vocational education program. From personal accounts of teachers and counselors, I found that many students in the sixth grade, without the right incentive, were most likely to drop out and never graduate. My program teams business leaders and others with these students and helps them achieve their dreams.

As a businessman, from a highly industrialized part of the country, let me tell you that this scholarship program had another purpose. Businesses in the area were desperate for qualified employees and too many potential employees simply dropped out of school, resulting in a lack of qualified people to fill skilled positions.

The scholarship program was created to give these kids a chance to become productive members of society, and reach their educational and career goals. Not only that, it solved the worker shortage problem for industry. A little, simple business innovation can solve a lot of problems.

It is unfortunate, this appropriation bill does not provide more for this type of innovative program which can transform America's schools. I support more funds for the President's programs.

Mr. WILLIAMS. Mr. Chairman, I am concerned about the cuts that are in this bill for the Low-Income Housing Energy Assistance Program. The program has suffered some drastic cuts in the last decade, with a proposed level of funding for fiscal year 1992 which is half the appropriated level of fiscal year 1985. While this level of funding may be a solution for balancing the budget it is a real problem for Montanans.

Last year the people in Helena experienced the 12th coldest December on record. On 12 days during that month the temperature did not get above zero. At the same time, folks in Kalispell found themselves digging out from under a record snowfall accompanied by temperatures as low as 35 below zero.

During the last 10 years, the average utility bill for residential customers of the Montana Power Co. has increased by nearly 40 percent. On the other hand, the same period has seen a decline in the actual—unadjusted—incomes of LIHEAP households of more than 5 percent.

Some 21,300 Montana households depend on LIHEAP to help them get through winters that are typically long and frequently severe. If the proposed cuts in LIHEAP are implemented only 14,400 households will receive assistance.

Mrs. VUCANOVICH. Mr. Chairman, I would like to commend Chairman NATCHER and his colleagues for their recognition of a life threatening disease which affects families throughout our Nation. As you may have guessed, the disease to which I am referring is breast cancer.

I was very pleased to note that this legislation includes $50 million for breast and cervical cancer control within the budget of the Centers for Disease Control. As you know, one of every nine women will develop breast cancer this year and, unfortunately, many of those women will not survive the fight for life. With no cure in sight for this disease, the key to survival must be early detection and treatment. While we have tried to pass this message on to the families in our Nation, more attention needs to be given to this issue. I am pleased that these funds have been appropriated for this purpose.

In addition, I am very encouraged that funding has been appropriated for programs to increase attention to breast, ovarian, and prostate cancer within the National Institutes of Health. With this recognition of these very important diseases, I am hopeful that many lives can be saved.

Mr. Chairman, in closing, I would like to encourage my colleagues to become more aware of these diseases which plague our families, and ask for their continued support of such important programs, which are included in this legislation.

Mrs. SCHROEDER. Mr. Chairman, I was dismayed to see the committee's recommendation to cut funding for the maternal and child health block grant which provides critical health care services to women and children, ranging from prenatal and postpartum care to well-child visits that include immunizations, dental care, and screening for vision and hearing.

Witnesses at a recent select committee told us about numerous innovative one-stop-shopping strategies to help families navigate through the fragmented health care and social services systems. Funding for one-stop-shopping demonstration grants as authorized by OBRA 1989, but only becomes available when triggered by increased in funding to the MCH block grant. I urge my colleagues to provide full funding for the maternal and child health block grant.

I was disappointed to see level funding for lead poisoning prevention, despite Presidential request to double the budget. Lead poisoning is the No. 1 environmental hazard to children. One in six has dangerously elevated levels of lead in their blood. As the select committee has documented, lead exposure is associated with severe retardation, lower IQ, speech and language impairments, learning disabilities, and poor attention skills.

Finally I urge my colleagues to honor our commitment to helping the hundreds of thousands of Americans with HIV disease to obtain urgently needed care and services. While the Ryan White care bill received moderate increases in funding, the proposed level is still only one-third of the authorized level.

[In millions of dollars]

	My request, May 1991	H. Rept. 102–121	Committee (+/−) fiscal year 1991
Health care for homeless families	80	51.0	+12.0
National Health Service Corps:			
(1) Loan Repayment and scholarships	101	58.8	+10.0
(2) Field placement	65	42.3	(1)
Family planning	180	(2)	(3)
Abandoned infants assistance (pending reauthorization)	15	12.6	(1)
Pediatric AIDS research demos	20	19.5	(1)
Ryan White Comprehensive AIDS Resources Act:			
Title I: Emergency assistance	275	100.0	+12.2
Title II: Comprehensive care programs	275	91.8	+4.0
Title III: Early intervention programs	305	55.0	+10.1
Sexually transmitted diseases:			
(1) CDC—STD prevention efforts	122	85.0	(1)
(2) NIAID—STD branch	66	(4)	.....
Trauma care systems planning and development grants (Public Law 101–590)	30	(2)	.....
Family support/child welfare:			
Child care development block grant	825	825.0	(3)
Child welfare servcies	285	273.9	(1)
Independent Living Program	70	70.0	+10.0
Family resource and support grants	30	(2)	.....
Temporary Child Care for Children with Disabilities/Crisis Nurseries Act	20	11.1	(1)
Child Abuse Prevention and Treatment Act:			
State grants	100	19.5	(1)
Challenge grants	50	5.4	(1)
Discretionary grants	.....	14.6	(1)
Adoption Opportunities	30	12.7	(1)
Family Violence Prevention and Services Act	75	10.7	(1)
Education of homeless children and youth	50	37.0	+29.7
State Dependent care development grants	20	(2)	.....
Youth in high-risk situations:			
Emergency protective services grants (for children whose parents are substance abusers)	40	19.5	(1)
Runaway and Homeless Youth Act	50	35.1	(1)
Transitional Living Program for Runaway Youth	25	12.0	+2.1
Drug Abuse Prevention Program for Runaway and Homeless Youth	20	14.8	(1)

[In millions of dollars]

	My request, May 1991	H. Rept. 102–121	Committee (+/−) fiscal year 1991
Youth gang drug education and prevention	20	7.1	−7.7
Office of Substance Abuse Prevention Demonstration Programs (includes grants for pregnant and postpartum women and their infants and the high-risk youth program)	381	112.0	(1)

[1] Level.
[2] No funding.
[3] See notes.
[4] Not specified.

Note.—Infant Mortality Initiative: According to the committee report, one-half of the appropriation would be awarded to the 10-community Healthy Start initiative proposed by the administration, and the other half would be awarded to infant mortality projects at community and migrant health centers in areas with high infant mortality. The committee rejected the administration's proposal to reallocate $24 million from the CHC Program and $9 million from the maternal and child health block grant to the infant mortality initiative. Family Planning: The committee does not provide funding for the family planning program at this time, but will consider funding on an expendited basis if it is authorized prior to October 1, 1991. Child Care and Development Block Grant: According to OBRA 1990, fiscal year 1991 funding for this program will not be released until Sept. 7, 1991. The committee rescinds $145 million of fiscal year 1991 appropriations and provides $825 million for fiscal year 1992.

Mr. ORTIZ. Mr. Chairman, I rise today in support of H.R. 2707, the Labor-HHS appropriations for fiscal year 1992.

However, as chairman of the congressional Hispanic caucus, I must express my disappointment that this legislation cuts all funds for fiscal year 1992 for a program of great importance to the Hispanic community and the border region, the State Legalization Impact Assistance Program, SLIAG.

This program was created as part of the 1986 Immigration law to help States cope with the costs of providing critical education, health, and social services to newly legalized immigrants.

Many community-based organizations that provide these vital services depend on receiving SLIAG funding.

This issue is especially important to the Hispanic community, as more than 80 percent of the 3 million people legalized under the 1986 law are Hispanic.

Because the SLIAG program had a lengthy start-up period, it appeared as though the program was running a surplus for the first few years.

The illusion of this surplus led appropriators to rescind over $1 billion in SLIAG funds during fiscal year 1990 and 1991, and the bill here today eliminates funding for fiscal year 1992.

However, now that programs in Texas, California, Colorado, and other States are reporting increasing demand for SLIAG services, and now that they are prepared to deliver these services, it is clear that the money must be restored to the States and providers.

The current round of cuts in SLIAG threatens English-as-a-second-language classes, civics classes, antidiscrimination programs, and other vital services.

When Congress authorized and appropriated SLIAG funds, we made what amounted to a promise to States and service providers that they would be able to provide these services.

If we withdraw Federal funding now, State Governments, already suffering from large budget deficits and an economic recession, will simply be unable to administer State and local programs for newly arrived immigrants; programs which the Federal Government has mandated.

Congress must restore at least $500 million to SLIAG in fiscal year 1992 in order to fulfill its promise and allow such programs to continue to operate.

It is my sincerest hope that this issue will be worked out in conference.

Mr. PAYNE of New Jersey. Mr. Chairman, I rise today to express my deep concern over a provision of H.R. 2707, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1992. This appropriations bill proposes a tremendous cut in the Low-Income Home Energy Assistance Program. Funding for this very important program will drop from $1.61 billion to $1 billion; that's a reduction of almost 40 percent in 1 year. Unfortunately, those who are the recipients of the Low-Income Home Energy Assistance Program will be on the receiving end of this dreadful slash in appropriations. As many as 2 million families consisting of fixed income elderly persons, low income children and the disabled could be disconnected from energy assistance this winter.

This is a very crucial time for many people. The recession has hit us hard. Jobs are being lost all over the country. We, as a nation, are in a financial crisis. Although I understand that cutbacks are needed and we need to conserve our resources, I do not believe that it is necessary to disrupt a program that millions of our constituents are dependent upon. For the majority of Low-Income Home Energy Assistance Program recipients, the average family income is less than $6,000 a year. At the present level of funding, the program still serves less than 25 percent of eligible households.

In my home State of New Jersey alone, there are over an estimated 103,000 households that will be served in fiscal 1992, as opposed to the 153,000 households that were served in fiscal 1989. The proposed fiscal 1992 allocations for New Jersey stand at about $39 million. This is a difference of $28 million from fiscal 1991 allocation of $67 million. The most recent estimates show that the average recipient in the State of New Jersey would see a substantial loss in their benefits, from $400 to $236. It is for these reasons, Mr. Chairman, that I oppose this cut in funding.

This bill will seemingly force low-income residents to choose which of the basic necessities they can afford. The necessities of affordable housing, safety, education, and health cannot be separated from the energy needs of hot water, heating, and light. These are all elements that are essential to the quality of life of all people. One thing this society can not afford to do is ignore and attempt to suppress the basic needs of its low-income residents. We, in this House, cannot afford to pay the consequences that will arise if these needs are not provided for.

Mr. Chairman, I urge my colleagues on both sides of the aisle to work together to restore funding for the Low-Income Home Energy Assistance Program.

Mr. BRYANT. Mr. Chairman, I have expressed my strong opposition to the treatment of the State Legalization Impact Assistance Grant [SLIAG] Program for fiscal year 1991 by the Appropriations Committee in the Labor-HHS-Education Appropriations Act. The committee zeroed out all of the promised $1.12 billion SLIAG funding for fiscal year 1992.

The design of the SLIAG Program provided for a $1 billion permanent appropriation for each of 4 years, fiscal year 1988 to 1991. However, the fiscal year 1990 appropriations process reduced that year's $1 billion appropriation by $555 million, with a provision that these funds would be restored in fiscal year 1992. The fiscal year 1991 appropriation was reduced by $567 million—again with a provision to repay the funds in fiscal year 1992, bringing the total payback to $1.12 billion. That was our promise to fiscally strapped States like Texas, California, and New York. Now we are told that the payback of funds will be deferred to fiscal year 1993, and that such deferral does not represent a permanent reduction in funds available to States.

The continuation of the SLIAG Program is critical to the State of Texas. The program was enacted as part of the Immigration Reform and Control Act of 1986 to reimburse part of the State and local costs of education, health and public assistance services provided to undocumented immigrants granted legal status under IRCA's amnesty provisions. In doing so, Congress recognized that legalization would have a major impact on State and local costs, and that the Federal Government should share responsibility for these costs.

The SLIAG Program is essential to the State of Texas. Texas has approximately 440,000 eligible legalized immigrants, which is the second highest concentration in the United States of persons who have applied for legalized status under IRCA. Texas has been awarded a total of $284,186,223 in the SLIAG Program through fiscal year 1991, or 11.86 percent of the funds allocated in the program. A total of 40 States, Puerto Rico, and the District of Columbia have received SLIAG funding since the inception of the program.

I believe that the Federal Government should honor its prior commitments to share fiscal responsibility for the costs of the Federal Government's decision to legalize the status of over 2.5 million undocumented immigrants. In addition, OMB's cost estimates indicate that State and localized IRCA costs are rapidly growing and that States critically need the entire $1.12 billion payback now—not maybe 2 years from now. Zeroing out the $1.12 billion in fiscal year 1992 funds will result in an unfair shift in costs from the Federal to State and local governments. It is clear that many States and localities are facing severe fiscal crises and cannot absorb the loss in SLIAG funds without cuts in essential services.

Moreover, health, social service and education services whose costs are reimbursed by SLIAG funds will be adversely affected by SLIAG funding cuts. Over half of all SLIAG funds in some States have been used to reimburse the cost of State and local health services, which are heavily used by legalized immigrants because so many of them lack health insurance. SLIAG cuts would notably worsen the plight of already financially distressed public hospitals. Less SLIAG funds will also mean less resources for public health, mental health, prenatal care, English language classes, and other needed services. Cuts in SLIAG funding

will adversely affect all persons in need, citizens and aliens alike.

Although I remain strongly opposed to the treatment of SLIAG in this years' appropriations act, I recognize that we do not have the votes to require changes at this time. I believe that it is the wiser course to send this bill to conference in the hopes that the commitment made in the colloquy between Chairman WILLIAM NATCHER and VIC FAZIO during the debate earlier today will be realized. If this is not done, it is my intention to vote against the Labor-HHS-Education Appropriations Act when it comes back from conference.

Mrs. MORELLA. Mr. Chairman, I speak in support of an increase in funding for the Low-Income Home Energy Assistance Program [LIHEAP] in the Labor-Health and Human Services, Education appropriations bill, H.R. 2707. Almost 2 million families throughout the country could be cut off from energy assistance next winter without this increase.

LIHEAP recipients are families with low incomes, the disabled and the elderly living on fixed incomes. The average family income for the majority of LIHEAP recipient households is less than $6,000 a year. Even at the current funding of $1.6 billion, LIHEAP serves less than 25 percent of eligible households.

In my State of Maryland, proposed allocations from fiscal 1991 to fiscal 1992 would be reduced by more than $13 million. From fiscal 1989 to 1992, the proposed number of households served would be reduced by 27,000. During this past season, the Maryland Energy Assistance Program reported an 11-percent increase in applications, while the available LIHEAP funds to assist them has decreased by 33 percent. It is reported to me that for every person helped with this program, there may be four or five eligible customers who haven't applied at all for energy assistance. In addition, the recent economic downturn has created new unemployment, leading to increased request for LIHEAP funds.

An increase in LIHEAP funding will save low-income Americans from choosing which basic necessities they can afford. Energy needs are essential to the quality of life and cannot be separated from other necessities such as education, affordable housing, and health care. The cost to society for not providing these needs can be tragic.

I urge my colleagues to consider the importance of LIHEAP and to vote in support of a funding increase.

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of this measure, which will help our Nation make significant progress in meeting urgent human needs.

I would like to focus in on several aspects of the bill which are particularly important to our constituents.

First of all, Chairman NATCHER is helping us move beyond rhetoric and toward reality in making education a No. 1 priority in this Nation. The $2.5 billion increase for key education programs, including chapter 1 and Head Start, is vital to the future of our children and the future of our economy. These funds are urgently needed and should be strongly supported by every Member of this body.

In addition, I am pleased that the committee has provided a contingency fund for education programs, including $250 million for programs which have not yet been authorized. If there is action later this year on a comprehensive bill to improve education, I am hopeful that we will give serious consideration to the concept embodied in the Link-up for Learning Act, H.R. 812, which is aimed at helping local school districts join with social service agencies in coordinating and improving the delivery of vital social services to at-risk youth.

Second, I am particularly pleased that this appropriations measure includes a major increase for the Community Food and Nutrition Program. This vital program that fights hunger among families and children needs our support. As the Chairman understands, there is a vital link between nutrition and learning. If our children are not fed, they will not be educated. This program can make the difference for so many children across the Nation.

Further, I am very appreciative that the committee has seen fit to provide a substantial increase in vitally needed funds for community health centers. In my district and around the Nation, community health centers are providing lifesaving health care services to patrons who otherwise would not receive care. Further, the committee has recognized the important role these centers play in reducing infant mortality by earmarking $70 million in new funds for community and migrant health centers and by rejecting the President's proposal to divert funds away from these valuable centers.

Finally, this bill will reverse the Supreme Court's decision in Rust versus Sullivan and continue the practice of allowing the millions of women who rely on federally funded family planning clinics to get full information regarding their reproductive health as all other Americans.

If this provision is not enacted, we will put women and medical professionals in jeopardy. As a result of the Supreme Court decision in Rust versus Sullivan, beginning in July, a woman who goes into a family planning clinic and needs information about abortion will not be provided with the medical facts.

This is intolerable and dangerous. Those who oppose abortion have gone too far. They want to gag doctors by censoring the information health professionals can provide at federally funded clinics. It is totally unfair to even consider the prospect that poor women deserve to receive less comprehensive and inaccurate medical information simply because they must rely on federally funded health care. Make no mistake about it, if the Rust decision is not overturned, not only would a poor woman not be told that abortion is legal, she would not be able to obtain a referral to a privately funded clinic even if her life is in danger.

Such restrictions put doctors in a precarious position. They will be forced to choose between violating their Hippocratic Oath and obeying Federal censorship laws. This is totally contrary to all we stand for as a Nation. Americans understand the importance of preserving the sanctity of the doctor-patient relationship. We want doctors to tell us all of our options so that we have the information to make the best health care choices.

Over 20 medical and nursing organizations have publicly opposed the gag rule. Last week, the American Medical Association said that legislation to overturn the gag rule "would keep the long arm of the Federal Government out of the patient-physician relationship and assure the traditional privacy of that relationship." The AMA also said, and I quote, that "political medicine is harmful to the health of all Americans."

Our President has thus far refused to listen. He has promised to veto this bill if it overturns Rust versus Sullivan. We cannot let him get away with that. If we do, we will fundamentally change our health care system into one based on politics and not on medical science. This, in turn, will mean that this country will be providing substandard care to its most needy citizens.

For these reasons, I urge my colleagues to support the reversal of the gag rule and restore the integrity of our Nation's family planning programs.

Let us keep politics out of the examining room by overturning the gag rule. And let us provide for the future of our Nation by approving this bill, which contains much needed funds that will help us meet urgent human needs in communities across the Nation.

Ms. SLAUGHTER of New York. Mr. Chairman, the bill we consider today, H.R. 2707, makes appropriations for the Nation's most important health, welfare, and education programs. I am proud to have been a part of the campaign which this past fall saw the creation of the Offices of Research on Women's Health within the National Institutes of Health [NIH]. As one of the Budget Committee's newest members, I worked earnestly to include in the budget resolution for fiscal year 1992 language which explicitly conveys Congress' concern for women's health research and which recommends $20 million in direct Federal assistance for new research initiatives through both NIH and the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA]. H.R. 2707 provides necessary funding for these new research initiatives which could mean the difference between life and death for millions for American women.

Despite startling breakthroughs in medical research in recent decades, diseases which target women—breast cancer, ovarian cancer, osteoporosis, pelvic inflammatory disease, clear cell adenocarcinoma, and others—remain shrouded in mystery. More than 57,000 American women will die in this year alone from breast or ovarian cancer. Osteoporosis will cause nearly 250,000 costly and painful hip fractures before the start of 1992. And perhaps most alarming, the 10 to 12 million Americans exposed to the synthetic estrogen drug DES still lives in fear of the drug's unknown effects.

For each of these afflictions, the statistics are alarming and all too familiar. We see the destruction wrought, but we have no grasp of how or why. For instance, we can observe a genetic or hereditary trend in the development of breast and ovarian cancers, but researchers have yet to identify the gene which predisposes a woman to the development of these cancers. And, we know that 1 out of every 1,000 DES-exposed daughters will develop clear cell cancer of the vagina or cervix, but we are ignorant of how this risk is inherited from the mother or how it may be transmitted to third generation offspring. Further, it

seems that every month a new and contradictory report is issued on the relationship between contraceptive used and the risk of breast or ovarian cancer.

Not only has there been a lack of research on diseases which target women, there has also been a lack of women in clinical trials on health questions which affect both of the sexes. For example, the committee report on the budget resolutions, which I helped to craft, cited the widely publicized Physicians Health Study that concluded taking an aspirin might reduce the risk of heart disease. Less publicized was the fact that the studies which led to this conclusion included 22,071 men, but not a single woman.

On the Budget Committee, I fought to make the NIH Office of Research on Women's Health a funding priority because the women of American and the women representing them in Congress have waited long enough for answers to these haunting medical questions. Inattentiveness to women's health on the part of the medical research community has already claimed the lives of too many of our mothers, daughters, sisters, and friends.

No dollar value can be assigned to these lost lives, but we can make a dollar investment in hope for the future by fully funding the Office of Research on Women's Health and other vital research initiatives at NIH. Providing an unprecedented $12.5 million for the NIH Office of Research on Women's Health, H.R. 2707 makes some important inroads in highlighting the need for women's health research but the bill falls short of meeting the full funding levels necessary if we are to launch a comprehensive assault on the diseases which afflict women.

Under H.R. 2707, breast and ovarian cancer research would, together with prostate cancer research, receive a total funding boost of $30 million. The research community tells us that this is not enough to undertake an ambitious assault on these cancers. No money has been specifically earmarked for research into the clear cell cancer associated with DES-exposure, which has been clearly identified by the Appropriations Committee as a research priority for the Office of Research on Women's Health. And no appropriation is earmarked for a similar office within ADAMHA which was only recently established within the Office for Science. Surely, Congress can do better.

I will continue to work to bolster the NIH Office of Research on Women's Health. Further, I am committed to the establishment of a fully funded, formal office on women's health at ADAMHA to investigate the extent of mental illness among women, the gender-specific effects of substance abuse, and the effectiveness of mental health and substance abuse treatment programs for women.

Today, I make a promise to America's women and to America's families that tomorrow the effort to fund women's health research will resume; and this effort will continue for as long as it takes to find the answers and develop cures so that women will no longer be plagued by crippling and deadly diseases.

Mr. RAHALL. Mr. Chairman, I rise in support of the fiscal year 1992 Labor, Health and Human Services, and Education appropriations bills.

There is a total of $204 billion in this bill, for the combined use of the Departments of HHS, Labor, and Education, reflecting an increase of $21 billion over last year's measure for these same purposes.

The bill includes $1.7 billion more for education programs, and $481 million for HHS programs than the administration requested.

Of this amount, 71 percent is for entitlement spending, with the remaining 29 percent for discretionary programs.

Job training programs are funded at $1.8 billion; summer youth employment is funded at $683 million; Job Corps at $898.5 million. While Job Training and Job Corps and summer youth employment are important to West Virginia, of particular importance as well is the JTPA Dislocated Workers Program. Dislocated workers, under this bill, will receive $577 million, providing for early identification of dislocated workers, rapid provision of services, and training.

Also of great interest is the $50 million set-aside for employment transition assistance provided for under the Clean Air Act. This funding level is expected to support 130,000 training slots.

Even though the administration sought to abolish this program, I am pleased to note that there are $226 million in this bill for Trade Act Programs, including $154 million for trade adjustment assistance unemployment benefits. This funding will permit about 24,000 individuals to receive benefits averaging $182 per week. Also, $72 million are appropriated for related trade adjustment assistance training, job searches, and job relocation allowances.

The bill provides $2.2 billion to be drawn from the Employment Security Administration Account of the Unemployment Trust Fund to pay administrative costs of State employment insurance [UI] programs.

I am pleased to note that the past difficulty we have experienced in estimating the amount of UI funds that would be needed for this purpose during a year, is overcome in part by the committee's inclusion of language in the bill establishing a reserve fund to provide additional funds if the level of average weekly insured unemployment claims is projected to exceed the level on which the President's budget is based.

The bill further contains $175 million from the Employment Security Administration Account of the Unemployment Trust Fund for veterans employment and training programs. This total includes $79 million for the Disabled Veterans Outreach Program.

This bill includes funding for urgently needed and effective programs that serve the poor and near poor, such as community health centers, child care for individuals at risk for going on AFDC if affordable child care is not available while they work; there are funds for community services under the Community Block Grant Program, and $850 million for child care State grants.

For LIHEAP there are $1.6 billion, nearly $600 million more than the President asked for. Of this total $600 million will be realized only after the President formally submits a budget request designating those funds as an emergency under the provisions of the budget enforcement provisions of last year's budget agreement.

The enormously successful, much-needed Head Start Program is funded at $2.2 billion, an increase of $250 million over fiscal year 1991.

Mr. Chairman, another group of programs funded under the Labor/HHS/Education appropriations bill are those that educate the economically and educationally disadvantaged children in our States and districts, which includes chapter 1, Head Start, and Even Start.

For all of education's needs, there are $28.3 billion in this bill for fiscal year 1992, reflecting an increase of $5.4 billion more than in fiscal year 1991, and $1.7 billion more than the President requested.

For the successful, urgently needed chapter 1 program, the bill provides $7.1 billion, a full $1 billion increase over the fiscal year 1990 appropriation, and $850 million more than the President's request.

This increased funding for both Head Start and chapter 1 compensatory education for disadvantaged children will help make a real difference in assuring equity in educational opportunity afforded to millions of children who have the least chance of succeeding in school or in life without these two programs.

The bill funds, also, such programs as the aforementioned Even Start, drug free schools and communities, math and science education, magnet schools, dropout prevention, and education for homeless children.

For special education the bill provides $2.8 billion, a level which represents about 7 percent of the national average excess cost of educating a handicapped child, serving approximately 4.5 million children with disabilities who are expected to be schooled during the 1992–93 school year.

Vocational education is funded at a total of $1.4 billion, including $1.1 billion for basic State grants, and $186 million more than the President requested.

I am more pleased than I can tell you to note that $100 million have been provided for a program of supplemental grants to States to improve vocational education facilities and equipment in economically depressed areas. During the reauthorization of the Vocational Education Act, I was a member of the Education and Labor Committee. During that process, I joined with my friend and colleague from Kentucky, CHRIS PERKINS, in introducing a combined bill that sought funds for vocational education facilities in bad need of expansion, repair, and renovation of classrooms, as well as for state-of-the-art equipment to train students for jobs not only for the 20th century which we are about to leave behind, but especially for jobs in the 21st century which is before us. For the popular tech-prep program, the bill provides $100 million for linking high school vocational education students and programs to postsecondary education institutions for up to 2 years after high school graduation. Adult education and literacy programs are funded at $280 million, $42 million more than last year. $250 million of this amount will go for State basic grants, and $20 million for workplace literacy.

Mr. Chairman, this bill provides $6.9 billion for student financial assistance, and these appropriations represents programs under current law since the Higher Education Act is being reauthorized.

The committee has expressed its concern over the President's proposal that would result

in 400,000 fewer student aid awards in the next year. Pell grants, supplemental grants, work-study grants, Perkins loans, SSIG and income-contingent loans are still being funded, with the committee having rejected the administration's proposals to repeal, phase out, or drastically change many of them. The Guaranteed Student Loan Program is intact as an entitlement program, but still subject to recent year's restrictions and improvements to get the default rate down and improve access to low-income as well as middle-income students.

Mr. Chairman, overall I am pleased with the content of H.R. 2707, the annual Labor/HHS/Education appropriations bill, becasuse it contains funds for so many programs of importance—vital even—to the continued well-being of West Virginians.

While the bill covers many urgently needed health programs, including research and treatment of diseases under NIH, I want to digress just a moment and get parochial, by discussing a group from my State of West Virginia who are banded together to support those unfortunate victims of neurofibromatosis—or NF—a very rare disease.

Mr. Chairman, these individuals who have banded together to form the NF support group, were organized by Brookie Miller of Danville, WV. Their commendable, and compassionate efforts consist of promoting community understanding, coordinating support services, stimulating research, and most of all, providing hope for the victims of neurofibromatosis.

Neurofibromatosis is a genetic disorder which affects neural tissues. Tumors can form anywhere and at anytime on nerve cells, with progressive manifestations resulting in disfiguration or death. There are two types of neurofibromatoses which are neurofibromatosis-1 (NF–1 or VR–NF) and neurofibromatosis-2 (NF–2 or bilateral acoustic NF).

NF–1, which has also been called von Recklinghausen's disease or peripheral neurofibromatosis, occurs in 1 of 4,000 births. Characteristics of this disease are tumors of varying sizes under or on the skin, freckling in the groin or underarm area, possible family history of NF, multiple cafe-au-lait colored spots on the skin, lisch nodules on the iris of the eyes, and optic glioma.

NF–2, which is known as the central form, is estimated to occur in 1 of 50,000 births. Characteristics of the disease are tumors of the spinal cord, brain, and skin. Signs usually appear after puberty, tumors developing in the complex affecting the hearing nerves result in balance problems and hearing loss, and unusual cataracts of the eye forming at an early age.

NF may also be associated with bone deformation, vision impairment, cancer, learning disabilities, hearing loss, and epilepsy. It affects both race and sex equally. The possibility of an affected parent passing it on to an offspring is 50 percent. However, 50 percent of all NF cases have developed from a mutated gene where there is no family history of NF. Both forms of NF are autosomal dominant disorders. Hence, there are no cures for NF and treatment is directed at reducing the symptoms of the disease.

Due to its nature and relative rarity, this disease is one of many orphan diseases that receives little publicity. I had little knowledge of ths disease until Brookie Miller visited my Washington office. Through her work I have learned of the loneliness, confusion, and heartache that the patients with NF and their families feel. While many diseases hold these elements, the external signs of NF are misunderstood because they do not look like a burn or the loss of hair via chemotherapy. As a result of the misunderstanding associated with NF, many patients find that discrimination is rampant.

For this reason, I truely commend the works of Brookie and her support group, as well as Neurofibromatosis, Inc., for their efforts on behalf of those affected by this disease. These groups have helped many victims of this disease to cope with the problems they face daily. They are both nonprofit voluntary health organizations. Their goals include: identifying support services in the community; educating State, Federal, and local legislators of NF families' needs; and cultivating clinical, medical, educational and sociological research which encompasses the need for treatment, prevention, and the development of a cure for NF and its effects.

Today's bill contains an additional $41,612,000 in funding for the National Institute of Neurological Disorders and Stroke. It is my hope the important research on NF will continue and that we may find either a cure or an adequate treatment in the near future.

Mr. Chairman, I am in strong support of H.R. 2707, and urge my colleagues to join with me in support of its passage.

Mr. HOAGLAND. Mr. Chairman, I would like to express my support for H.R. 2707, the Labor, Health and Human Services, and Education appropriations for fiscal year 1992. The bill appropriates $765 million for the impact aid program, including $137 million for section (b) students whose parents live or work on Federal property. This represents an increase of $144.6 million over the administration's 1992 budget request. Most importantly, the bill restores funding for federally connected "B" students which the administration proposed to eliminate.

I testified and prepared a letter to the Labor, Health and Human Services, and Education Appropriations Subcommittee which 83 Members of the House signed expressing our concern about the administration's impact aid cuts. We are very grateful to the Appropriations Committee and especially Chairman NATCHER and ranking minority member, CARL PURSELL, for recognizing that these cuts would cause serious harm to our Nation's school districts and the families of those schools.

Over 40 years ago, the Congress acknowledged the Federal Government's responsibility to assist school districts that are impacted by Federal installations and educate federally connected students. Public Law 81–874, the impact aid program recognizes the Federal Government's duty to reimburse school districts for the local revenues lost from federally connected parents because of Federal ownership.

In my congressional district—the home of Offutt Air Force Base and the Headquarters of the Strategic Air Command—impact aid is a critical source of funding. This large military installation creates an influx of residents in the surrounding communities and students in the public schools. For example, the Bellevue School District has over 5,000 federally connected students, the Papillion LaVista School District has about 2,500, and Plattsmouth has 400. Of these 7,000 federally connected students, over half are classified as "B" students. Under President Bush's fiscal year 1992 proposal to eliminate "B" student funding, these school districts would be responsible for educating nearly 3,500 students without the promised Federal funds.

The impact aid program has received drastic cuts made since 1981, at a time when per pupil expenditures for education nationwide have increased an average of 7 percent each of the past 5 years. In this fiscal year, the Federal Government is paying less than 58 percent of the actual cost of Federal impaction to these districts. Schools have been scrimping and saving, cutting corners for years to continue to provide a decent education to our federally connected children. There are few corners left to cut.

All parents expect their schools to provide these students a quality education. However, military parents often do not pay property taxes or sales taxes, since they live on Federal property and shop at the PX. So while they expect the community to provide their children with a quality education, they do not provide the revenues the community needs to provide their children an education.

Ultimately, the issue is one of equity. Impact aid does not provide extra funding to these schools. It provides basic funding, for books, teachers' salaries, educational materials and equipment. Congress did not establish these programs as a special benefit; it was the fulfillment of a Federal responsibility to these communities.

I will vote "yes" today to maintain the impact aid program. This is a clear Federal obligation which means a great deal to the students in my congressional district and schools across the country.

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 2707. I am pleased to note that the committee proposes increases in funding for community economic development [CED] grants which are authorized under the community services block grant section of funding for Health and Human Services. Funding has been increased from $20.49 million to $21.5 million for fiscal year 1992.

CED grants are made to private nonprofit community development corporations which use these funds to promote business and economic development projects in poor communities. These funds promote public-private partnerships. According to a recent HHS report, CED funds mobilized more than $62 million in private investment.

In my State of Arkansas, Arkansas Enterprise Group has used the CED funds to start an organic farming program which has provided new market opportunities for farmers in a very poor part of the State. Arkansas Enterprise Group believes that one of the solutions to the endemic poverty that exists in the Delta and other agricultural regions of Arkansas is to help farmers diversify away from their historic dependence on row crop farming to higher margin produce crops. The funds created a demonstration farm that successfully showed

how crop diversification could be both possible and profitable. The program was made possible through the HHS Office of Community Services.

I heartily endorse such public-private endeavors that promote avenues for economic independence in poor rural areas.

Thank you, Mr. Chairman, for granting me this time to speak on behalf of the bill.

Mr. PURSELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. NATCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $74,188,000, together with not to exceed $57,129,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $4,027,907,000, plus reimbursements, to be available for obligation for the period July 1, 1992, through June 30, 1993, of which $59,625,000 shall be for carrying out section 401, $75,288,000 shall be for carrying out section 402, $9,120,000 shall be for carrying out section 441, $1,848,000 shall be for the National Commission for Employment Policy, $2,500,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $3,900,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $52,464,000 is appropriated for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, as authorized by the Job Training Partnership Act, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1992 through June 30, 1995; and, in addition, $50,000,000 is appropriated for Clean Air Employment Transition Assistance under Part B of Title III of the Job Training Partnership Act, to be available for obligation for the period October 1, 1991 through June 30, 1993; and, in addition, $7,400,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further,* That funds appropriated under this heading in Public Law 100-436 to continue acquisition, rehabilitation, and construction of six new Job Corps centers shall be available for obligation through June 30, 1993.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $304,481,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $85,879,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $226,250,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212 (a), (5)(A), (m)(2) and (3), (n)(1), and 218 (g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $23,377,000 together with not to exceed $3,151,825,000 (including not to exceed $2,080,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1992, and of which $18,427,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1992, through December 31, 1992, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523), and of which $21,177,000 together with not to exceed $783,940,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1992, through June 30, 1993, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period September 30, 1992, through June 30, 1993, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended, and of which $440,703,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided,* That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1992 is projected by the Department of Labor to exceed the 3.24 million level assumed in the President's fiscal year 1992 Budget Request, based on the Administration's December 1990 economic assumptions, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund. The Appropriations Committees shall be notified immediately of any request by the Department to the Office of Management and Budget to apportion any of these funds.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1993, $236,990,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $95,840,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1992, for such Corporation: *Provided,* That not to exceed $47,787,000 shall be available for administrative expenses of the Corporation: *Provided further,* That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as nonadministrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $232,626,000, together with $1,035,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $192,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements from Federal government agencies unobligated on September 30, 1991, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1992.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $917,192,000, of which $861,135,000, shall be available until September 30, 1993, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $30,145,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,579,000 for transfer to Departmental Management, Salaries and Expenses, and $333,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $302,107,000, including $66,344,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of one or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $186,157,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $258,504,000, together with not to exceed $50,399,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $4,078,000 for the President's Committee on Employment of People With Disabilities, $144,319,000, together with not to exceed $332,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $174,759,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $46,636,000, together with not to exceed $4,357,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clari-

fication to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1992".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VII, VIII, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101-527, Public Law 100-579, and the Native Hawaiian Health Care Act of 1988, $2,137,533,000, of which $450,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That of the funds made available under this heading, $86,000,000 shall not become available for obligation until September 19, 1992: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $19,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans authorized by Title VII of the Public Health Service Act, as amended, such sums as may be necessary to carry out the purpose of the program: *Provided*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $260,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $1,500,000.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $2,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $80,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, section 794 of title VII, XV, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,390,662,000, of which $6,338,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That of the funds made available under this heading, $94,000,000 shall not become available for obligation until September 19, 1992: *Provided further*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to $25,000,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,830,509,000: *Provided*, That of the funds made available under this heading, $63,446,000 shall not become available for obligation until September 19, 1992.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,202,398,000: *Provided*, That of the funds made available under this heading, $54,555,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $161,235,000: *Provided*, That of the funds made available under this heading, $7,903,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $667,820,000: *Provided*, That of the funds made available under this heading, $28,457,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $583,355,000: *Provided*, That of the funds made available under this heading, $27,357,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $972,830,000: *Provided*, That of the funds made available under this heading, $45,627,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $820,160,000: *Provided*, That of the funds made available under this heading, $48,104,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $524,661,000: *Provided*, That of the funds made available under this heading, $27,368,000 shall not become available for obligation until September 19, 1992.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $272,260,000: *Provided*, That of the funds made available under this heading, $12,504,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act

with respect to environmental health sciences, $254,912,000: *Provided*, That of the funds made available under this heading, $8,846,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $362,528,000: *Provided*, That of the funds made available under this heading, $16,308,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $204,977,000: *Provided*, That of the funds made available under this heading, $7,593,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $144,495,000: *Provided*, That of the funds made available under this heading, $7,486,000 shall not become available for obligation until September 19, 1992.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $309,200,000: *Provided*, That of the funds made available under this heading, $15,000,000 shall not become available for obligation until September 19, 1992: *Provided further*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $43,143,000: *Provided*, That of the funds made available under this heading, $2,646,000 shall not become available for obligation until September 19, 1992.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $93,115,000: *Provided*, That of the funds made available under this heading, $10,000,000 shall not become available for obligation until September 19, 1992.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $19,922,000: *Provided*, That of the funds made available under this heading, $800,000 shall not become available for obligation until September 19, 1992.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $99,565,000: *Provided*, That of the funds made available under this heading, $3,500,000 shall not become available for obligation until September 19, 1992.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $149,176,000, of which $25,000,000 shall be for the support of a clinical trial on women's health and shall remain available until September 30, 1993: *Provided*, That of the funds made available under this heading, $12,500,000 shall not become available for obligation until September 19, 1992: *Provided further*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $108,625,000 to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 612 of Public Law 100-77, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $2,917,742,000, of which $5,000,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $71,318,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $95,756,000 together with not to exceed $4,880,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,012,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,444,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $46,399,149,000, to remain available until expended.

For making, after May 31, 1992, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1992 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1993, $17,100,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $39,421,485,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101-508, and section 4005(e) of Public Law 100-203, not to exceed $2,282,055,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $257,000,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, and section 274A(d)(3)(E) of the Immigration and Nationality Act, $40,968,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $617,336,000, to remain available until expended: *Provided*,

That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1993, $198,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $13,926,491,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided*, That for fiscal year 1992 and thereafter, all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1993, $5,240,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,582,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $100,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the workforce, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That of the total amount provided, $80,000,000 shall not become available for obligation until September 19, 1992.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $11,862,146,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1993, $4,000,000,000, to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,000,000,000, of which $50,000,000 shall become available for making payments on September 30, 1992.

ENERGY ASSISTANCE EMERGENCY FUND

For the purpose of establishing an "Energy Assistance Emergency Fund" in the United States Treasury to be available only for grants to any one or more of the fifty States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1992 under the Low-Income Home Energy Assistance Act of 1981, $600,000,000: *Provided*, That all funds available under this heading are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the President shall determine the appropriate amounts necessary to meet emergency needs and the allocation of these amounts to any one or more of the fifty States, the District of Columbia, and Indian tribes and tribal organizations.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $294,014,000, of which $117,600,000 shall be available for State cash and medical assistance, except that no funds shall be available for State cash and medical assistance after March 31, 1992.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "1992" and inserting in its place "1993".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following paragraph:

"(5) For fiscal year 1993, the Secretary shall make allotments to States under paragraph (1) no later than October 15, 1992."

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $420,724,000, of which $40,868,000 shall be for carrying out section 681(a) of the Community Services Block Grant Act, and of which $5,484,000 shall be for carrying out section 681A of said Act with respect to the community food and nutrition program.

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981, $825,000,000, which shall not become available for obligation until September 19, 1992. For carrying out section 402(g)(6) of the Social Security Act, $25,000,000.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, $87,500,000, together with such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That of the funds appropriated in Public Law 101-166 for the Commission on Interstate Child Support, $400,000 shall remain available through September 30, 1992.

SOCIAL SERVICES BLOCK GRANT

For monthly payments to States for carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

(INCLUDING RESCISSION)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Act, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101-239 (volunteer senior aides demonstration) and part B of title IV and section 1110 of the Social Security Act, $3,496,357,000, of which up to $6,225,000 shall remain available until expended for information resources management.

Of the funds provided under this heading in Public Law 101-517 for carrying out the Child Care and Development Block Grant Act of 1990, $144,925,000 are hereby rescinded.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,614,005,000, of which $118,476,000 shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $91,673,000, of which $24,079,000 shall be available for expenses necessary for the Office of the General Counsel, together with $31,001,000, of which $26,031,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of

the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $63,842,000, together with not to exceed $37,833,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,524,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,037,000.

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 212. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 213. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1992".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $7,075,750,000, of which $7,042,750,000 shall become available on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That $5,805,000,000 shall be available for basic grants under section 1005, $645,000,000 shall be available for concentration grants under section 1006, $100,000,000 shall be available for the Even Start program under part B, of which not to exceed 2 percent shall be available for a national evaluation and not to exceed 5 percent shall be available for State administration, $322,000,000 shall be available for migrant education activities under subpart 1 of part D, $36,000,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $64,500,000 shall be for State administration under section 1404, and $32,250,000 shall be for program improvement activities under section 1405: *Provided further*, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further*, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81-815 and 81-874, as amended, $764,756,000, of which $585,540,000 shall be for payments under section 3(a), $136,626,000 shall be for payments under section 3(b), $16,590,000 shall be for Federal property payments under section 2 and $26,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $6,000,000 for awards under sections 5 and 14(c): *Provided*, That none of the funds available for section 3 shall be used for payments under section 5(b)(2): *Provided further*, That funds available for section 2 may be used for payments under section 5(b)(2) of 50 percent of a local educational agency's payment for the prior fiscal year based on its entitlement established under section 2: *Provided further*, That all payments under section 3 shall be based on the number of children who, during the prior fiscal year, were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education: *Provided further*, That notwithstanding the provisions of section 3(d)(3)(A), aggregate current expenditure and average daily attendance data for the third preceding fiscal year shall be used to compute local contribution rates: *Provided further*, That notwithstanding the provisions of sections 3(d)(2)(B), 3(d)(3)(B)(ii), and

3(h)(2), eligibility and entitlement determinations for those sections shall be computed on the basis of data from the fiscal year preceding each fiscal year described in those respective sections for fiscal year 1991.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, without regard to sections 5112(a) and 5112(c)(2)(A), and VI of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; title IV of Public Law 100-297; and the Follow Through Act, $1,577,618,000, of which $1,238,709,000 shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That of the amount appropriated, $27,600,000 shall be for national programs under part B of chapter 2 of title I, up to $2,000,000 shall be available for the national evaluation of the dropout prevention demonstration program under title VI, and $240,000,000 shall be for State grants for mathematics and science education under part A of title II of the Elementary and Secondary Education Act of 1965, as amended.

EDUCATIONAL EXCELLENCE

(INCLUDING TRANSFER OF FUNDS)

For carrying out educational improvement activities authorized in law, including activities under the Head Start Act, $500,000,000 which shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That the allocation of these funds, which may be transferred as necessary to other Department of Education accounts, shall be determined by the Secretary of Education in consultation with the Congress based on authorizing legislation enacted into law as of December 31, 1991: *Provided further*, That none of these funds shall be allocated to initiate programs proposed by the President in his budget amendments of June 7, 1991 unless these activities shall be specifically authorized during 1991: *Provided further*, That not less than $250,000,000 of these funds shall be transferred to the Head Start program administered by the Department of Health and Human Services.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $249,000,000, of which $36,000,000 shall be for training activities under part C of title VII.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act and title I, chapter 1, part D, subpart 2 of the Elementary and Secondary Education Act of 1965, $2,822,676,000, of which $1,976,095,000 for section 611, $295,920,000 for section 619, $175,000,000 for section 685 and $135,661,000 for title I, chapter 1, part D, subpart 2 shall become available for obligation on July 1, 1992, and shall remain available through September 30, 1993.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100-407, and the Helen Keller National Center Act, as amended, $1,998,501,000, of which $18,368,000 shall be for special demonstration programs under sections 311 (a), (b), and (c).

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $5,500,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $38,500,000.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $73,172,000, of which $976,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Omnibus Trade and Competitiveness Act of 1988, $1,651,500,000 of which $3,000,000, to remain available until expended, shall be for the national assessment of vocational education and of which the remainder shall become available for obligation on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $29,000,000 shall be for national programs under title IV, including $12,000,000 for research, of which $6,000,000 shall be for the National Center for Research on Vocational Education and $2,000,000 shall be for technical assistance under section 404(d); $12,000,000 for demonstrations and $5,000,000 for data collection: *Provided further*, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $4,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $6,853,000,000, which shall remain available through September 30, 1993, and of which $100,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,400 during the 1992-1993 program year, which shall be the maximum Pell grant that a student may receive: *Provided*, That notwithstanding section 479A of the Higher Education Act of 1965, as amended, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 411(b)(6) of the Higher Education Act of 1965, no Pell grant for award year 1992-1993 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $3,105,711,000.

GUARANTEED STUDENT LOANS PROGRAM

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, as amended, including the cost of modifying loans, of guaranteed loans entered into pursuant to title IV, part B, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purpose of the program.

For administrative expenses to carry out the program of guaranteed loans entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $46,433,000, to cover the federal administration of the guaranteed student loans program pursuant to the Federal Credit Reform Act of 1990.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV, V, VI, VII, VIII, IX, X, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, the Excellence in Mathematics, Science and Engineering Education Act of 1990, and title XIII, part H, subpart 1 of the Education Amendments of 1980, $821,438,000, of which $7,500,000 for endowment activities under section 332 of part C of title III of the Higher Education Act and $19,412,000 for interest subsidies under part D of title VII of the Higher Education Act shall remain available until expended and $300,000 shall be for section 775, part G, title VII: *Provided further*, That $9,271,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further*, That $1,450,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $212,960,000, of which $2,928,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480), and $23,600,000, to remain available until expended, shall be for emergency construction needs.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1992, no new commitments for loans may be made from the fund established pursuant to title VII, section 733

of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out the activities authorized by section 405 and section 406 of the General Education Provisions Act, as amended; section 1562, section 2012, and title IV of the Elementary and Secondary Education Act of 1965, as amended; part B of title III of Public Law 100-297; title V of the Higher Education Act, as amended; and section 6041 of Public Law 100-418, $228,999,000, of which $25,300,000 shall be for research centers; $35,049,000 shall be for regional laboratories including $10,000,000 for rural initiatives; $7,175,000 shall be for the Educational Resources Information Center; $976,000 shall be for field-initiated studies; $8,000,000 shall be for a high technology demonstration grant, including equipment; $50,000,000 shall be for education statistics; $28,000,000 shall be for national assessment activities; $19,000,000 shall be for activities under the Fund for Innovation in Education, including not less than $4,500,000 for comprehensive school health programs; $5,284,000 shall be for Grants for Schools and Teachers under subpart 1, and $3,611,000 shall be for Family School Partnerships under subpart 2 of part B of title III of Public Law 100-297; $14,000,000 shall be for national diffusion activities under section 1562; $14,000,000 shall be for national programs under section 2012; $9,732,000 shall be for Javits gifted and talented students education; $4,233,000 shall be for educational partnerships; $1,769,000 shall be for territorial teacher training; and $370,000, which shall remain available until September 30, 1993, shall be for Leadership in Educational Administration.

In addition to these amounts $4,880,000 shall be available for teaching standards activities under the same terms, conditions and limitations applicable to funding made available for this purpose in fiscal year 1991.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and titles II and VI of the Higher Education Act, $142,747,000 of which $14,218,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended, and $5,000,000 shall be for section 222 and $325,000 shall be for section 223 of the Higher Education Act.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $301,952,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $56,000,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $26,932,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1992".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $193,678,000: *Provided*, That $32,693,000 shall be available for title I, section 102, and $1,000,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1994, $253,309,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles, and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $28,118,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,357,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100-607, $2,000,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-845), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $390,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title

IV of the Rehabilitation Act of 1973, as amended, $1,497,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $162,000,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $6,775,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,497,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,300,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,030,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $315,000,000 which shall include amounts becoming available in fiscal year 1992 pursuant to section 224(c)(1)(B) of Public Law 98–76: *Provided*, That the total amount provided herein shall be immediately credited to the account: *Provided further*, That the amount provided herein plus the interest earned thereon shall be available for payments through September 30, 1992.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $400,000, to remain available through September 30, 1993, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $3,264,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $74,037,000 to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231–231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,263,000 shall be apportioned for fiscal year 1992 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,089,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Armed Forces Retirement Home Trust Fund, $40,581,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Armed Forces Retirement Home Trust Fund, $4,220,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $8,393,000.

UNITED STATES NAVAL HOME

OPERATION AND MAINTENANCE

For operation and maintenance of the United States Naval Home, to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $10,055,000, to remain available until September 30, 1993.

CAPITAL PROGRAM

For construction and renovation of the physical plant to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $1,253,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or

film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board."

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $30,000,000; salaries and expenses of the Department of Education are hereby reduced by $10,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $124,000,000, including $8,000,000 of funds appropriated in this Act for travel costs of the Public Health Service: *Provided*, That the reduction for travel costs shall be from the amounts set forth therefor in the budget estimates submitted for the appropriations.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that title I through section 501 and through 513 on page 74, line 10, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any points of order against any provisions of titles I, II, III, IV, and the beginning of V?

POINTS OF ORDER

Mr. GRADISON. Mr. Chairman, I make a point of order that the language beginning on page 36, line 10, through page 37, line 5 of title II, violates House rule XXI, clause 2, because it legislates on an appropriations bill.

I ask for a ruling from the Chair on the point of order.

Mr. NATCHER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. SHARP). The point of order is conceded, and therefore the point of order is sustained and the language is stricken.

Mrs. SCHROEDER. Mr. Chairman, I raise a point of order on page 28, line 25. I would like to strike "XX."

Mr. NATCHER. Mr. Chairman, we concede the point of order on this request.

The CHAIRMAN (Mr. SHARP). Accordingly, the point of order is sustained because funds for title XX are not authorized by law and the language referring to title XX on line 25 of page 28 is stricken.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 46, after line 15, insert the following new section:

SEC. 214. The amounts otherwise provided in this title for "OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH" and "GENERAL DEPARTMENTAL MANAGEMENT" are decreased by $2,000,000 and $10,000,000, respectively, and for "HUMAN DEVELOPMENT SERVICES (INCLUDING RESCISSION)" are increased by $12,000,000.

Mr. PENNY. Mr. Chairman, this amendment goes to reductions in administrative accounts in order to make an additional $12 million available for the Head Start Program, to serve an additional 4,000 students.

I rise to offer an amendment to increase funding for the Head Start early intervention and education program $12 million by decreasing funding by an equivalent amount for general departmental management at the Department of Health and Human Services.

I had hoped to be able to increase funding for Head Start by even more than $12 million, but I was sensitive to the need to protect human service programs. Examining the committee-reported bill, I discovered that funds appropriated for departmental management were increased in many cases beyond their budget requests.

The amendment I offer here reduces $10 million of the almost $13 million increase slated for general departmental management and $2 million of the $4.15 million appropriated for the Assistant Secretary of Health and transfers that $12 million to the appropriation that funds Head Start.

Let's keep a few things in mind:

First, in both cases, the new appropriations for management function at HHS were not requested. I have tried to be sensitive of the need of the Department to effectively manage departmental operations, but why give the Department funds they didn't request?

Next, since these funds I would delete were not requested, no layoffs would take place; in fact, even with my amendment, the Department receives more funds for management next year than they received this year, $5 million more in the case of the two administrative accounts I impact.

So, the issue as far as I see it is between funding increases for the bureaucracy that were not requested and additional funds for Head Start—for American families. The additional appropriations for Head Start contained in my amendment would allow an additional 4,000 children to be served next fiscal year.

Monday of this week the National Commission on Children recommended full funding of Head Start, yet here we are today with an appropriations measure that funds only one-half of the authorized level—$4.273 million in fiscal year 1992—for Head Start. The committee has increased funding for Head Start by $250 million and I commend them, but at that rate we will not fully fund this program until next century.

I am rightly viewed as a budget cutter. I am proud of that reputation. But budget making is really about priorities and spending. The amendment I offer today is one of deciding between priorities: bureaucrats or children.

I vote for our children. Please join me in support of Head Start.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, on the amendment that now is pending before the committee, the gentleman from Minnesota [Mr. PENNY] has been kind enough to permit Members to see this amendment in advance.

The amendment, as the Chairman knows, offsets the increase by taking $2 million out of the Office of the Assistant Secretary for Health and $10 million out of general departmental management, making a total of $12 million, the amount that is added to Head Start.

Mr. Chairman, certainly under no circumstances would we ask this committee of the House to make any move that would hurt Head Start. I do not know of a Member in this House that is against the Head Start Program, and on this side we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The amendment was agreed to.

□ 1320

Mr. NATCHER. Mr. Chairman, I ask unanimous consent that debate on the bill through section 513 and all amendments thereto be limited to 30 minutes.

Further, Mr. Chairman, I ask unanimous consent that debate on sections 514 and 515 of the bill and all amendments thereto be limited to 1 hour, and that the time be equally divided and controlled by the gentlewoman from

California [Mrs. BOXER] and the gentleman from Michigan [Mr. PURSELL].

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. SHAW. Reserving the right to object, Mr. Chairman, if I might inquire, as I said in the general debate, I have an amendment to offer.

My question to the committee chairman is how many amendments are there? I am not trying to prolong this; however, I want to be sure that all Members will have a chance to be heard on their amendments.

Mr. NATCHER. Mr. Chairman, if the gentleman will yield, as far as we know on this side, I would say to the gentleman from Florida, we know of only two amendments, which will require very little time.

Mr. SHAW. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to engage the distinguished chairman and the ranking minority member in a brief colloquy.

The administration is committed to winning the war against drugs. The President has requested large increases in the Federal antidrug budget every year; however, given some of our recent actions, I am concerned about our resolve in the drug war.

Many antidrug accounts in this bill, such as the Health and Human Services block grants and research grants, and the Education Department's emergency grants, have been funded at levels below the President's request. These drastic reductions will translate into first the loss of more than 16,000 Federal treatment slots and more than 64,000 State and local treatment slots; second, the inability to serve over 224,000 individuals seeking drug treatment; and third, the loss of opportunity to do some students counseling and the training of community leaders.

The Chairman, this sends the wrong message to our cities, our schools, and our drug-ridden neighborhoods. We cannot afford to walk away from this fight. Therefore, I would like to engage the chairman, if I might, in a colloquy, and offer my assistance and ask if the gentleman would be willing to work with the other body and in the conference to increase the drug-related accounts in these bills in that conference.

Mr. NATCHER. Mr. Chairman, if the gentleman from Pennsylvania, a member of the full committee and one of the able members, will yield, Mr. Chairman, I would like to make this statement to the gentleman and to the committee.

The bill, as the gentleman knows, provides $2.8 billion for substance abuse activities. This amount is somewhat below the President's request, largely because, as the gentleman knows, many of the programs in the request are not currently authorized.

The committee has followed a consistent policy of not funding unauthorized programs above the 1991 level.

The President requested increases for many of these programs as well as funding for a new, unauthorized $68 million treatment capacity expansion program, which the committee had to defer.

The authorized activities in the committee bill in the aggregate are slightly above the President's request. The President requested $1,191,842,000 for these activities, and the committee bill provides $1,192,750,000.

Once the authorization for these programs becomes law, the Committee will consider funding for new or expanded programs requested by the President, and we join with the gentleman in his statement to the committee as to the importance of these programs.

Mr. COUGHLIN. Mr. Chairman, we hope that these programs will be authorized by the time this bill gets to conference.

In addition, the alcohol, mental abuse, and drug abuse grants are currently authorized. We would hope that we could work in conference to fund both the programs that would be authorized and those programs that are already authorized.

Mr. Chairman, I appreciate the willingness of the distinguished gentleman from Kentucky to work with us on that.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a colloquy with the distinguished chairman of the committee, the gentleman from Kentucky, with respect to breast cancer research and other areas related to breast cancer that are in the bill.

Mr. Chairman, as the gentleman from Kentucky knows, I appeared before his committee on behalf of my bill, H.R. 2210, to put $50 million more in research and clinical trials for a disease that is in epidemic proportions. Once every 11 minutes a woman finds out that she has breast cancer.

The gentleman from Kentucky has been very gracious to me and to others in hearing our pleas for this and has even attended seminars and so on and stayed the whole time.

So I would ask the gentleman from Kentucky, can the gentleman clarify for myself and for victims of breast cancer and their families across the Nation exactly what this bill does?

I have read the report. There are references to breast cancer, but I would ask the gentleman from Kentucky by how much does the bill increase funding for research specific to breast cancer and other areas?

Mr. NATCHER. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. Mr. Chairman, it is my pleasure to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, as regards breast cancer, the President's budget, as we know, proposes an increase of $12 million. This bill increases that amount substantially.

A significant share of the $30 million allotted to the Cancer Institute, perhaps as much as $18 to $20 million, is expected to go to breast cancer.

At least $5 million from the women's health study is likely to focus on breast cancer, and a share of the $10 million allocated to the Office of Research on Women's Health will be for a study of the link between breast cancer and contraceptives.

Mr. Chairman, I should also note that our bill provides $50 million for the new breast and cervical cancer screening program, which is $29 million above the 1991 level.

As the gentlewoman knows, last year when we marked up our bill, the authorization for the $50 million that the gentlewoman from Ohio knows as much about as any Member of Congress and has worked harder than anyone that I know of, we did not have it in time for our markup. In the conference we said to them on the other side, "We know it is not in the conference. It is important enough that we want it in the conference."

Finally they agreed to $30 million. That little cut that went across the board carried us down to $29 million.

It is fully authorized now.

For the money for breast and cervical cancer screening we have $50 million, the full amount.

When the gentlewoman from Ohio appeared before our committee, I wanted to tell her at that time that at her request we were going with the full amount of $50 million, which we did.

Ms. OAKAR. Mr. Chairman, let me personally and publicly thank the gentleman from Kentucky, and also the gentleman from Michigan [Mr. PURSELL] and others, but the gentleman from Kentucky in particular for his resolve on this matter.

I only hope—I am very, very grateful—I know I speak on behalf of women and their families across the country, because we know we need more research and we want to find a cure. My only hope is that the Senate will not have zero in their budget, as they did in the last Congress, and that the wishes of the gentleman from Kentucky will prevail and, if anything, gets even stronger, because the gentleman from Kentucky has always kept to his work as far as I am concerned.

Mrs. LLOYD. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. Mr. Chairman, I yield to my friend, my dear friend, the gentlewoman from Tennessee.

□ 1330

Mrs. LLOYD. I thank the gentlewoman for yielding.

Mr. Chairman, as many in this body know, I underwent surgery recently for breast cancer. I say this not to invoke sympathy on myself but to invoke a greater awareness of the necessity for more research dollars going into the area of breast cancer research. Today we have so little knowledge of the causes of breast cancer, and a cure for breast cancer must be found if we are going to change this. If not, you are going to see 44,000 American women continue to have their lives claimed by breast cancer each year.

So I do commend the committee for their action in this area.

Mr. Chairman, as many in this body know, I recently underwent surgery for breast cancer. I mention this not for anyone's sympathy, but so that my recent experience can bring about changes in the way women receive health care in this Nation. I now find myself in the midst of the growing numbers of American women that will be struck by breast cancer each year. I am fortunate though, simply because I had a mammogram every year.

We are able to stop smoking to avoid lung cancer, but to date we have nothing to tell women to avoid breast cancer. A cause for breast cancer must be found in order to change this. If not, 1 in 9 American women will continue to develop breast cancer.

There has been little progress in finding the cure for this disease. That is why the National Institute of Cancer must be funded to the fullest level possible. NCI has several programs currently investigating breast cancer. These must be continued, and expanded, in order to stop this tragedy.

The CHAIRMAN pro tempore (Mr. HUTTO). The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

Ms. OAKAR. Mr. Chairman, I ask unanimous consent, because of the magnitude of this issue, that I may proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. BERMAN. Mr. Chairman, reserving the right to object, under the reservation, if I might just ask: We are within a 30-minute time limit where all the different issues have to be raised by amendment?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. BERMAN. Mr. Chairman, might I ask unanimous consent that 3 minutes be extended onto that time limit?

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Ohio [Ms. OAKAR]?

There was no objection.

Mrs. BOXER. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from California.

Mrs. BOXER. I thank the gentlewoman for yielding.

Mr. Chairman, I want to praise the gentlewoman in the well [Ms. OAKAR]. Mr. Chairman, last year the gentlewoman took to the floor and just insisted in the dead of night that we do something about breast cancer. Here we have a colleague with us today, who is looking wonderful, and she is a survivor. I will say this: When we asked the folks at home what concerns them, one of the first things they will say is, 1 in 9 women, 1 in 9 is going to get breast cancer.

Mr. Chairman, we need to do more. We need to do more. I compliment the gentlewoman from Ohio on her leadership, and I compliment the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER].

Mrs. SCHROEDER. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentlewoman for yielding.

Mr. Chairman, I want to compliment the gentlewoman from Ohio [Ms. OAKAR]. Mr. Chairman, I also welcome our colleague back from Tennessee [Mrs. LLOYD].

I think we want to thank her for her great courage in coming forward and discussing this at this time.

Mr. Chairman, I want to thank the chairman of the subcommittee also.

If anything, we only want more.

Mr. Chairman, we also say that MARY ROSE OAKAR's leadership has been phenomenal.

Ms. OAKAR. I want to say one other thing. We want a cure for breast cancer, and we will never do it unless every child is immunized against breast cancer. We can do it if we have the research dollars. I also want to say that, like Mrs. LLOYD, my own sister has had breast cancer, her next-door neighbor, Jan Nixon, has had breast cancer. Thousands of women, 175,000 of them, will find out they have breast cancer this year, and what they want, what women who are marching across the country who have breast cancer want, is they are thinking of their children and grandchildren. They are saying that if you can support $1.8 billion for AIDS research, which we all need in AIDS prevention, which we all support, plus the $65 million that is in the bill, we want to have at least $50 million for research moneys preserved.

Mr. Chairman, I urge all the women in this country to urge the Senate to adhere to the provisions that the House of Representatives have in the bill for finding a cure for this disease.

Mr. Chairman, I thank, from the bottom of my heart, the members of the committee for their action and for the other provisions relating to women's health.

AMENDMENT OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NATCHER: On page 36, line 10 insert:

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $600,000,000: Provided, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Chairman, this amendment would make a technical adjustment to the energy assistance fund provided in the bill. The amendment would restore the original bill language in H.R. 2707 except that it would provide the emergency funds under the terms of the regular Low-Income Home Energy Assistance Program rather than leaving the allocation of the funding to the discretion of the President. This is being done at the request of the authorizing committee and we support the change.

Mr. Chairman, I ask for a vote on the amendment.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we do not object on this side to the technical amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Kentucky [Mr. NATCHER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 28, strike line 18 and all that follows through line 20 and insert the following:

$3,051,954,000, of which $5,000,000 for renovation of government owned or leased intramural research facilities shall remain available until expended, $1,268,670,000 shall be allocated to the Alcohol, Drug Abuse, and Mental Health block grant, $68,000,000 shall be allocated to the Capacity Expansion program, $32,548,000 shall be allocated to the Treatment Grants to Crisis Areas, $86,698,000 shall be allocated to the Treatment Improvement Grants, $4446,225,000 shall be allocated to the National Institute on Drug Abuse, and $281,580,000 shall be allocated to the Office for Substance Abuse Prevention.

On page 47—

(1) in line 24, strike "$764,756,000" and insert "$628,130,000"; and

(2) strike line 26.

Mr. NATCHER (during the reading). Mr. Chairman, I reserve a point of order on the amendment offered by the gentleman from Florida [Mr. SHAW].

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Chairman, reserving the right to object, and I shall not object, I wonder if the gentleman from Florida [Mr. SHAW] could explain to us the purpose of this amendment if we are not going to have the amendment read.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, this particular amendment would restore the $33.67 million cut from the alcohol, drug abuse, and mental health services block grant; the $33.67 million reduction in this block grant is cut from both the 1991 appropriations level and the administration request.

This amendment would restore that request for drug, alcohol, and mental health treatment. It would also fund a treatment capacity expansion program costing $68 million.

The administration has requested funding for expanding the drug abuse treatment and creating new treatment slots, but the Committee on Appropriations has not included this request in the current bill.

It would also provide $4.59 million for the Office of Treatment Improvement, which the administration treatment grant and alcohol, drug abuse, and mental health block grants fund.

It would add $13.1 million in prevention programs at the Office of Substance Abuse Treatment of the Department of Health and Human Services.

It would restore the President's request for funding for the National Institute of Drug Abuse, adding $14.8 million to the committee recommendation.

The total spending on this amendment is $134.24 million. This is paid for in the bill by amending an additional section which would strike that amount or $136.24 million from impact aid. This is the aid that is paid to cities where military bases are located. But it is important to realize that this cut is taken from military personnel who live off of base. This means that the residences in which they are living are in fact paying taxes just like the rest of the community. So it is taking it really from a pork barrel fund which is located in these particular areas.

Mr. WALKER. Further reserving the right to object, do I understand correctly then that the committee has cut the amount the administration requested in drug treatment programs, and the gentleman is attempting to restore the money that was originally proposed by the administration in these drug treatment programs?

Mr. SHAW. The gentleman is correct. All but $33.67 million is new money. But the cut that I am most concerned about is this $33.67 million which is cut from last year's funding.

This is the problem that I see.

This is the first time that I can remember this is a step backward in funding drug programs. I think the majority has been, over the years, somewhat critical of the Republican administrations for not supporting more treatment.

Now we have a President who is committed to asking for this money so that we can get to the treatment, so we can get these people back in the mainstream of life and cut down on all the tremendous problems we have with prisons, with law enforcement, and everything else.

So I would hope that the committee would choose to accept this amendment under the point of order and that we can go ahead with a most important program.

We are gaining slightly on the problem of drug abuse. This is no time to fall back. It is time that we really accelerate these programs and really go out there and fight a war that I believe is winnable with the commitment and cooperation of Congress and the President.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his explanation and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1340

POINT OF ORDER

Mr. NATCHER. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore (Mr. HUTTO). The gentleman will state his point of order.

Mr. NATCHER. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Florida [Mr. SHAW] because it provides an appropriation for an unauthorized program and, therefore, violates clause 2 of rule XXI.

Mr. SHAW. Mr. Chairman, whereas I am disappointed with the gentleman from Kentucky [Mr. NATCHER] raising the point of order, I must concede in all honesty that what he says is correct, and, therefore, I concede the point of order.

The CHAIRMAN pro tempore (Mr. HUTTO). The point of order is conceded and sustained.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida [Mr. SHAW]. I would like to commend Mr. SHAW for bringing before the House the crucial issue of funding for drug treatment centers.

Mr. Chairman, I am alarmed about the reduction in antidrug appropriation in the Labor, HHS, and Education appropriations bill. Not only has the Appropriations Committee turned down the President's request for $134 million for drug treatment programs, but the committee has actually recommended spending $33 million less in fiscal year 1992 than was spent in fiscal year 1991. This is an ill-founded reduction of an extremely important program.

This Congress is committed to fighting a war on drugs. It is a deadly serious war, with the lifeline of our very Nation at stake. As with any war, there are casualties. I firmly believe that every addict seeking treatment should be able to find it. How can we hope to win the war on drugs if we cannot help those seeking to overcome their addictions?

In my own home State of New York, the New York State antidrug abuse counsel has noted that 75,000 treatment slots are needed. Today there are only slightly more than 50,000 treatment slots available. We are 25,000 slots short in New York State alone. H.R. 2707, in its unamended form, will result in 80,000 fewer treatment slots being made available nationwide. At a time when the incidence of drug abuse is escalating, the number of treatment slots available must be increased. Any reduction of the number of slots will only exacerbate this problem.

Adam Smith taught us many years ago that in order to understand any market, one must look at both supply and demand. In our war against drugs, treatment centers play the crucial role of helping to reduce demand. The Shaw amendment is both a necessary and just measure that will help to correct the gross error made by H.R. 2707. Accordingly, Mr. Chairman, I strongly urge all of our colleagues to join in support of this amendment in order to beef up our antidrug efforts.

Mr. FAZIO. Mr. Chairman, I move to strike the last word, and I would like to engage in a colloquy with the chairman of the committee, if I could.

Mr. Chairman, I am concerned about the ongoing deferral of funds for State legalization impact assistants grants [SLIAG]—the program that provides essential services in support of integrating newly legalized persons into their communities.

As the GAO study which you and Chairman HARKIN requested cites, according to HHS and State estimates, about $450 million of the amount appropriated for SLIAG for 1992 may be needed during that fiscal year to cover projected drawdowns through the end of fiscal year 1992. It also says that at least three States—California, New York, and Colorado—may not have been allocated sufficient funds to meet their estimated requirements through 1992.

It is my understanding that, given the current bill language, no further legislative action will be required to

insure both that the fiscal year 1992 appropriation is released in 1993 and that, due to this fiscal year 1992 deferral, all of the funds for SLIAG for both fiscal years will indeed be distributed to States by October 15, 1992. Does this reflect the Chairman's understanding of what the bill and report have provided?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the gentleman from California [Mr. FAZIO] is correct. It is my intention and expectation—and that of the subcommittee—to fulfill fiscal year 1992 and 1993 commitments to SLIAG in 1993, as well as to ensure advance release of these funds in October 1992. The committee has provided both legislative and report language requiring no further legislative action in order to guarantee this commitment.

Mr. Chairman, further I would like to say to the gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. BERMAN] who is in the well, to a member of our subcommittee, the gentleman from California [Mr. ROYBAL] and all of those that have talked to us about this matter, "We appreciate your assistance."

Not only that, this is a commitment that was made in 1986 under the basic law which provided for $1 billion for the fiscal years of 1988, 1989, 1990, 1991, and I say to the gentleman from California [Mr. FAZIO] that it is a commitment made in the bill, and the commitment must be carried out.

Mr. FAZIO. Mr. Chairman, I thank the gentleman from Kentucky [Mr. NATCHER], the chairman for the subcommittee, for his support and cooperation.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from California [Mr. FAZIO] for yielding. I especially thank the chairman for his commitment.

Mr. Chairman, I would just say that many of us from California were particularly concerned upon first learning of the decision to defer this appropriation. We understand that the administration requested a revision. We understood the low allocation. Our only hope is that the assurances that have been given can also be considered for purposes of adding language providing greater flexibility for the Department of Health and Human Services to take the unexpended funds, which are estimated to be about $580 million, and to allow those funds to be allocated in a fashion that would allow the programs in those States that will need the moneys to be spent in those States rather than held over. I think that kind of language in the conference committee, plus the chairman's commitment, can assure all Californians that the commitments made in 1986 will be met.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Pennsylvania for the purpose of a colloquy.

Mr. RIDGE. Mr. Chairman, I would like to engage the gentleman from Kentucky [Mr. NATCHER] in a colloquy on the Low Income Home Energy Assistance Program or LIHEAP. I share the concerns of many of my colleagues that the level of funding approved by the full committee for this critical program will not be sufficient to meet the needs of some of society's most needy individuals, the working poor, elderly, handicapped and low-income individuals. A $1 billion funding level would result in a cut of approximately 40 percent from the current services level. As many as 2 million families could be denied energy assistance.

I have tried unsuccessfully for the past several days to draft an amendment that would restore LIHEAP to a funding level of $1.6 billion. As you know, Mr. Chairman, such a level would not be a current services budget, but it would closely resemble last year's funding level.

While I am disappointed that the House cannot act today to provide critical funds for this important program, I trust that you will have the ability to work in conference toward a greater level of funding for LIHEAP.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, as the gentleman from Pennsylvania [Mr. RIDGE] knows, we faced many difficult funding decisions this year. Although we were not able to fund LIHEAP at the level that you and many other Members supported for 1992, I do want to express my willingness to work in conference with the Senate to gain greater funding for LIHEAP. You are certainly correct that this is a vital program that serves many needy individuals. Because of LIHEAP's importance to many households across the Nation, it is my intention to work in conference to try to restore LIHEAP funding to a level closer to the 1991 level.

In addition, Mr. Chairman, I would like to say to my friend, the gentleman from Pennsylvania [Mr. RIDGE] that personally I know a little bit about this legislation. At the time we had this up a number of years ago when the program was first authorized, we had problems with someone to introduce the bill. It was a House joint resolution. My name is on that resolution, and I take great pride and honor to say to my colleagues today that I am just as proud of it today as the day I put my name on it.

Mr. RIDGE. Mr. Chairman, I thank the gentleman from Kentucky [Mr. NATCHER] very much for that commitment. My colleagues told me that, when this program was designed and first came to light here on the floor, the gentleman from Kentucky was around at its birth, and that kind of continuing commitment on this program is very reassuring to me, and I am sure that there is some room in conference to increase the level of funding. Those responsible for the program, people such as the gentleman from Kentucky [Mr. NATCHER] will certainly be there trying to put their fingerprints on it and increase the funding level to more appropriate levels, and I thank the gentleman for that commitment.

Mr. PURSELL. Mr. Chairman, I am pleased that the committee took note of the efforts by OMB to revise its procedures for indirect cost recoveries for research conducted at universities. Clearly, significant improvements in those procedures must be made to assure Congress and the taxpayers that vital research funds are used effectively.

I understand that, under the OMB plan, certain expenses will be disallowed and certain administrative costs will be capped at 26 percent. If OMB decides to implement the 26 percent cap, is the committee recommending that these changes should be phased in over a period of time, preferably after existing agreements with cognizant agencies have expired?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, this is a matter, as the gentleman knows, for the Office of Management and Budget to decide, but, if they do decide on a phase-in period, this committee would not object to this approach.

Mr. PURSELL. Mr. Chairman, I thank the gentleman from Kentucky [Mr. NATCHER].

□ 1350

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the distinguished chairman of the subcommittee, who is one of the most respected and admired and liked Members of this body, for the amendment which he offered recently with regard to reinserting the LIHEAP funds which are so important to the people of this country. The Nation owes him thanks for that.

The situation is quite serious. As we know, if the fall and the winter come on very harshly, at the levels of the funding in the committee bill, without the amendment just adopted by the House as offered by the distinguished

gentleman from Kentucky [Mr. NATCHER], there would be literally millions of Americans cold and hungry as well. The LIHEAP funds, with the $600 million in the amendment, are extremely important. Without the full funding of that particular program, many poor in this country would confront the choice between heating their homes or eating, or they might perhaps be able to do neither. The suffering which would result from that situation would, I believe, be intolerable.

The gentleman has very wisely improved the committee bill by his amendment because he has required that the allocation be according to existing law. I commend him for that. That is very useful.

Under the amendment the President will make the determination whether or not there is an emergency in the country, I believe that is not what the gentleman really would have desired, but rather that the matter be hinged upon an emergency. I believe that he would rather have preferred to see that this is done simply as a matter of law, but I understand the parliamentary and budgetary situation that confronted my friend. I fully understand that.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I thank the gentleman for yielding, and I want to thank the gentleman, who is chairman of the Committee on Energy and Commerce, for his assistance not only at this time with our bill but all down through the years since the gentleman has been a Member of Congress.

Mr. Chairman, the gentleman well knows that when we take care of the health of our people and educate our children, we live in the strongest country in the world. I had the pleasure, Mr. Chairman, of serving with the gentleman's father in the House. When I got here, the gentleman's father was a Member of Congress, and like the gentleman in the well, he was an outstanding Member.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Kentucky.

Mr. Chairman, I would like to observe that this is a most important program. Without this amendment and the required Presidential submission, almost 100,000 families would have to have been dropped in just the State of Michigan. In the Midwest as a whole, almost 500,000 families would have been dropped, and in the Nation as a whole almost 2 million households would have been dropped. That would have resulted in a level of hardship that would have been intolerable, I believe, by any standard or measure. So the gentleman is particularly to be commended for what he has done here today.

The chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], and I have worked with the distinguished chairman of the subcommittee on various alternatives, and I want him to know that we have appreciated that opportunity and have found the results to be very helpful. The House is going to have to work hard to try to preserve and improve the funding for this program when we go to conference, and I know we can count on the distinguished gentleman from Kentucky and also the distinguished gentleman from Michigan [Mr. PURSELL], who has also been active in this matter and whose concerns are well known.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding, and I want to extend my sincere thanks to the distinguished chairman of the Appropriations Subcommittee on Labor, HHS, and Education, my good friend, BILL NATCHER. The gentleman from Kentucky has once again demonstrated his deep and genuine commitment to those who have served in the Armed Forces of the United States.

Contained in H.R. 2707 is over $80 million for veterans' employment services which was not included in the administration's budget request. But for the actions of the distinguished chairman, the Disabled Veterans Outreach Program, a highly successful employment program for veterans, would have virtually closed down. This program, which we extended earlier this year, was established by Congress to provide intensive employment services to disabled veterans, and other veterans, in need of job search and placement assistance.

But for the actions of our colleague from Kentucky, the National Veterans Training Institute, which provides training to Federal and State employees and others involved in the delivery of employment services to veterans, would have closed down.

Mr. Chairman, these programs help disabled veterans find jobs. They help veterans of the Persian Gulf war find jobs. They help the fine men and women separating from the military because of downsizing find jobs. They help veterans of Vietnam find jobs.

I know the distinguished chairman had to dig deep to find the funding for these important veterans' employment programs, and I want to express my deep appreciation for his efforts and those of the esteemed ranking minority member of the subcommittee, CARL PURSELL.

WILLIAM NATCHER is a good and valued friend to veterans, and he has more than earned their gratitude and respect. On behalf of all the veterans organizations and military associations who represent millions of veterans from all wars, I thank the subcommittee for its great work.

Ms. LONG. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am glad to yield to the gentlewoman from Indiana.

Ms. LONG. Mr. Chairman, I rise in support of this bill. The subcommittee chairman, Mr. NATCHER, the committee chairman, Mr. WHITTEN, and the members of the committee did a herculian task as they faced a series of difficult choices.

In particular, I want to highlight the job the committee did with respect to funding the administration of the unemployment program.

While administration costs may not seem, at first, to be a compelling need, this winter there were families in Indiana in line at unemployment offices at 5 o'clock in the morning and individuals waited weeks to receive their benefits, all due to the lack of administrative funds.

These workers had paid their unemployment taxes to qualify for coverage and yet they faced unconscionable delays in receiving their unemployment insurance benefits. It is bad enough when the Government doesn't deliver benefits to individuals in real need. It's worse when the Government takes money from workers with the promise to return it in times of need and the does not come through.

The committee's bill would fully fund all anticipated administrative costs and establish a contingency fund to cover any unanticipated costs should unemployment rise above projections. The contingency fund is important because in both of the last 2 years unanticipated costs arose and unemployed workers endured delays and lines while waiting on supplemental action by the Federal Government.

However, I am concerned that, as has happened in previous years, unemployment funding will be derailed by the time the appropriations process is finished. What is particularly disturbing about this outcome is that the money appropriated for unemployment programs comes from taxes which are dedicated to the program. When Congress underfunds the unemployment program the money simply builds up, unspent in the unemployment trust fund.

I believe we need to reform the way we budget the unemployment trust fund and get it off budget. In the meantime the unemployment provisions bill are good measures and I urge support of the bill.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 74, after line 10,

Insert the following new section, and redesignate subsequent sections accordingly.

SEC. 513. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act is hereby reduced by 5.9 percent.

The Chairman pro tempore. (Mr. HUTTO). The Chair wishes to advise the Members that under the agreement there are 2 minutes left, 1 minute for the gentleman from Pennsylvania [Mr. WALKER] and 1 minute for a Member opposed to the amendment.

Mr. WALKER. I thank the Chair.

Mr. Chairman, in my 1 minute I just want to explain that this is the balanced budget amendment. This is the amount that would have to be reduced from the overall spending in this bill in order to bring us into compliance with the concept that we will increase spending over 1991 levels by 2.4 percent.

Under this particular amendment we would in fact allow every account within this bill to be not only 100 percent of what it was the year previous but it would allow it to be 102.4 percent over the previous year. So in my amendment there are no cuts in spending based upon 1991 spending; there are only increases.

However, there is a reduction in the amounts which the committee is including, and those reductions are in order to ensure that we do in fact stay committed to the balanced budget concept. The committee has done a good job of staying within its 602(b) limitations, but 602(b) limitations, I remind the House, do not get us to a balanced budget agreement. Last year's budget agreement does not assure that we are going to have a balanced budget. Only by voting for amendments of this kind can we be assured that we will achieve a balanced budget by the fiscal year 1995.

Mr. Chairman, this is a 5.9-percent cut. I realize that is a tough thing to do on this bill, but if we are committed to a balanced budget, it ought to be done.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. NATCHER] is recognized for 1 minute.

Mr. NATCHER. Mr. Chairman, if the amendment offered by my friend, the gentleman from Pennsylvania [Mr. WALKER], is accepted, here is what the amendment would do: It would cut this bill $3 billion $500 million. As I said at the very beginning, we worked for 14 weeks, we held hearings, and we had hundreds of witnesses who appeared before our subcommittee. We kept this bill under our 602(b) funding allocation for budget authority and outlays.

This is a cut of $3 billion $500 million. Just in the Department of Labor alone, there would be a $500 million reduction. We come down to the Department of Health and Human Services, $1,450,000,000; breast cancer research and screening, childhood immunization, the National Institutes of Health, and AIDS [acquired immune deficiency syndrome], they are all cut. This cuts them all, Mr. Chairman. We would see cuts in the homeless programs and the nutrition program for the elderly. The older people in this country throughout the States and communities who need something to eat, they would be affected by this proposed amendment.

There is a lot of pride in these people, Mr. Chairman. They walk in, they are hungry, they need something to eat. If this amendment is adopted, it cuts that program.

The Department of Education would be cut by $1,385,000,000, including the chapter 1 program, student assistance for higher education and education for the handicapped.

Mr. Chairman, I ask that the amendment be defeated.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORD VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 55, noes 366, not voting 11, as follows:

[Roll No. 199]

AYES—55

Allard
Archer
Armey
Baker
Ballenger
Barton
Bennett
Boehner
Bunning
Burton
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Gillmor
Hancock
Hansen
Hefley
Herger
Hobson
Holloway
Hunter
Inhofe
Johnson (TX)
Kasich
Kyl
Marlenee
McCandless
McEwen
Miller (OH)
Moorhead
Nichols
Oxley
Packard
Petri
Riggs
Roberts
Rohrabacher
Santorum
Sensenbrenner
Shuster
Slaughter (VA)
Stump
Thomas (WY)
Walker
Zeliff

NOES—366

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NOT VOTING—11

Dymally	Kolter	Ridge
Gingrich	Lehman (FL)	Sundquist
Hopkins	Moran	Weldon
Houghton	Rhodes	

□ 1419

Mr. THOMAS of Georgia changed his vote from "aye" to "no."

Mr. KYL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Chairman, during rollcall vote No. 199 on H.R. 2707 I was unavoidably detained. Had I been present I would have voted "no."

□ 1420

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am taking this time for the purpose of engaging in a colloquy with the gentleman from Kentucky, chairman of the Labor–HHS Appropriations Subcommittee and the gentleman from California, chairman of the Ways and Means Subcommittee on Health.

The issue, Mr. Chairman, is a proposal by the Health Care Financing Administration to conduct a demonstration project designed to provide cataract surgery to Medicare beneficiaries for a single netotiated global fee.

HCFA's intent is to conduct this demonstration project pursuant to certain waiver authority which the agency purports to be contained in 42 U.S.C. section 1395b–1. Are my colleagues aware of this demonstrated project and the section of the code just cited?

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I am aware.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to advise the gentleman that I, too, am aware of this.

Mr. SOLOMON. Mr. Chairman, is it not correct that 42 U.S.C. section 1395b–1 provides HCFA with limited authority to waive compliance with the requirements of the Mecicare provisions of the Social Security Act and thus limits the agency's ability to conduct demonstration projects?

Mr. STARK. If the gentleman will yield further, I would inform him that his interpretation is correct.

Mr. SOLOMON. Mr. Chairman, is it not also correct that, according to current law, the Department has the authority to waive certain requirements relating to reasonable cost or reasonable charge reimbursements, but does not have the authority to waive other types of reimbursement rules or to waive the part B deductible and coinsurance requirements?

Mr. STARK. If the gentleman will yield further, I would inform him that that is also correct.

Mr. SOLOMON. Let me just say then, according to the 1989 amendments to the Medicare Act, which will take effect in January 1992, payment for physician service, will not be based upon reasonable charges, but will instead be based on a resource-based relative value scale, or fee schedule.

Under this soon-to-be implemented reimbursement methodology, does HCFA, pursuant to section 1395b–1, have the authority to waive either fee schedule or the deductible and coinsurance requirements as envisioned in the cataract demonstration project?

Mr. STARK. If the gentleman will yield further, I would inform him that it is my understanding of the statute that the Department does not have the necessary authority.

I, together, with my colleague, the distinguished ranking minority member of the Subcommittee on Health of the Committee on Ways and Means, wrote a letter, dated April 11, to the administrator of the Health Care Financing Administration in this regard.

This letter expresses our concern that the Department does not have the necessary statutory authority to carry out this demonstration.

Mr. SOLOMON. Notwithstanding this clear statutory interpretation and your communications to the agency, I understand from Dr. Wilensky's repeated statements, that HCFA will persist in its pursuit of this demonstration project.

I believe that HCFA should immediately cease and desist from further design and implementation of this project.

Do the gentlemen agree?

Mr. STARK. If the gentleman will yield further, I would tell him that I emphatically agree, that given the clear statutory limitation on HCFA's authority, HCFA should immediately halt further development of this project.

I thank the gentleman for bringing this to our attention, and I thank the gentleman for yielding.

Mr. NATCHER. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for yielding.

Mr. Chairman, we would urge HCFA to carefully consider and respond to the concerns that have been raised by the gentleman from New York before it proceeds further with the design and implementation of such a demonstration.

Mr. SOLOMON. Mr. Chairman, I certainly thank both the chairmen from the bottom of my heart. I know the senior citizens in my small rural communities deeply appreciate it.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I rise in favor of the committee bill as written.

Mr. Chairman, I rise today in support of the Labor-HHS-Education and Related Agencies Appropriations Act of 1992. I am not entirely pleased with this bill, but I believe it is the best possible bill under the circumstances.

The bill includes $2.5 billion, above fiscal year 1991 levels, for education programs, including Head Start. This is consistent with the education assumptions in the House budget resolution as amended by the homefront budget amendment which I offered.

I want to express my appreciation to Chairman NATCHER and the subcommittee for continuing to make critical investments in preschool programs and elementary and secondary education. This bill increases Education Department discretionary programs by almost 11 percent. It adds $1 billion for chapter 1, an increase of 16 percent; a $370 million increase for vocational education, an increase of 37 percent; and a $200 million increase for handicapped education, an increase that exceeds the rate of inflation. The bill includes an additional $50 million for the Even Start Program and a $38 million or 19 percent increase for math-science education.

All told, I support Chairman NATCHER's efforts to uphold the will of the House in endorsing the priorities which my amendment embodied.

Nevertheless, the Labor-HHS-Education bill, so ably constructed by Chairman NATCHER, is drastically underfunded compared to the conference agreement on the budget resolution for fiscal year 1992 which Members adopted by a vote of 239 to 181. It is even substantially underfunded compared to the House passed budget resolution which was adopted by a vote of 261 to 163.

The House passed budget resolution assumed $1.2 billion more in budget authority and $1.7 billion more in outlays for this bill than was ultimately allocated to it. The shortfall as compared to the conference report was even more dramatic. The Labor-HHS-Education bill is $3 billion in budget authority and $2 billion in outlays below the levels assumed by the conferees.

Thus, while Members thought they were voting for one set of priorities in the budget, those priorities have been turned upside down because the Appropriations Committee has substituted other priorities—which have never been voted on—for those expressed by the House on two separate occasions. This raises fundamental questions. If the Appropriations Committee is not guided by the budget, why do we need to suffer through the budget process? If the Budget Committee cannot impose its will, what purpose does it serve? Is it time to abolish the budget process? What remedy is available to Members if budget priorities are ignored?

The result of these arbitrary decisions is to squeeze discretionary funding in the Labor-HHS-Education bill so that we are forced to make painful tradeoffs. By way of example, the subcommittee was forced to cut funds for low income energy assistance in order to increase funds for Head Start and to make a

downpayment on the President's education initiative. We should all hope for a cool summer, and warm winter, so that we can be spared the nightmare of seniors freezing to death or dying from heat prostration.

While unemployment hovers just below 7 percent and economists debate whether we have begun a meager recovery or are still in recession, we can only find $50 million more to train and retrain American workers who have been dislocated. While drug related gang violence tears at the heart of American cities, large and small, gang prevention programs have been cut by between one-third and one-half and drug abuse education funds have been frozen.

As we continue preparations for reauthorization of the Higher Education Act, I must express some concern over levels contained in this appropriations bill for student financial assistance. Subcommittee constraints threaten our historical commitment to guaranteeing low- and middle-income students access to quality education. I pledge to work with my good friend, Chairman NATCHER, as the process continues.

We are told that we have no choice. That we must be guided by the Budget Enforcement Act adopted last year. This monstrosity imposed a cap on domestic discretionary spending, precluded transfers from defense spending or foreign aid to domestic spending, and even precluded pay-as-you-go for discretionary spending increases while permitting it for entitlements.

It is absurd to argue that we can't do these things because we have no money. I would argue that our problem is lack of will, not lack of wallet. When the President decided to wage war with Iraq, we found the wallet. When he decided to bail out the savings and loans, we found the wallet. In both cases, the wallet was off-budget.

The issue is will. This administration and its allies in the Congress must recognize that this country's leadership position is precarious, that our standard of living and quality of life is slowly deteriorating, and that we must invest to prosper. To the extent that we indulge in elaborate but arbitrary constructs to try to substitute for backbone and will power we are doing ourselves and the Nation a disservice.

Mr. Chairman, I support this bill as the best possible product under the existing budgetary constraints, but I strongly urge my colleagues to carefully analyze what this Budget Enforcement Act is doing. The sooner we repeal this horror, the better.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will briefly summarize this bill with relationship to the guidelines in the budget resolution.

I rise in support of H.R. 2707, Departments of Labor, Health and Human Services, and Education, and Related Agencies appropriations bill for fiscal year 1992. This is the 11th of the 13 annual appropriations bills to be considered by the House.

The bill provides $58.510 billion in discretionary budget authority and $57.808 billion in discretionary outlays, which are $774 million below the 602(b) subdivisions for discretionary budget authority and $1 million less than the outlays, respectively, this subcommittee's subdivision.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

[Factsheet]

H.R. 2707, DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1992 (H. REPT. 102-121)

The House Appropriations Committee reported the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill for Fiscal Year 1992 on Thursday, June 20, 1991. Floor consideration of the bill is scheduled for Wednesday, June 26, 1991.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $58,510 million in total discretionary budget authority, $774 million below the Appropriations subdivisions for this subcommittee. The estimated discretionary outlays in the bill are $1 million below the subdivision totals. Amounts are provided in the domestic and the international categories.

The bill, as reported, provides $58,502 million of domestic discretionary budget authority, $773 million less than the Appropriations 602(b) subdivision for this subcommittee. The estimated domestic discretionary outlays in the bill are identical to the subdivision total. A comparison of the bill with the funding subdivisions follows:

COMPARISON TO DOMESTIC SPENDING ALLOCATION

[In millions of dollars]

	Labor, Health and Human Services, and Education, and Related Agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/ under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	58,502	57,800	59,275	57,800	−773	
Mandatory[1]	144,708	143,234	144,708	143,234		
Total	203,210	201,034	203,983	201,034	−773	

[1] Conforms to the Budget Resolution estimates for existing law.

Note: BA—New budget authority; O—Estimated new outlays.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATION

The bill, as reported, provides $8 million of international discretionary budget authority for the United States Institute of Peace, $1 million below the Appropriations subdivision for this subcommittee. The estimated discretionary outlays in the bill are $1 million below the subdivision total.

[In millions of dollars]

	Labor, Health and Human Services, and Education, and Related Agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/ under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	8	8	9	9	−1	−1

Note: BA—New budget authority; O—Estimated new outlays.

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Following are major discretionary program highlights for the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill for Fiscal Year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Older Americans Community Service Employment	390	70
Job Training Partnership Act [JTPA]	4,138	201
Bureau of Labor Statistics	259	222
State Unemployment Insurance and Employment Service Operations[1]	3,152	2,512
Department of Health and Human Services		
Low-Income Home Energy Assistance[2]	1,000	855
Community Services Block Grant	421	286
Human Development Services	3,496	1,984
(Head Start)[3]	(2,202)	NA
Child Care Grants[4]	850	−78
Refugee and Entrant Assistance	294	206
Department of Education		
Alcohol, Drug Abuse and Mental Health Administration	2,918	1,153
National Institutes of Health	8,825	3,706
Centers for Disease Control	1,391	759
Refugee and Entrant Assistance	294	206
Education Excellence[3]	500	60
Compensatory Education	7,076	849
School Improvement Programs (Chapter 2)	1,578	189
Special Education	2,823	347
Bilingual Education	249	30
Impact Aid	765	608
Vocational and Adult Education	1,652	198
Student Financial Assistance	6,853	1,248
Libraries	143	53

[1] The Appropriations Bill also provides an indefinite contingent appropriation for unemployment insurance administration which would provide $30 million for each 100,000 increase in average weekly insured unemployment claims above the President's estimate of 3.24 million.

[2] The Appropriations Bill also includes a contingent emergency appropriation of $600 million for the Low Income Home Energy Assistance program available only upon Presidential request and Presidential classification as emergency funding.

[3] The Appropriations Bill provides a contingent appropriation of $500 million in response to the President's proposal for new Education Excellence programs. If authorizing legislation is enacted by December 31, 1991, up to one-half of this amount, $250 million, would be available for the newly authorized activities and $250 million for Head Start. In the event that new legislation is delayed or not accepted by the Congress, the appropriation permits the full $500 million to be spent on currently authorized programs (with a minimum of $250 million for Head Start) that directly support educational reform efforts in local school districts.

[4] The Appropriations Bill includes a rescission of $145 million in budget authority in 1991 for child care grants. With the rescission, the 1992 level is $250 million above the revised 1991 level compared to $175 million for the Budget Resolution.

Mr. KLUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill. I particularly am pleased to see levels raised for Head Start and other important education projects. At the same time I have to tell the committee that I am unhappy with the proposal to cut $600 million from LIHEAP, which will directly affect 52,000 households in my home State of Wisconsin.

□ 1530

For many of our elderly, this is the only project they can be involved in.

Mr. Chairman I'd like to begin by commending Chairman NATCHER and Mr. PURSELL for their efforts in bringing this legislation to the floor. There is a great deal in this bill which we can all applaud. In particular, this legislation presents a strong statement of our determination to make education a national priority.

Critical preschool, elementary, and secondary education programs, in particular, are

funded at levels which will allow us to reach out more effectively to insure that kids get off on the right foot and stay on track. Enactment of this legislation will allow us to significantly expand Project Head Start—a goal which many of us share—and it will allow us, through expanded chapter 1 programs, to reach many more educationally and economically disadvantaged students. These are young Americans that need our help and for them this bill provides it.

At the same time, this legislation exemplifies the very difficult budgetary situation in which we find ourselves. The committee has obviously had to make some very tough choices and, to their credit they have met this challenge. Though I commend them for their determination and courage in making education a priority in this bill, I am concerned that the sacrifice this has required has not been fairly apportioned. In particular, Mr. Chairman, I believe that the reduction in funding which the bill proposes for the Low Income Home Energy Assistance Program [LIHEAP] is excessive and unfair.

Cutting $600 million from LIHEAP will have a direct effect in over 52,000 households in my home State of Wisconsin. Almost 2 million households nationwide will be affected and, as a result, millions of our Nation's working poor and elderly Americans may go without heat and hot water next winter. For most of them, this is the only Federal program that they participate in.

Mr. Chairman, I question the fairness of asking these individuals to bear so much of the cost which the education priorities in this bill make necessary. I hope that as the appropriators move forward into conference and toward final consideration of this bill, that they will consider ways to restore LIHEAP funding and more equitably balance the sacrifices which the priorities in this bill and budgetary reality requires.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the subcommittee's bill, and especially in regard to the language blocking implementation of the dangerous gag rule. I also commend the distinguished chairman for his role in that as well as in the funding for AIDS.

Mr. Chairman, every year I rise in support of this bill that emerges from the subcommittee chaired by Mr. NATCHER. Every year I commend the chairman of that subcommittee for his valiant efforts on behalf of many of the programs that we hold most vital to the welfare of our citizens. And again this year, I rise in support of not only the legislation but also of Mr. NATCHER, who over the years has brought generous appropriations for AIDS research, prevention, and education to the floor. In past years his work, along with that of his colleagues on the subcommittee, has allowed the Federal Government to wage more of a fight against this terrible epidemic than would have occurred if the President's budget requests had been followed.

This year has been difficult. Because of the very tight domestic budget dictated by last year's ill-conceived budget summit agreement and the Gramm-Rudman law, the subcommittee has had to limit its largess. In the process, AIDS programs have suffered. The Ryan White CARE Act, viewed by many including myself as the solution to some of the funding programs faced by localities nationwide, has not received the level of funding I feel is warranted. AIDS research and prevention are also underfunded. The support needed to fight AIDS has not continued to grow at a rate that can keep up with the epidemic, which is far from vanquished.

At a recent hearing held by my subcommittee, I heard testimony about the direction in which the epidemic is heading. Now more and more women, children, intravenous drug users, and poor people are becoming sick. Cities are inundated with poverty-striken persons, often homeless, who have a myriad of other problems, to which AIDS is the final blow. Our hospitals and clinics are overwhelmed and health care providers burned out after having to care for so many who are so sorely in need of help. I am disappointed that more could not be done for AIDS this year.

This legislation does include some very important language blocking the implementation of the dangerous Rust versus Sullivan Supreme Court decision. Unless counteracted, that decision will block the free flow of information in federally funded title X family planning clinics, rejecting the sanctity of the doctor/patient relationship and reneging on our Nation's commitment to free speech.

The Rust versus Sullivan ruling prohibits title X health care providers from apprising their patients of all the available legal options for an unintended pregnancy. Until Rust versus Sullivan, title X clinics reasonably provided neutral, nondirective counseling and referrals to pregnant women who requested information on their medical options. If Rust versus Sullivan remains unchecked, that comprehensive information that is available to women who attend private health facilities would no longer be available to the low-income women who depend on title X clinics for their reproductive information.

Allowing the Rust versus Sullivan decision to stand will not only hurt low-income women, it will hurt each and every American as it desecrates the doctor/patient relationship. Patients in crisis situations do not want to look at their doctor and wonder whether or not that doctor is giving them all the facts about their medical situation. Patients want to trust their health care providers to assist them in their time of need.

If activated, the title X regulation would cripple the trust relationship that has traditionally been a fundamental element of medical practice. It would also force doctors to compromise their medical ethics, requiring that they withhold information from patients. This regulation tampers with the rights of both parties involved and destroys the delicate relationship that is an integral part of good health care.

The damage of allowing Rust versus Sullivan to stand does not stop at the clinic door. It encroaches on our constitutional right to freedom of speech in the realm of federally funded programming. Without the language now present in the Labor-HHS-Education appropriations bill, title X health care providers will be denied the right to freedom of speech in their workplace.

Instead of providing patients with accurate information about their health care options, they will advise their patients according to the dictates of a federally authored script. Limiting the advice permissibly administered in federally funded clinics, the title X regulations set a precedent that could draw the shadow of Federal control over any Government-subsidized program.

Given the Bush administration's traditional antipathy for long-armed Government, the Rust decision becomes ironic. It establishes one of the most invasive policies our Government has ever created, censoring reproductive information and threatening the sanctity of the doctor-patient relationship.

Matters of health care must be pursued according to medical, not political, guidelines. I urge my colleagues to protect the free flow of medical information and restore integrity to federally funded programs. Vote in favor of the fiscal year 1992 Labor-HHS-Education appropriations bill.

The CHAIRMAN. Are there other amendments in the bill prior to section 514?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 514. No funds shall be available under this Act to enforce or otherwise implement the regulations of the Secretary of Health and Human Services published at 42 C.F.R. 59.8 or to promulgate any other regulation having the same substance.

The CHAIRMAN. Pursuant to the order of the Committee of earlier today, the gentlewomen from California [Mrs. BOXER] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I yield 2½ minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I strongly support the language in this title of the bill which overturns the Supreme Court, or defunds the Supreme Court's gag rule on the advice that health care professionals can give to women regarding their medical options, including the choice of abortion.

This language in this bill protects something that is taken for granted by all people who are lucky enough to be able to afford private medical care. That is the sanctity of the doctor/patient relationship.

Can Members imagine the Government muzzling health care professionals, restricting the kind of information poor women can receive when it comes to the health of their bodies? Even if that woman's health is endangered if she continues her pregnancy? Even if she were the victim of rape or incest? Even if she begged the doctor or the nurse to give her full advice on the full range of medical options available to her. That is what the gag rule does, that the Supreme Court sustained.

This bill blocks those regulations by defunding them. Congress never passed those regulations. This bill blocks the dollars to implement those regulations. Those regulations, my friends, amount to institutionalized medical malpractice. They amount to censorship that creates a precedent that I think should chill every American, whether they believe in abortion or not. A precedent that can extend to almost anything.

Think about it. If this, what is next? Are we going to find ourselves in the future preventing doctors from telling Medicare and Medicaid patients that they cannot tell them about costly medical treatments because of budgetary problems? Is that what is next? The precedent certainly is here in the gag rule.

That is why it deserves to be unfunded. This bill does unfund the gag rule. Shall we silence physicians in the future from sharing information about blood transfusions, because some groups find that objectionable? That could be a precedent as well.

What this sounds like to me, the gag rule and the Supreme Court decision that we unfund in this bill, it sounds more like Romania or Albania than it does a United States Government program designed to serve the health of the people of the United States of America.

Friends, I strongly support this section of the bill. I applaud all Members who worked in the construction of this.

Mr. PURSELL. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, in the limited time we have, and I welcome this opportunity to debate this issue because it is burdensome, but vitally important. It is so gut wrenching, but it is so very important.

However, I beg to inform Members this is not about free speech. It is about abortion. We have before Members, in the bill, a section that was introduced by my good friend from Illinois [Mr. PORTER] with the support of many others, that ought to be called the Abortion Facilitation Act, because what it does is impose on a program that was designed and has operated for many years as a program to either get a person to get pregnant, or help a person keep from getting pregnant and to treat venereal disease, STD, sexually transmitted diseases, but not when a person is pregnant. That is another type of service to be supplied elsewhere. This is a program to treat women before they are pregnant.

Now, why did we have this program? Because we have been concerned about infant mortality. The infant mortality rates in the United States of America are appalling. So Congress put together a program that would advise women how to have a baby, how to have a healthy baby, how to nurture their child, or if they wanted to space their children, they would get contraceptive advice. Abortion is not such, although it does help the infant mortality statistics because it kills an unborn child. The program was designed to alleviate that toll, that sad, tragic toll, not to add to it.

So this amendment seeks to make doctors, who should be helping prospective parents plan their families, also recommend that they can exterminate their child, which is really an ethical problem, not a medical problem, and compelling the taxpayers to pay for it. That is what this is about.

Family planning is meant to promote or to prevent conception, pregnancy, not abortion. It is not a gag rule. Read the Yellow Pages. Look under Abortion. Read the newspapers. The ads leap up at readers. They overwhelm readers.

If a woman, comes into one of these clinics and is pregnant and wants advice on how to exterminate her child, the doctor does not push her out the door. He says, "We do not provide that. It is not a part of family planning. Go to the Planned Non-Parenthood Society. They will help you." But if a person wants to go elsewhere, here is a list, and they provide the woman with a list of clinics which may well provide abortion services. Nobody is gagged.

If the Federal Government pays for a course in astronomy, that does not mean they have to subsidize teaching astrology. Smoking is legal. We do not choose to pay to teach people how to smoke. We would pay to teach people how to quit smoking. That is the difference.

A doctor can give any medical advice he wants on his own time and in his own office or out on the street, but when it is one of the programs that are family planning, it should stick to family planning.

Cutting through all the verbiage, if a person thinks abortions are a good idea, or if morally they are neutral, then fine. If a person thinks an unborn child is expendable, they can throw them away, fine. I do not think so. I think once conception has occurred, I think that we have something there that is the beginning of a human life, not a potential human life. It is human life with a potential. It is small. It is even microscopic, but by God, it is alive, and it is human, and it ought to be treated with dignity, and not torn out and thrown in a pail.

I think abortion is a pestilence, and I do not, I do not—not you, me—I do not want my tax dollars going to facilitate women exterminating—not terminating, every pregnancy terminates—exterminating their unborn child.

Do Members know what it is like? A farm extension agent is supposed to help farmers rotate their crops, teach how to grow soybeans. What if a farmer, coming to a farm extension agent and says, "Look, I know how to rotate. I know how to grow soybeans. I need labor."

□ 1440

"I need help on my farm. Where is the next slave auction? Where can I go get some slaves to work on my farm?"

That makes about as much sense as going to a clinic for family planning and saying, "Where can I kill my unborn child?"

Now, look, John Donne wrote a famous poem in 1603. It is a magnificent electrifying poem, and among its wonderful words, it starts out, "No man is an island sufficient unto himself * * *" and then it says, "Every man's death diminishes me, because I am involved in mankind."

People who think abortion is an acceptable answer to any problem have reversed John Donne. They say, "Every man's birth diminishes me, because there isn't enough to go around."

Abortion is not about choice. That is a process. The executioner has a choice. Shall I use the gas chamber, shall I hang this convict or shall we use an electric chair? Some choice.

Abortion involves the ultimate issue, life or death. If you ran into a burning building and you saved a little child, you would be on the news tonight. You would be getting plaques and honors. If you dove into a cold river and saved somebody, you would be honored for lifesaving; but you will vote to murder, to kill, to exterminate in the most undignified way, millions of children.

There are 1½ million abortions a year. Does it bother you? Do you want to contribute to that toll?

The CHAIRMAN pro tempore (Mr. GEJDENSON). The time of the gentleman from Illinois has expired.

Mr. PURSELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. HYDE. Is there anyone more homeless than an unborn child in the mother's womb and she does not want to give birth to that child? She should be the natural protector of that child, but tragically she has become its deadly adversary. Is there anyone more homeless than that?

Handicapped people, we give them premium parking places because they need that help. God help you if through amniocentesis your parents find out you are going to be born handicapped. You are going to add to the sad toll of 1½ million abortions every year in the name of compassion.

I do not accuse you of hardness of heart, just lack of imagination. You demonstrate a compassion fatigue that prevents you from going beyond the pregnant woman to her unborn, preborn child. That is not a mouse. That is not a breadbasket. That is not a randomly multiplying tumor of cells. That is a tiny human being entitled to life, liberty, and the pursuit of happiness.

I just say if you like abortions, then fine, you continue to vote that way and answer to your conscience. Mine is clear.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], a distinguished attorney.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentlewoman from California for her leadership on this.

Let me say to the gentleman from Illinois who followed me into this aisle, a woman is not a parking place. This issue is not about abortion. This issue is about also dealing with women as human beings.

The AMA says you are wrong. The American nurses say you are wrong and all sorts of Americans are saying you are wrong, and that is why the other side has collapsed on this issue, and the gentleman knows it, because you might want to resurrect it as an abortion issue. That is not what we are talking about.

We are talking about the fact that women as mature adults have the right in this Government to hear the entire range of health options, and there probably will not be a doctor able to practice in a clinic if they are not able to give that entire range of health options, because they could be sued for malpractice or any other such thing.

Guess what. Women have brains, but they also have uteruses. They can think. They can sort through those different options, and we are wanting equal treatment to know the options and the medical profession also wants that.

Let me also say that pregancy is not a 9-month cruise. For some women it can be a health endangering situation. Therefore, the doctor might have the ability to converse with the woman about what you are talking about.

Oh, it would be so simple if it were one life, but we are talking about two lives, and these are not easy choices and they do not belong to the Government of the United States.

When I grew up, people who could not handle where babies came from said they came from the stork. If we do not stop the Supreme Court, the next generation is going to say babies come from the Supreme Court.

This is an absolute outrage. For 200 years we have been able to deal with women as human beings. I just want to say that we do not want the medical profession gagged when they talk to over half of America's population.

America got a wake up call and they have been calling this body and saying, "Wait a minute. We don't want our tax money going that way. That is ridiculous."

That is why we are not having a vote today. This is a great victory, I think, and I really resent trying to put it into the rhetoric that we have had of the past. This is not that kind of rhetoric. This is about free speech, options, health care, and many lives that the medical profession is trying to treat and treat with the dignity that they are due under the Constitution of the United States.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to take issue with one of the things that the gentlewoman from Colorado has just said. As someone who practiced law in the barrio for a number of years before coming to this body, it became my experience that a lot of people, including a lot of women who would be utilizing family planning, who would be asking for counseling, perceive an advocacy in what you tell them. Many of them come from a situation which is a desperate situation. I do not see any way in which you can supposedly inform women without being perceived to be advocating.

I do not see any way in which you can have discussion about abortion without in fact persuading, not just informing, but persuading some of those women who want to have an abortion. That is not something that the gentlewoman can change with the fine print. Those are the facts of life.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think the gentleman is missing my point. For some women, this is a life-threatening situation. It is very dangerous not to be able to lay out all those options, that is not an advocacy position. We are talking about free speech.

Mrs. BOXER. Mr. Chairman, I yield 2 minute to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, I liked the speech of the gentleman from Illinois. It was passionate. It was self-righteous. It was obviously based on deep moral conviction, which I respect.

Where is the motion to strike the language? Where is the political courage of the great conviction? Why dump it back on the President's desk?

For a time today I carried in my pocket, and I still have it, a motion to strike this, to bring this to a vote, but I find my colleagues on that side do not really want to vote about this. They do not want to face it because they know the American public does not agree with them.

This is not about pro-life and pro-choice in its isolation, with all respect to those people who have preceded me. It is also about the Constitution of the United States. It is about the fundamental right of free speech, of the right for a person to say what he wants or she to say what she wants, without the Government's hand on their throats.

We have never in this country told people what they can and cannot say. True, we have regulated how they may say it, but we have never told people in this country that you cannot express yourself. That is what this gag rule does. It says to a 17-year-old girl who is pregnant and whose life is threatened that the constitutional right of free speech does not extend to you. It stops. That is fundamentally wrong.

I have the assurances of Members of this body that sometime this summer we will bring this issue to a vote. We will have a chance to see whether anger and high conviction are matched with political judgment or not.

□ 1450

And when that day comes, those who hold that the Constitution does not apply to pregnant women will have a chance to hold themselves accountable to the voters of this country.

Mr. PURSELL. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. I thank the gentleman for yielding.

Mr. Chairman, by now members are aware that the Labor/HHS bill to be considered today includes proabortion language that nullifies a key provision of President Bush's title X regulations recently upheld by the U.S. Supreme Court.

Members probably know as well that because the President stated that he will veto the bill, he stated emphatically that he will veto the bill or any other bill, for the matter, that weakens or nullifies pro-life policy, we do not intend to offer a motion to strike proabortion language here today. Rather we will wait until the bill comes back vetoed, as surely it will be, to make our stand in defense of these humane, pro-life, pro-family planning regulations.

We will have our vote on this for all to see.

Mr. Chairman, first promulgated in 1988 but enjoined by a myriad of law-

suits until the high court rendered its opinion on May 23, the administration's title X regulations effectively separate abortion, the destruction of innocent human life from preventive family planning.

Let me remind Members that back in 1970 the conference report in 1970 accompanying the enactment of the title X program make it clear that abortion was outside the scope of the Nation's family planning program. The report said, and I quote, "It is and has been the intent of both houses that funds authorized under this legislation be used only to support preventive family planning services."

The regulations promulgated by the administration in 1988 faithfully strive to implement that original intent and, as such, limit funding to programs which, first, do not include abortion as a method of family planning; second, maintain physical and financial separation from prohibited abortion activities; third, do not engage in any activities that encourage, promote, or advocate abortion as a method of family planning; and, fourth, do not provide counseling and referral for abortion.

Mr. Chairman, counseling and referring for abortion in my view grossly undermines respect for the life of the unborn child. If we were talking about counseling for cancer or a disease, that would be one thing. But, Mr. Chairman, pregnancy is not a disease. An unborn child cannot be likened to a diseased pancreas. This fight is about advocacy and the taxpayers ought not to be forced to subsidize advocacy that destroys children.

I respectfully submit to you and my colleagues that it is utterly inhumane to regard the unborn child in this way as a cancerous tumor or as a wart or as a diseased organ.

If you accept the fact that the unborn are human and if you accept that fact that they are alive, because every abortion stops a beating heart, and unborn kids are worthy of respect and nurturing, not extermination, counseling and referring for abortion ought to be seen as jeopardizing the lives of these children.

If you regard the unborn child as a nonentity, no more entitled to fundamental respect than that tumor, your vote is to overturn those regulations when the override comes around. If dismembering an unborn child or poisoning an unborn child with saltwater and the other methods employed by the abortionists is something you think we ought to be all about and referring for it and counseling for it, then your vote is to overturn these regulations.

The unborn child means nothing to you.

Mr. Chairman, the consequence of abortion referral is very simply that unborn babies die. The consequence of abortion counseling likewise is that unborn babies die.

Mr. Chairman, referrals for prenatal care, on the other hand, provided for in the regulations, recognize that every pregnancy includes two patients, mother and baby. And that both patients are absolutely worthy of respect and the best maternal and prenatal care possible.

Finally, Mr. Chairman, let me make this very clear: The public is with us on this one. The recent Wirthlin poll which was released on Monday indicates that when people are asked, "Do you favor or oppose offering abortion as a method of birth control in taxpayer-funded family planning programs," a huge majority of Americans, 77 percent, say "no."

The good news, and this is really great news for the right-to-life movement, I would suggest is a disaster for Planned Parenthood and abortion rights advocates.

This closely tracks with previous polls conducted by the Gallup organization and the Boston Globe and the Wirthlin group, which also found that some 83 percent of Americans oppose using abortion as a method of birth control.

And when Americans, Mr. Chairman, are more fully informed about the Supreme Court's Rust decision and are told, "Any Government funds not used for family programs that provide abortions will be given to other family planning programs that provide contraception and other preventative methods of family planning," 69 percent of the American public favor the Rust decision.

This indeed is superb and encouraging news for the pro-life movement. This data conclusively counters the conventional wisdom that the Rust decision and the President's title X policy is unpopular. It is becoming increasingly clear, Mr. Chairman, that the more Americans know about abortion itself, and the title X regulations, and the word is slowly and incrementally getting out, the more support we get.

This is obviously bad news for Planned Parenthood and some of my friends on the other side of the issue. But perhaps Planned Parenthood especially. They have become, in many towns across the United States, the local neighborhood abortionists.

I believe very strongly that in a paradoxical way the more Planned Parenthood rails against these new regulations the more it exposes its own complicity in abortion. They have destroyed since 1980 in excess of 1 million unborn children in their own clinics. They have referred far in excess of 1 milion unborn children to other abortion mills.

Mr. Chairman, this policy of the President is a good one, and we will sustain the veto when we get to that point.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN], who is a coauthor along with the gentleman from Illinois [Mr. PORTER], of the bill that would in fact overturn the gag rule.

Mr. WYDEN. I thank the gentlewoman very much and commend her for yielding me this time and for her leadership. And particularly, my colleague from Illinois, JOHN PORTER, who has done such a tremendous job now for two Congresses on this issue.

My colleagues, I say this issue is really very simple. That is, are we going to let doctors in this country tell their patients the truth? Because what the gag rule does is it turns mainstream health care on its head. It says that doctors cannot be straight with their patients. It violates the concept of informed consent where doctors would tell patients all their options, all their alternatives, so that patients can make the choice that is best for them and, in particular, it would widen the gap between the health care have's and have-not's.

If you are well-to-do in this country, you can go and see your physician, no problems; you are told your choices.

But now if the gag rule is upheld, if you are low income, we are going to strip you of your rights to health care information.

And in particular, a number of our colleagues have said that we are going to have a debate another day, that the President is going to veto this legislation and we will be back.

Well, I would say that the President of the United States has changed his mind before on the family planning issue, and I just hope that in the months and days ahead, as this debate goes forward, the President of the United States will once again think thoughtfully about what the implications of the gag rule really are because I want our colleagues to understand that once we set the precedent, that if the Government pays for something it can control the speech, after it does that at family planning clinics it can move on to any other program.

As a number of our colleagues have said from both of the bodies, we will have a chance to debate this in the days ahead.

I am very hopeful that the President of the United States, as he has done in the past, will look at these issues on their merits, listen to what the medical profession and others are saying, and then work out a legislative solution so that we can get rid of the repugnant gag rule.

Mr. PURSELL. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Chairman, why is it we can never have a good, tough, clean-shot debate on abortion and what goes on in these so-called family planning clinics? With rare exception it proves the rule, why

is it the old pro-abortion gang that rolls out here and uses oh, the scary bugaboo of "world population" or they use women's rights or they use any type of stream of euphemistic phrases they can to cloud the issue, that what we are talking about is human life, to at least mouthing it so most of those in this House will concede that is a human soul, human being with an immortal soul that we are snuffing out of existence?

□ 1500

Bernard Nathanson, Dr. Bernard Nathanson, who is trying to redeem the 6,000 abortions that he performed earlier in his life, said that he made sure in every clinic he worked with that the receptionist was at least 23 years of age and had had an abortion so that she could intimidate the younger women and the young girls. No one has ever gainsaid or said he was lying. He also told that in the early NARAL meetings how they set up the Holy Roman Catholic Church as their bugaboo, their scapegoat, their way to breed anti-Catholicism in this country and advance their pro-abortion cause, and I have to sit here and listen to Catholic after Catholic get up on this floor and tell me that they know more than Mother Teresa who turned around Gov. Jerry Brown of California and helped to turn around former Democrat Gov. Hugh Carey of New York.

I rise against this whole bill because to pass the HHS appropriations bill with the Rust versus Sullivan repeal language means that:

Minors will be referred without parental notice. This is an irrefutable fact.

Women will be referred for abortion without knowing what hazards may await them or at what state of fetal development their baby is.

Women may be referred to clinics or physicians who do not carry liability insurance. That's cute, isn't it?

Women will be referred by 23-year-old counselers with no medical training, and who by requirement have had abortions themselves.

Women may be referred to clinics or hospitals at which nonphysicians perform abortions.

State governments which receive title X funding may directly or indirectly require an individual or institution to perform, assist, recommend, refer, or counsel for any abortion or to train or to provide for personnel to be trained as a condition of receiving title X grants or contracts even where it is against the religious beliefs of the institution; that is, the St. Agnes versus Reddick case in Baltimore.

Referrals may be made at any point in pregnancy, including cases where the child could live independently of the mother.

Referrals may be made where the aborted baby is to be used for subsequent live, fetal experimentation.

And finally, doctors who oppose abortion for medical, religious, or ethnical reasons, will either have to violate their conscience and refer for preborn baby killing or lose their job.

This is not "free speech." This is a free fire zone for killing pre-born children in their mother's womb.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, this bill will reverse the Supreme Court's decision in Rust versus Sullivan and continue the practice of allowing the millions of women who rely on federally funded family planning clinics to get full information regarding their reproductive health as all other Americans.

If this provision is not enacted, we will put women and medical professionals in jeopardy. As a result of the Supreme Court decision in Rust versus Sullivan, beginning in July, a woman who goes into a family planning clinic and needs information about abortion will not be provided with the medical facts.

This is intolerable and dangerous. Those who oppose abortion have gone too far. They want to gag doctors by censoring the information health professionals can provide at federally funded clinics. It is totally unfair to even consider the prospect that poor women deserve to receive less comprehensive and inaccurate medical information simply because they must rely on federally funded health care. Make no mistake about it, if the Rust decision is not overturned, not only would a poor woman not be told that abortion is legal, she would not be able to obtain a referral to a privately funded clinic even if her life is in danger.

Such restrictions put doctors in a precarious position. They will be forced to choose between violating their Hippocratic oath and obeying Federal censorship laws. This is totally contrary to all we stand for as a nation. Americans understand the importance of preserving the sanctity of the doctor-patient relationship. We want doctors to tell us all of our options so that we have the information to make the best health care choices.

Over 20 medical and nursing organizations have publicly opposed the gag rule. Last week, the American Medical Association said that legislation to overturn the gag rule "would keep the long arm of the Federal Government out of the patient-physician relationship and assure the traditional privacy of that relationship." The AMA also said, and I quote, that "political medicine is harmful to the health of all Americans."

Our President has thus far refused to listen. He has promised to veto this bill if it overturns Rust versus Sullivan. We cannot let him get away with that. If we do, we will fundamentally change our health care system into one based on politics and not on medical science. This, in turn, will mean that this country will be providing substandard care to its most needy citizens.

For these reasons, I urge my colleagues to support the reversal of the gag rule and restore the integrity of our Nation's family-planning programs.

Let us keep politics out of the examining room. Overturn the gag rule.

Mr. PURSELL. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, much has been made of the amendment in this bill adopted in the full committee dealing with the so-called gag rule—the rule which prohibits even discussing abortion with anyone seeking advice on options at a clinic which receives any Federal funds. The Supreme Court decision upheld that rule in the absence of a law prohibiting it. The provision in this bill has been described by some as an amendment to overturn that Supreme Court decision. It does no such thing.

While some 21 professional and service organizations issued statements saying they want the rule overturned, the national offices of many of these organizations supported an amendment which merely delayed the implementation of the rule for 1 year and even that is delayed until next October. It keeps this issue alive and is an issue which will divert attention from consideration of many important programs totaling $203 billion in discretionary funding in this bill for health, education, welfare, training, the elderly, the disabled, and other peoples programs.

I am disappointed to find the Washington offices of national organizations promoting a nonsolution which keeps this issue alive like several others. This approach takes the pressure off of moving a bill. To repeal the rule takes the same number of votes and there is no reason to think there would not be the same number of votes to repeal the rule and solve the issue as it takes to annually support a delay in implementing the rule with all the uncertainties and undesirable effects that approach has.

There are times when there is no way to solve an issue through the regular process and either a temporary stay while a solution in a separate bill is considered must be attached to an appropriation bill, but this is not one of those cases. The Senate has held hearings on such a bill and so have House committees. There are at least three or four ways such a bill could have been brought to the floor in the last 3 years since the issue arose or in the last 3 weeks since the Supreme Court ruled. But instead, those opposing the gag rule chose to first depend on the Court saying the rule is unconstitutional in

the absence of a law instead of giving the Court a law to interpret—and that was a loser—and next to go for a temporary delay delayed until next October instead of legislating a solution now.

I do not see how anyone is served well by this approach unless it is some Washington lobbyists who want to keep the issue alive to justify their continued existence.

Today, we only have the choice of voting for or against a delay in implementing the rule and that will relieve some of the pressure to move a bill, but I urge the appropriate committees to move a bill which will settle the matter permanently.

Mrs. BOXER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, I rise in support of the Porter language regarding title X family planning clinics within the Labor, Health and Human Services, and Education and related agencies appropriations for fiscal year 1992.

Imagine the horror of being raped and becoming pregnant as a result. Imagine turning to your doctor for counseling and being told that she cannot discuss the option of your having an abortion because the Supreme Court agrees with the administration that abortion is not an appropriate method of family planning. Unfortunately, many women today do not have to imagine this scenario; for them, it is all too real.

The Supreme Court last month, in Rust versus Sullivan, upheld the constitutionality of Department of Health and Human Services' regulations—the so-called gag rule—prohibiting federally funded family planning clinics from providing any patient information about abortion. Implemented by the Reagan administration in 1988, these regulations prevent doctors, nurses, and counselors from mentioning abortion, even if specifically asked.

This Supreme Court decision, however, is not even primarily about abortion. It is about free speech, medical integrity, and the sanctity of the doctor-patient relationship. It is about the trust that people—especially the poor—place in the Government to assist them in their most serious times of need. When women seek counseling on health matters, they should not have to question the honesty of their physician nor fear the motives behind their doctor's words.

Look at this decision from another perspective. Many of us, including the Bush administration, think that the legal appeals process is too lengthy and cumbersome. But could you imagine a federally appointed lawyer not telling a client of all the legal options? Do we ever want a public defender saying, "This office does not consider it appropriate to appeal wrongful convictions." This is what the Government, in effect, is doing through the gag rule. Because the Federal Government provides funding to the clinics, the administration thinks it can control the speech and agenda of the doctors. It is a dangerous and ominous precedent we set when we let the Government ignore the first amendment simply because it helps pay the bill.

The Rust decision is a tremendous blow to the rights of the 3.7 million women served at federally funded clinics across the country. In Texas alone, approximately 180 clinic sites provide such services. Essentially, the high court has ruled that low-income women do not have a right to complete information about their medical condition and legal options—the same rights and options guaranteed to women who visit their private physicians. Poor women have seen their rights become subservient to political posturing.

An estimated 600,000 women treated at federally funded health clinics have a history of health problems, such as diabetes or hypertension, that might make pregnancy dangerous for them. More and more patients are testing positive for sexually transmitted diseases, including AIDS. To not inform these women of the dangers associated with pregnancy is not only bad medicine but an invitation for medical malpractice.

To law school students and legal scholars throughout the country, Supreme Court decisions make for interesting intellectual and hypothetical debates. But to thousands and even millions of Americans, the decisions have a real and profound impact. The Rust decision is one of those rulings with practical effects on a large number of citizens. Pregnant women seeking counsel at Federal clinics will be denied assistance or will be given incomplete information and advice if the Rust decision becomes policy and if the gag rule continues in force. It is not surprising that many clinics intend to refuse Federal funding for their programs rather than compromise the ethical obligations of their doctors and counselors and the health needs of their patients.

With President Bush apparently unwilling to compromise, the burden falls on Congress to act. Congress must now pass this legislation, with the Porter language unamended and send a loud, clear signal to the Nation whether we want to side with the millions of American women who seek and deserve complete medical counsel and the 80 percent of Americans who oppose the Rust ruling in recent public opinion polls; or whether we want to side with narrow-minded officials whose zealotry against choice has led them to support the curtailment of first amendment guarantees and an encroachment into the sacred doctor-patient relationship. The choice is a clear one.

Mrs. BOXER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, because there is nothing more American than the right to free speech and, if this gag rule stands, next it will be on teachers and on ministers, I rise in strong support of this amendment.

This week the National Commission on Children released a report depicting the plight of our Nation's children and making an urgent plea of help to all Americans. The report makes clear that we must invest in the lives of these young Americans now or else forfeit their futures as well as that of our Nation as a whole.

We have also heard in recent weeks about providing a choice for our children in education. But while we talk of increasing opportunities for American families we cannot deny the fact that one in five American children are living in poverty and have very few options. Many of these children do not even have a place to call home but instead must seek refuge in a shelter, at a relative's or in the back seat of an abandoned car. These children are so overlooked that we no longer even see them. They have become invisible.

I would like to share the accomplishments of some extraordinary children around the country that have come to my attention over the past few months.

There's Apollo, a sixth grader in Baltimore, who recently was tested as gifted and talented and is now excelling in the advanced academic program of his junior high school.

There's Tommie Jackson, a 9-year-old in Jacksonville, FL, who is so bright and getting such good grades his teachers want him to skip a grade.

There's Ronald, an award-winning high school artist in Minneapolis.

And there's Tio, a promising high school musician in Massachusetts.

All these kids have two things in common. They have talent. And they all have been homeless.

Over the past 2 years, I have heard so many stories of homeless children and their parents battling the odds as they try to stay off the streets and to keep their children in school.

Every year as many as 2 million children experience the horrors of homelessness. Homeless children face tremendous obstacles in their pursuit of an education and even the most conservative estimates from the Department of Education indicate that at least 67,000 homeless children do not attend school regularly. Unless we invest in these children now, we face spending billions in the decades ahead coping with a new generation of homeless adults unable to provide for themselves.

Last year in reauthorizing the Stewart B. McKinney Homeless Assistance Act Congress approved a measure I introduced that addresses the educational needs of homeless youngsters. Today the House of Representatives stands ready to approve a spending bill that contains this little-known but very successful program at a funding level that will enable our country to reap large economic dividends.

Currently the Education of Homeless Children and Youth Program is enabling thousands of homeless children across the country the opportunity to attend school and succeed once they get there. Under this program local educational agencies are now applying for grants to help provide transportation for homeless children, to set up before- and after-school care and tutoring programs, to recognize the gifted and talented among them, and to provide them with school supplies and a hot meal.

We are already seeing the results of these efforts throughout the country.

In Costa Mesa, CA school officials are setting up mobile units in areas where homeless families congregate so that children can be evaluated, tutored, and offered a quiet place to do their homework.

In Bismarck, ND, school officials are arranging cabfares at reduced rates so that kids in

shelters can continue to attend schools in their former neighborhoods.

In Baltimore, MD, a special program is successfully recruiting older students as volunteer tutors to help younger homeless kids with their schoolwork.

In my own congressional district of Rochester, NY, a special placement officer matches children with schools where they are most likely to succeed.

In all of these States educators have recognized the vital role school can play in the lives of homeless youth. For many of these children school has become the only source of stability and continuity in their tumultuous lives.

Mr. Chairman, on behalf of the homeless children living in the small towns and big cities of our country, I urge my colleagues to support passage of this important legislation.

Mr. PURSELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, at the outset I want to make it clear that I strongly support family planning and birth control and contraception.

On the issue of parental notification, however, if a child in Fairfax County, VA, cut his or her head at school, a parent is called before that child's head is stitched. If a child has a headache at school, a parent is called before the child can take an aspirin.

On the issue of abortion, I believe one parent should be notified.

Therefore, I believe it is appropriate that parental notification be included in this legislation.

□ 1510

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Chairman, I thank the gentlewoman from California [Mrs. BOXER] for yielding time to me.

Let us not be fooled. This is not an abortion vote. Not 1 cent, despite the hysterics that we have heard, goes toward abortion. Not 1 cent goes toward advocating abortion, and I stand here absolutely overwhelmed by the implication that has been made that if you mention to a woman her legal right to an abortion, she is blindly going to follow that to fruition.

This is a vote to protect a woman's right to know. This is a vote to keep 4,500 family planning clinics open and a way to give over 4 million women an ability to avert an unwanted pregnancy. This a vote to uphold and acknowledge the Constitution of the United States.

Oh, this will require an awful large amount of courage and honesty by those Members of this House who are antichoice. This vote requires them to acknowledge what the gag rule is all about, who it really hurts, and the untenable position it puts doctors and patients in.

Let us be clear about one thing when we vote on this: Whether this gag rule is enforced, abortions will still take place in this country, but family planning clinics would close. The South Bronx Clinic has already stated that rather than be bound by Congress, they will close their doors and women will have nowhere to go in the South Bronx to get family planning information. Women all over America will be more vulnerable to the heavy hand of Congress.

Mr. Chairman, the Nation is watching. Women, alone, frightened, and challenged, are watching. Future generations hopefully will see a country that respects our laws and our women.

The CHAIRMAN pro tempore. (Mr. WHEAT). The Chair would advise that the gentleman from Michigan [Mr. PURSELL] has 9 minutes remaining and the gentlewoman from California [Mrs. BOXER] has 18½ minutes remaining.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, let us face what is going on here. This whole procedure is the means of avoiding a vote on the floor of this House on parental notification. That is what is going on.

I am the vice chairman of the House Environment Subcommittee, the policy committee which has responsibility for reauthorizing title X. Twice in the last month we have had markups scheduled, and the chairman of that subcommittee knows full well that we have a bipartisan vote to put parental notification into this law. What do they do when they do not want to have a rollcall vote on parental notification on the floor of the House? They go around the back door and they get an amendment to an appropriation bill that precludes a vote on this issue. That is what is going on, and I resent that very much.

This House should have the opportunity and the responsibility to put its votes where about 90 percent of the American public is, that if family planning is going to give counsel to minors, they have the responsibility of notifying the parent before they give that kind of advice. Of the 1½ million abortions every year and this year in this country, a third of them or 500,000 is on teenage mothers. That is a tragedy for this country, and I happen to believe that parents have the responsibility of raising their children, not the Federal Government. They should be the ones to decide whether or not this abortion is to take place.

Mrs. BOXER. Mr. Chairman, reminding my colleagues that this subject is about the gag rule, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman. I would recall for the Members that this is a situation in which free men and women must again resist the subtle tyranny of ideology over knowledge.

Last month, the Surpreme Court vacated the lower court orders that had temporarily restrained the abortion gag rule—the policy, adopted by the Reagan administration, that prohibits federally funded medical clinics from making available to their patients any information on abortion. The decision in Rust versus Sullivan provides further evidence of the long-term damage to our freedoms likely to flow from the Reagan-Bush appointments to the Supreme Court.

In its 5 to 4 decision in Rust, the Supreme Court decided that the Government does not violate the Constitution by imposing these restrictions on the professional advice given by medical practitioners. There are sound arguments that, legally, the majority opinion is the wrong one, and that the four dissenting Justices had the better-reasoned position. But, the majority has ruled, and, under our system, that means the Government can constitutionally adopt such a policy. Whether the Government should adopt such a policy, however, is an entirely different matter.

Under our form of government, it is this institution—Congress—that writes the laws, and we can change the gag rule adopted by the executive branch.

I believe we should do so, and do so without delay. Because the gag rule is an assault on the medical profession and a threat to women.

For today, we can do the next best thing the prohibit the use of any money to enforce the gag rule. That will effectively constrain application of the rule during the next fiscal year. This funding restriction will pass the House and, I hope, the Senate. But President Bush seems determined to ignore good medicine and the good judgment of the vast majority of Americans and promises to veto this bill on this account. That would be a literal shame, and I wish he'd reconsider.

The gag rule was clearly intended to be an indirect check on a woman's constitutional right to an abortion. And I will oppose all efforts, direct or indirect, to limit or interfere with that right. But, despite the motivation of its authors, this policy does not raise a question about abortion so much as it does about the availability of comprehensive and accurate medical advice—and about the Government's role in helping make that advice available, or in denying it.

I understand that the authors of the gag rule do not believe that abortions are right—and so they decided that when the Government provides funds for health care, those funds should not be used to provide information or advice on abortions.

But let's remember that there are people who sincerely believe that taking medicine is not right, that it's an affront to God, and that prayer should be the only response to illness. None of us would stand still if these beliefs were translated into a medicine gag rule preventing Government-funded health clinics from using prescriptions. We would all recognize this as unconscionable Government interference with health care and with the professional responsibilities of nurses and physicians.

Yet such a farfetched policy is not so very different from the abortion gag rule. The gag rule keeps doctors from saying anything to their patients about one of their medical choices—about abortion, a choice that not only is for now constitutionally protected, but also could even be necessary to save the woman's life. Gagging the doctors places them in an untenable situation: Uphold the law and lie, possibly endangering your patient, perhaps committing malpractice; or reject the law, serve the patient's best interest, and face possible criminal charges.

When people go to see a doctor, they do so because they have a medical problem. They want, need, and deserve the best possible medical treatment, information, and advice. Some government official's opinion about politically correct medical choices is not only irrelevant, it's dangerous. The government has no place in the middle of the doctor-patient relationship. The government belongs in courthouses and statehouses—not in examining rooms.

And, as is tragically so often the case with a policy intended to oppose abortion, the major victims of the gag rule are among the most vulnerable of people—low-income women, who have no health care alternative to a government-funded clinic. If the gag rule keeps their doctors from giving them comprehensive and accurate medical advice, the patients are left in the dark. Some may end up seeking abortions in a back alley. And some of them may die from the poor medical care they receive in those back alleys.

The gag rule makes no sense. Congress can change it, and Congress should change it. We must not stand by as doctors are prevented from talking to their pateints, and as patients are prevented from learning, about legitimate medical choices.

We face the subtle tyranny of an ideology, based on a particular set of religious beliefs, a tyranny being exerted over science, medicine, and freedom of speech. I respect the right of adherents to those beliefs to hold them, but not to impose them on others. That is a tyranny we cannot—and will not—permit to stand.

Let us vote to overturn the gag rule.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, the previous speaker tried to intimate that this is a vote on parental notification. It clearly is not. If there is avoidance here, it is directly relating to the issue of advice, not of counsel. It is not of counsel, not even of advice, but of information. If there is anything that is the hallmark of this country, it is that people have a right to know what the law is and what their options are. That is what this amendment is about, nothing more, nothing less.

The gentlewoman from New York was absolutely correct, this is not about abortion or choice. It is about information and the ability of a patient, the ability of a client to have full access to the information that morally ought to be theirs.

Mr. Chairman, Justices Blackmun and Marshall said the Sullivan versus Rust decision:

> * * * upholds view-point based suppression of speech solely because it is imposed on those dependent on the Government for economic support.
>
> By interpreting the statute to authorize the regulation of abortion-related speech between physician and patient * * * the Secretary and now the Court, have rejected a constitutionally sound construction in favor of one that is by no means clearly constitutional

Under the Court's reasoning,

> The first amendment could be read to tolerate any governmental restriction upon an employee's speech so long as that restriction is limited to the funded workplace.
>
> The Government's articulated interest in distorting the doctor-patient dialogue—ensuring that Federal funds are not spent for a purpose outside the scope of the program—falls far short of that necessary to justify suppression of truthful information and professional medical opinion regarding constitutionally protected conduct.

The gag rule conflicts with the professional ethics and guidelines of major medical organizations, including the AMA, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatricians which insist on a patient's right to full information.

Health care professionals will be at risk for medical malpractice.

The health of low-income women and adolescents would be compromised because the number of unwanted pregnancies and abortions would increase as a result of the decrease in the number of skilled family planning providers.

A two-tiered health-care system would result with low-income women receiving more limited care and information from federally funded providers compared to affluent women who can afford private health-care providers.

Except in cases of emergency, health-care providers would be prohibited from providing counseling even when abortion is necessary for a woman's health. Providers would be prohibitied from answering a direct question regarding abortion, other than to say, "The project does not consider abortion an appropriate method of family planning."

Providers are compelled to choose between offering only Government approved information to pregnant women or forgoing Federal funds.

Providers are prohibited from providing a client with a page from the yellow pages listing clincis where abortion information and services may be obtained.

Providers are prohibited from providing accurate, objective information about abortion in education programs.

Mrs. BOXER. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I am envious of my colleagues who see the issue of abortion in black and white terms. There are those of us who struggle on this floor with each issue that comes up relating to abortion, trying to find what is reasonable and just.

Prior to my election to Congress, I practiced law. One of my specialties was medical malpractice. I would like to say to this body that the fundamental principle of medical practice in America is informed consent. Unless a patient is informed of all of his legal and medical options and then consents to a medical procedure, a doctor is not permitted under law to perform any medical procedure on that patient. The gag rule and the Rust decision in the Supreme Court preempt the ethical and legal obligations of a medical doctor. That rule denies a doctor the right to fully advise a patient of her legal, medical options. That is why it is opposed by the American Medical Association and the American College of Obstetricians and Gynecologists.

I would hope that a women advised of her right to an abortion would still choose to carry her baby to term. But basically she is entitled to the right to know. The gag rule strikes at the heart of the doctor-patient relationship. It is the ultimate intrusion of Government into one of the most sacred relationships under common law. If the Government can silence a doctor from meeting his ethical obligation, if the Government can deny a patient access to information necessary to make an informed consent, then the Government has gone too far.

Mr. Chairman, President Bush is wrong with this gag rule, and the Supreme Court is wrong in sustaining it. The sacred, confidential relationship between a doctor and a patient should be beyond the reach of politics.

Mr. PURSELL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

The CHAIRMAN pro tempore. The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 2½ minutes.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise to support the bill's language which forbids the use of funds to enforce the gag rule in title X family planning clinics.

It was the intent of Congress in authorizing our Nation's family planning program—title X of the Public Health Service Act—in 1970, that all women, regardless of their economic circumstances, have access to complete information regarding the options available for managing their health, an illness, or pregnancy. Such information is readily available to women who can privately pay for their health care—it should be equally available to women whose care is subsidized by Government funding. Without question, all patients have a fundamental right to know.

Basic to this health care has always been the ability of health-care provider to equip the patient with the knowledge to make her own reproductive choices. I strongly support the title X family planning program as an impor-

tant means of helping low-income women prevent unintended pregnancy. Over $1.2 million allocated annually to Connecticut clinics serves nearly 50,000 patients, providing valuable preventive health care services, diagnosis and treatment of disease, and contraceptive methods.

Mr. Chairman, democracy rests on two assumptions: First, that men and women are good, and, second, that given knowledge, they will do the right thing—they will act responsibly.

During the McCarthy era in America, we had great debates about whether, given knowledge, people would act in a morally responsible fashion. After serious and at times stormy national debate, we decided, that knowledge was not to be feared. We decided democracy must provide knowledge freely and trust people to draw the right conclusions. So we gave our students the right to read the Communist Manifesto, to understand communism, because we knew if we taught them about communism and freedom, they would choose freedom.

There is only one group that we do not trust with knowledge, and that is children. As a matter of public policy and parental action, we do censor information for children because we know there is a limit to their ability to handle knowledge responsibly.

Mr. Chairman, this debate that we are having is not about abortion. It is about whether women will have access to knowledge, whether women have a right to know or are to be subject to censorship by Government as children are by parents. And, indirectly, it is about whether women can be trusted, given knowledge, to act in a morally responsible fashion. Make no mistake about it, this is not an abortion issue but a profoundly important matter of the moral equality of women.

□ 1520

Today, we must face squarely whether America, the leader of the free world, believes that women should have free access to knowledge and whether women can exercise and manage knowledge with the same level of moral responsibility as men.

The gag rule proposal is unprecedented. At no time have we ever considered as a matter of public policy censuring information for any group of citizens, much less a group defined by sex. I urge Members to recognize this issue for the profoundly important matter it is and oppose the gag rule.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], the coauthor of the antigag rule.

Mr. PORTER. Mr. Chairman, the Porter amendment is obviously concerned with abortion, but it is much more fundamental than that. It is concerning the honest relationship between citizens and their government.

The issue is whether a poor woman coming to a title X-funded family planning clinic, typically her only and primary source of health care, whether the Government can withhold from her, when she declares that she has an unintended pregnancy and specifically asks for help, the information that she needs to exercise her constitutional right—whether the Government can in effect lie to her.

Mr. Chairman, most of our citizens say wait a minute. Of course the Government must tell people the truth. Not the partial truth, but the whole truth. This is America. This is not the way we do things in America.

Physicians and nurses have condemned the gag rule as a politization of medicine, an unconscionable intrusion between doctor and patient, a rule, that if implemented, would require them to violate medical ethics and subject them to malpractice suits.

Mr. Chairman, the House is, by passing this amendment, sending an unmistakable message to President Bush: No matter how you feel about abortions, the gag rule is beyond the pale. It is unacceptable, because it destroys the vital relationship of faith that must exist in a free society between the governed and their government.

Mr. Chairman, the opponents are afraid to ask for a vote on this matter because they know that this is so. I believe that when the President hears from Republicans, like this one, and there are many, many of us all across this country, hears from members of the medical profession, hears from people everywhere that this is unacceptable, that he will in fact listen, and that he will ultimately sign this bill into law and prevent the gag rule from being implemented.

Mrs. BOXER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of the Porter language contained in the bill and in opposition to the gag rule.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I think all of those who have spoken know that there is no Federal Government money that is spent for abortions. If a referral is made for an abortion, it is done in a separate facility.

Mr. Chairman, this is not an abortion issue. I commend the committee and the gentleman from Illinois [Mr. PORTER] for blocking funding to implement the gag rule from Title X family planning. This issue is worded very carefully in the law right now. It says that no money can flow to organizations that promote abortion as a means of family planning.

Well, no organization does that, and no one here supports that.

This wording has been interpreted by the Reagan and Bush administrations as meaning that no money can flow to any organization if they counsel a woman about their full range of options concerning a pregnancy. In fact, they are forbidden from telling a woman all of her options concerning her pregnancy, no matter how sick she is, no matter if she is carrying a seriously malformed fetus, no matter what her desperate condition might be.

Mr. Chairman, this is an issue concerning medical-governmental ethics. How can we sit here in Washington and mandate what a doctor tells a patient? This is an issue concerning the first amendment. We are limiting the freedom of speech. This is an issue concerning discrimination. A woman with money can get appropriate medical advice denied to a poor woman.

Mr. Chairman, I again commend the committee. This onerous gag rule has been with us for too long. I commend the committee for removing it from the bill.

Mr. Chairman, I have a list of not 20 organizations which were mentioned, but 50 organizations, which support removal of the gag rule from title X family planning, which I submit for the RECORD.

SUPPORT FAMILY PLANNING AND ELIMINATE THE "GAG" RULE

Ambulatory Pediatric Association.
American Academy of Family Practitioners.
American Academy of Nurse Practitioners.
American Academy of Pediatrics.
American College of Nurse Midwives.
The American College of Obstetricians and Gynecologists.
American College of Physicians.
American Fertility Society.
American Hospital Association.
American Medical Association.
American Medical Women's Association.
American Nurses Association.
American Public Health Association.
American Psychiatric Association.
Association of American Medical Colleges.
Association of Professors of Gynecology and Obstetrics.
Association of Reproductive Health Professionals.
The Organization of Obstetric, Gynecologic & Neonatal Nurses.
National Association of Community Health Centers.
National Association of Neonatal Nurses.
National Conference of Gerontological Nurse Practitioners.
National Organizations of Nurse Practitioner Faculties.
Society of Adolescent Medicine.
American Association of University Women.
American Baptist Churches.
American Jewish Committee.
American Jewish Congress.
Anti-Defamation League.
Business and Professional Women/USA.
Catholics for a Free Choice.
League of Women Voters.
Mexican-American Legal Defense and Education Fund.
Mexican-American Women's National Association.
National Association of State Boards of Education.

National Audubon Society/Population Program.
National Churches of Christ.
National Council of Jewish Women.
National Education Association.
National Organization of Women.
National Urban League.
Planned Parenthood Federation of America.
National Women's Political Caucus.
Population Institute.
Population-Environment Balance.
Union of American Hebrew Congregations.
United Methodist Church.
Women's Legal Defense Fund.
Zero Population Growth.

The CHAIRMAN pro tempore (Mr. WHEAT). The Chair would advise Members that the gentleman from Michigan [Mr. PURSELL] has 6½ minutes remaining, and the gentlewoman from California [Mrs. BOXER] has 11 minutes remaining.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, our precious Bill of Rights is at risk, and women's lives are at risk, unless this Congress acts. President Bush, supported by the Supreme Court, would censor advice and even information that doctors can give their patients in federally funded family planning clinics. Women would not be told that abortion is a medical option, even if they ask.

A woman who can afford a private doctor can get complete health care information. Should President Bush and the Supreme Court prevent poor women from getting the same information? Should President Bush and the Supreme Court force censorship into the health care system?

Mr. Chairman, today I ask Members to join me in telling President Bush and the Supreme Court that it is not OK to censor doctors.

Mrs. BOXER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill, and particularly in support of the section which overturns the erroneous Supreme Court decision.

Mrs. BOXER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. Chairman, I rise in support of the Porter amendment and in support of the basic premise that government should not seek to undermine what is a clear right granted under Roe versus Wade and under the Constitution: A woman's right to information about all legitimate reproductive options.

Last month, the Supreme Court determined that the first amendment does not apply to physicians providing family planning services—that it can restrict the information doctors provide when counseling patients at crucial times in their personal, private lives.

As a result of this, we will find more tragic, backalley abortions and incredibly complicated situations developing in the lives of people who simply need firm, informative, nondirective counseling by people trained to advise them about their reproductive rights and options.

Medical censorship by the Federal Government leverages Federal funding against family planning clinics in order to deny them the freedom to counsel honestly and objectively. It prevents total disclosure of information that a patient has a right to know and robs women dependent on Federal funding of their right to know and to choose.

Medical censorship by the Federal Government nibbles away at the reproductive health rights of people who are reliant to some degree on the Federal budget. These gag rule regulations also conflict with laws in nearly 40 States that recognize a legal right of recovery for lack of informed consent. Failure to discuss all options upon request may make providers liable for medical malpractice.

We here in Congress have an obligation both to reaffirm the majority's views on free speech and on abortion, and to guarantee our rights as Americans to speak and be counseled freely. I am confident that we will do that today by passing the Porter amendment.

Mrs. BOXER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, the program before us has become a lightning rod for the debate on the question of whether a woman has a right to an abortion. But the simple truth is—the Supreme Court has decided that a woman does have that right—and the title X program has not, and will not under this bill, pay for abortion services. The family planning program has proven its value and rightfully deserves reauthorization.

The focus of our debate today is the discriminatory policies the administration has selected to restrict a woman's access to her constitutional right to an abortion and the denial of physicians' and counselors' rights to free speech. The administration's regulatory gag rule requires that physicians treat patients differently depending on their financial status.

Women with money can receive full and truthful counseling about their options, including abortion; those who are forced to rely on the government for their health care and family planning services are denied comprehensive pregnancy counseling.

Over 20 national medical and nursing associations oppose the gag rule including such eminently conservative groups as the American Medical Association, the American Nurses Association, and the American Academy of Pediatrics.

These groups are opposed to the gag rule because it represents unprecedented and unacceptable government interference with sound medical practice. The regulations require health professionals to violate their code of ethics and to expose themselves to malpractice lawsuits. There is no precedent whatsoever for such a radical departure from medical practice or medical ethics over the decades which not only encourages but requires a doctor to withhold information.

The government is limiting what doctors can say confidentially to patients, an abridgement of both patients' and doctors' rights. It is a perversion of medical practice.

The implications are frightening. The government can now tell doctors, We don't like this treatment—so you can't discuss it with your patients. And if you do discuss it you forgo your rights to any Federal benefits.

Under this logic, tobacco companies could now put pressure on Federal authorities to prohibit doctors from informing patients of the links between tobacco smoking and lung cancer because, as the companies have continually maintained, no absolute cause and effect relationship has been established.

If you forget for one moment that the issue before us is abortion, it is inconceivable that Americans would tolerate a similar policy affecting a doctor's absolute right to advise patients freely, or their ability to consult the full range of health care options available to them.

If passed, H.R. 2707 has the power to restore fairness to family planning services and give women the information necessary to make their own health care decisions.

□ 1530

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentlewoman for yielding time to me.

What is happening in our country today? How could we have come to the point where the Congress of the United States or the Supreme Court of the United States believe that they can dictate what doctors can say to their patients or prescribe the treatments that doctors can discuss with their patients.

The gag rule is both repugnant and outrageous, and the Reagan and Bush Supreme Court's decision to uphold it is unbelievable.

Do the opponents of abortion really believe that if they control the speech of doctors they can stop women from receiving abortions? Do they really believe that if they can control the speech of doctors they can control women's minds and actions?

Mr. Chairman, this is a bizarre Orwellian practice that we are engaging in here.

The real issue is not abortion. The real issue is whether or not Congress will allow doctors to fulfill their Hippocratic oaths and practice medicine.

The real issue is whether or not Congress will stand up for women's health and women's rights.

I am proud to join with my colleagues today in voting for a bill which withholds funding for enforcing the gag rule until this body can pass appropriate legislation which repeals this offensive restriction on free speech.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to my friend, the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Members of the committee, the gag rule is insulting and degrading to women in this country. It speaks volumes about how we look at women and treat women in this country.

There has been no evidence since the enactment of title X 20 years ago of violating the interpretation of title X, which has been supported by this Congress time and again. And that is to provide information, full medical information to women depending on their circumstances.

There has been no evidence to suggest that it has gone above and beyond that, and it is important to understand that. We must put a stop to this ideological spree that threatens family planning throughout this country and will decimate family planning for low-income women.

The opponents of family planning have an obligation and responsibility to tell Members what alternative they are going to provide to the low-income women, because they are going to be denied those services. We saw this international gag rule imposed on family planning clinics throughout this world and now we are seeking to impose that absurdity on domestic family planning clinics. The President has said this is a personal decision. This is not a decision then that should be made by a decidedly impersonal government.

Mr. Chairman, as we discuss the question of title X and the gag rule regulations, I would like to remind my colleagues of a couple of salient facts.

First is that title X as enacted in 1970, stated that funds could not be provided for abortion as a method of family planning. It doesn't say anything about banning counseling or referral—only actual abortions.

Well, in fact, no funds have been used for that purpose. And if the gag rule regulations are overturned, as this bill provides, no money will be used for nontheraputic abortions. So it is inaccurate for anyone to suggest that these regulations in any way prevent Federal funds from going for abortions—that's not at issue.

Now, we have heard some people suggesting of late that these regulations don't actually ban the use of the word abortion. I suppose, in an exceedingly limited sense, that is true. A counselor, if asked, can say, "I can't provide abortion counseling or referral, but I can tell you the services we do provide."

That is hardly of any assistance to a woman seeking full information on the situation she faces. The regulations are as explicit as they could be in banning discussion, and it is disingenuous to sugarcoat it in any other fashion.

Mr. Chairman, we have seen what a gag rule in family planning can do, since one has been in effect internationally under the Mexico City policy—the international gag rule. Rather than reduce the number of abortions, evidence suggests that, under Mexico City, they have likely increased.

Thirty to forty percent of the 500,000 annual maternal deaths worldwide are due to self-induced or unsafe abortion. Complication from pregnancy, childbirth, and unsafe abortions are the leading killers of women of reproductive age throughout the developing nations—the nations affected by the international gag rule.

All of these things have occurred in the wake of a policy designed to curb abortion—a demonstrably failed policy that supporters of the title X gag rule now want to foist on American women.

My colleagues, on June 4, President Bush made a good point in a letter to the congressional leadership. He wrote, "Abortion is a difficult, deeply emotional and very personal decision for all Americans."

Yet with this gag rule, this difficult and deeply emotional decision would no longer be a very personal one for low-income American women: This very personal decision is made for them by a decidedly impersonal Federal Government.

That runs afoul of a prime tenet of health counseling and medicine, as one law professor pointed out: That the patient, not the counselor, must be free to make the final decision about his or her physical well-being.

Somehow, Mr. Chairman, it always comes down to treating women differently than men, whether we're talking about inattention to health needs, inequity in the workplace, or other problems. Women are expected to live with and accept restrictions from which men are exempt.

This gag rule is a restriction without parallel for men. The Federal Government is not limiting what a doctor can say to a low-income male patient. But it is doing so for women.

Frankly, my fear is what will next be restricted for women. Perhaps they will ban clinics receiving Federal funds from telling women that they are pregnant, since pregnancy is a necessary precondition for abortion.

This is an absurd example, to be sure—but it is no more absurd, insulting, and degrading than the proposed gag rule regulations. American women and men are watching this issue very carefully, to see how willing the Federal Government is to intrude in the examining room. They don't like it one bit, Mr. Chairman, and neither do I, so I urge my colleagues to support the gag rule repeal contained in this bill.

Mr. PURSELL. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, it is precisely because the international programs mentioned by the gentlewoman in the well have worked so effectively since we got them out of the abortion business that we should have no real fear about the imposition of the title X regulations. Those programs are operating today in South America, the Philippines, and in other parts of the world more effectively than when they were in the abortion business precisely because they are not running counter to the culture which is profamily planning but deeply antiabortion.

Mr. Chairman, in an otherwise excellent bill, the Porter amendment stands out as a glaring flaw. I want to emphasize, I intend to vote for this bill. I urge all Members to vote for this bill. It is an excellent bill that includes many important programs.

But I hope that this unfortunate flaw is corrected in the conference committee. And if it is necessary, I will support a Presidental veto to correct this flaw.

The gentleman from Kentucky [Mr. NATCHER] calls this bill the people's bill. That is one of the reasons that Members who serve on the subcommittee are so proud to be a part of it. It is also a family and children's bill. We save lives with NIH funding. We protect small children with infant immunizations. We help get youngsters off on a right start in school with Head Start and healthy start funds.

Title X is supposed to fit comfortably into that web of programs. It is supposed to strengthen families by helping them to plan their childbirths.

But we found out in the 1980's that there was a problem. Title X was not being used to plan families but to destroy unborn children. That is offensive to me. It is offensive to many.

It is unfortunate but that is the evidence. This regulation did not fall out of a tree. It was not plucked out of the air. It grew out of the realization and the evidence that planned parenthood clinics specifically and other title X funded clinics were disproportionately referring pregnant women that walked in their doors for abortions. Over 85 percent of pregnant women that walk into planned parenthood clinics end up aborting.

That is offensive to many. It helps destroy the consensus that should exist in support of a real family-planning program that fits into a bill that should strengthen and nurture families, not tear them apart.

Regulations were promulgated to build a wall, yes, a wall, not to keep out family planning but to protect family planning programs, build a wall between family planning and abortion.

Let us talk about what it does not do. It does not prevent any woman who needs an abortion because her life is endangered from receiving one. That is specifically excepted in the language of the regulations.

Second of all, it does not prohibit a provider from using the word "abortion." We have heard that doctors are going to be slapped into jail because they use the word "abortion." It simply states that title X programs are

not engaged in the abortion referral, counseling or providing business and physicians or other health care providers, if asked about abortion, simply say, "This program does not engage in those services." And they provide the patient with a list of other clinics to which they can go to get a range of other forms of advice which may well include information about the availability of abortion

That is what the title X regulations actually will do. The Porter amendment tears down that wall.

What does that mean? Does it mean that we make abortion illegal? No. Prochoice side has correctly stated, we are not talking about the legality of abortion. We should be talking about an easier issue, from my standpoint, not whether or not we are going to permit abortion, which I understand is divisive, but about whether or not the Federal Government is going to advocate and subsidize and promote and encourage abortion. That ought to be an easier issue for this body.

I have talked to many on the prochoice side of the issue that say they believe in the right to choice, but they are disturbed about abortion, concerned about abortion. They certainly do not want to encourage it. They certainly do not want to subsidize it.

What title X will be doing, if the Porter amendment prevails, is putting the Government not in the business of allowing abortions but promoting it and encouraging it through its family planning programs.

My God, we already have the most liberal abortion laws on the planet, outside of China where it is virtually a requirement. Must we go further and require taxpayers, regardless of their consciences, to advocate abortion.

In many ways this is worse than a violation of the Hyde amendment, which says we willl not pay for an abortion specifically, because this may well induce a woman who would otherwise not have an abortion to have one. That is why this issue is important and, as I said, that is why this issue ought to be a relatively easier issue.

Furthermore, if, as I am told, a Member rises and raises a point of order against the parental notification amendment later in the bill, parents will have no voice in this fundamental decision after the Federal Government has paid health care personnel to encourage their daughter to have an abortion. That is an abomination.

So this bill that should exist to nurture families, to strengthen families, to help children, will drive a wedge between parents and their children and will put American taxpayers in the position of subsidizing abortion.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just wish to join with the gentleman in his remarks and agree with him and rise in opposition to the Porter amendment.

Mr. WEBER. Mr. Chairman, vote for the bill, but get ready to support the veto.

The CHAIRMAN pro tempore (Mr. WHEAT). The Chair advises the gentleman from Michigan [Mr. PURSELL] that he has 1½ minutes remaining, and the gentlewoman from California [Mrs. BOXER] that she has 6½ minutes remaining.

The Chair further advises the gentleman from Michigan that by virtue of the fact that he is a member of the committee and there is no amendment pending, he has the right to close debate.

□ 1540

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of the Porter language included in H.R. 2707 which denies the use of funding in the bill to implement the gag rule.

It is vital that Congress take every action possible to overturn the Supreme Court decision in Rust versus Sullivan. This decision has devastating ramifications for poor women in this country; it will create a class system for women's health by denying poor women full information about their legal reproductive options, while women who can afford private physician care will have complete information and access to these health services. Thus, this decision will further exacerbate the already insufficient health care available to poor women. They represent the most at-risk population, and yet the gag rule will further erode their ability to obtain health services, even when they are the victims of rape, incest, or life-threatening illnesses.

It will also set a dangerous precedent by denying first amendment rights to health professionals and breaking their obligation to their patients to provide complete information. In fact, this decision is expected to result in the departure of many family planning providers from the title X program; thereby further eroding the health of poor women and increasing the number of unintended pregnancies and abortions. Family planning providers will have to choose between providing complete information to their clients and losing Federal funding, or providing only government approved information in order to receive Federal support. This is not a choice that should have to be made in a free society: a society that prides itself on the right to free speech.

This issue is one that should have the support of every Member of this House, regardless of their view on abortion. It establishes a dangerous system of censorship that could be repeated for any number of Federal programs and it discriminates against poor women. In a health system that already provides inadequate care to low-income people, this decision only widens the gap between the haves and the have nots.

I urge my colleagues to support the committee bill and the Porter language. Congress must clearly establish its intent on the gag rule and express its support for equal access to complete information in federally funded family planning programs.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to my colleague, the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for yielding me this time. I thank the Chair of the committee for bringing this very important bill to the floor.

Mr. Chairman, at the time that this bill was voted on in the committee on which I have the privilege of serving, I spoke to my colleagues about this particular Porter amendment. At that time I told them that gathered in that Appropriations Committee room were people with great experience and great knowledge on many subjects, but although a new member on the committee, I thought I knew about something a little more than they did, and that was how it felt to be a woman hearing the news that this administration did not want women to have all the information available to them about their own family planning and their right of freedom of choice.

The gag rule lacks respect for women. How do you know how women will decide when they go into a clinic? With the best information, they will choose the best solution for them.

The gag rule does not respect women. Those who support notification should support this Porter amendment, because this amendment enables a mother and child to receive the information that they need when they go in together.

Those who oppose Porter would not allow a mother even to be able to receive the counseling to give to her own daughter.

I urge support for this bill.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, since fiscal year 1989, poor women in the District of Columbia have suffered in a way that no other women in the United States have suffered on issues of reproductive choice. We have been unable to use our own tax-raised funds to finance abortion in derogation of every principle of democracy and home rule.

We have a crack epidemic in this Capital City, but abortion righters have effectively forced crack addicts to bear seriously damaged children, and then abandon them as boarder babies in our hospitals, creating a crisis on top of a crisis.

Now comes the gag rule. Our clinics will be unable even to advise poor

women of where to go for funds or advice in lieu of seeking help in the District. This is not a rule. This is a cruel edict unworthy of any American court or of the Congress.

Please vote against a two-tiered system of reproductive rights, and please remember those women most cruelly affected, those who live within blocks of the Capitol and are most in need.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thought we were going to get the Government off the American people's back. But what rude beast is this slouching toward us under the guise of compassion for life and support of family?

The other side would at one point gag the health professionals; doctors and nurses cannot mutter the "A" word even if the young woman's life is at risk. Is that compassion for the sanctity of life?

Then with one amazing leap of legerdemain, they want to compel young woman to get permission from their parents, no matter how dysfunctional a family, even if such disclosure might put the young woman at risk of physical abuse or worse. Is this compassion for the sanctity of life?

Gag the professionals, force the kids to talk. They do not want the Federal Government to interfere. What a joke.

At first blush, parental notification sounds innocuous. Young adults should be able to communicate their most intimate problems with both their parents, but sometimes that just cannot or should not happen. Last November, after a hard-fought campaign, the people of Oregon rejected a parental-notification referendum.

I urge my colleagues to have the same insight and courage.

Mrs. BOXER. Mr. Chairman, I yield myself 2½ minutes, the remainder of my time.

Mr. Chairman, my colleagues, by now we know that this bill as it stands prohibits the enforcement of the gag rule, and that is good, and that is a victory for freedom.

By passing this bill, Congress will say that this administration, and no other, and this Supreme Court, and no other, cannot gag our American citizens, cannot force them to lie to other American citizens.

Imagine, a doctor cannot tell a woman in America in 1991 that abortion is a legal option. This gag rule is more than an insult to the American people. It is more than a bad policy for the American people. It is an attack on the fundamental freedoms of America.

How does this administration and this Supreme Court reach to gag these doctors and these nurses? They do it, because these doctors and nurses receive Federal funds for their clinics. Imagine, Federal funds being collected from the American people to be used against the American people. Imagine using Federal funds as a hammer to pound on the truth.

You take the King's shilling, you speak the King's language. I thought we had a revolution about that.

I say it is time to trust the American people with the truth. I say it is time to get Big Brother Federal Government out of our private and personal lives. Think of it, it is a doctor gagged today, a teacher gagged tomorrow, and they get Federal funds, it is a writer gagged, it is an artist gagged, it is a reporter gagged. Where does it stop? I say it stops here in this House of the people. I say it stops today in this House of the people.

If President Bush vetoes freedom, we will work day and night to restore it. Support this bill and support freedom.

I thank you, my colleagues, for this fine debate.

Mr. PURSELL. Mr. Chairman, I yield 1½ minutes, the remainder of my time, to the gentleman from Illinois [Mr. HYDE].

□ 1550

Mr. MACHTLEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Rhode Island.

Mr. MACHTLEY. Mr. Chairman, I rise in strong support for the Porter language, so that all women, regardless of their ability to pay, can be fully informed of their rights.

Mr. Chairman, I rise in support of H.R. 2707 and in particular commend my colleague from Illinois, Mr. PORTER for including language in this bill to block the implementation of the so-called gag rule. The debate surrounding the gag rule is not only about abortion, but is about the importance of the doctor-patient relationship and freedom of speech.

There are some 5 million women who are served annually by title X funded family planning clinics for a variety of reasons from cancer screenings to prenatal care for maternal advice. Some of these women also come to title X facilities with unintended, crisis, or unhealthy pregnancies in search of medical advice. However, despite the fact that medical advice is openly given in health clinics across the United States, that medical advice only goes so far. Because of the gag rule, these women cannot receive all the information they should know about how to treat their pregnancy.

The sanctity of the doctor-patient relationship is critical to promoting the good health. For thousands of years, the faith and trust in doctor-patient relationship has been the paradigm of medical practice. If that doctor-patient relationship is curbed or muzzled by the government, then the trust behind that relationship is destroyed and informed consent will no longer exist.

Mr. Chairman, I urge my colleagues to support the Porter language, support the overturn of the gag rule and allow doctors to tell their patients the truth.

Mr. HYDE. Mr. Chairman, I have been intereted in the libertarian impulse I have seen from surprising circles. "Get the government off your back; get the government out of medical offices." That libertarian impulse does not extend, though, to, "Get the government out of your pocket," when it comes to making you pay for abortions, then the libertarian impluse disappears.

There is no gag rule. Must we govern ourselves by bumper stickers and slogans? Nobody is gagged if a women comes in and is pregnant, to a clinic that does not deal with pregnant women, it deals with women who do not want to get pregnant. It deals with women who are infertile and want to get pregnant. It does not deal with pregnant women. A person might go see a chiropodist or a brain surgeon, but this clinic does not have a program to deal with pregnant women.

The doctor does not say, "Out, we will not talk to you. I am gagged. I have no freedom of speech." The doctor reaches on his table and hands the woman a list of clinics that will advise her on her rights and her options. They advise both ways. It is a balanced list. She is given a place where she can learn of her options. That is what the program does.

Now, really, what is at stake, is an unbridgeable gap. There is an unbridgeable gap between those who value the preborn as less significant than the rights of autonomy or sovereignty that the pregnant woman wishes to assert. That is paramount, and the rights of the unborn are not only secondary, they do not count. Those Members on the other side say that tiny little atom of humanity surrounded by a women called "mother" is a member of the human family, and we ought to be including more people in the circle of those that society will exercise responsibility for, including the handicapped, the aged, and the unwanted and unborn. Society that is caring and humane takes care of its people at the margin.

We do not do enough. I understand that, and I concede that. We have to do more. However, killing is not a humane solution to anything.

Mr. MATSUI. Mr. Chairman, I am pleased that our colleagues who oppose a woman's right to choice have decided not to offer an amendment to strike the Porter amendment from this appropriations bill. This decision on their part clearly shows how this issue transcends the traditional abortion debate. This issue is not so much about abortion, but about privacy, free speech, and health care.

The choice to seek an abortion is a medical decision. Any rule that prohibits the simple mention by a physician of a valid option of care to the patient is wrong.

It is particularly disturbing that it has become the policy of this administration to impose upon the privacy of a doctor-patient relationship. When a woman with an unintended pregnancy asks about medical assistance, she should be informed of all the options before

her—prenatal care and delivery, adoption, and abortion. It is contrary to the values of our society to deny individuals information necessary in order to make a well thought out decision.

It is totally unacceptable that under the administration's rule even if a woman directly requests information about where to obtain an abortion, the provider is prohibited from sharing that information. Just as we would allow and expect a physician to counsel a cancer patient on all of the latest treatments and medicines, so too should physicians be able to counsel pregnant women on all available, legal, and appropriate medical procedures. We cannot expect women to make an informed decision about their future health and well-being if they are not given the necessary facts about their options. If the gag rule is upheld, we as Members of Congress are counseling physicians across the country to commit malpractice.

Withholding information from the general public is a dangerous precedent to set. That is exactly what this rule accomplishes. We must ask ourselves, on what grounds can the government limit the information given to our citizens? The people this policy would affect most acutely are those who use federally funded family planning clinics—primarily low-income women. With the upholding of the gag rule, the administration effectively discriminates against those who are less furtunate.

Those who wish to strike this language from the appropriations bill, would like to turn this debate into one on abortion. But if those individuals were to examine the gag rule carefully they would find it has little to do with abortion. Rather it concerns the rights of women to receive adequate information necessary to their health care; regardless of their economic backround.

Congress should not condone any limitation on the knowledge of a patient in need of medical care. All women in this country should have the same right to information, regardless of where they seek their medical care.

Mr. LEVIN of Michigan. Mr. Chairman, I would like to thank the subcommittee and its chairman, the gentleman from Kentucky [Mr. NATCHER], for acknowledging the importance of evaluating ways to manage the care of frail elderly Medicare beneficiaries. Appropriating funds to continue demonstration projects authorized under section 4027(f) of the Omnibus Budget Reconciliation Act of 1990 will assure that Congress receives better information on how to effectively manage care provided to this special population. In the long run, this has the potential of reducing health care costs and improving quality of care by ensuring that the proper mix of diagnostic and therapeutic services are utilized, throughout the patient's episode of illness.

Mr. BLILEY. Mr. Chairman, the debate we are continuing today really began 15 years ago. But throughout all of the general counsel opinions, program guidelines, and litigation, Congress has never before voted to require federally funded family planning clinics to assist women to obtain abortions.

The issue before us is not about free speech. It is about subsidized speech. Let us not fool ourselves into believing that this debate is about the "A" word. It is about the "B" word—baby. What does Congress expect a family planning counselor to say when a 15-year-old asks, "is it a baby?" It seems to me that however this is answered, the illusion of nondirective counseling is dispelled. Shall we require title X projects to deny it is a baby? Shall we require them to say that if allowed to continue to grow, that the baby will look like its mother and father and that the color of its eyes, hair, height, and so forth, have already been determined?

Those who believe that the Federal Goverment should not be involved in such a discussion with the use of tax dollars should oppose the Porter language.

Those who believe that the decision to continue or terminate a pregnancy is a private decision between a woman and her physician must oppose the Porter language. The title X counselor does not and cannot provide maternal health care services regardless of whether the pregnancy is continued or aborted. The counselor is an outside third party to that decision with no authority or responsibility in supporting that decision.

Those who believe that the Federal Government should not interfere in that decision should oppose the Porter language. Why? Because you cannot logically say that government should not be involved on the one hand and insist that government sponsor, subsidize, and exert at least some measure of control over that decision on the other. In 1982, the General Accounting Office found that in essence, there was no standard for nondirective counseling. Who can say whether this counseling is being done correctly or not? Is there an obligation, for example, to present adoption in a more favorable light to a teenager who is being coerced into abortion by her boyfriend or parents?

Those who believe that the woman should be protected from exploitation should oppose the Porter language. If we are really concerned about what is being said or not said in those 4,000 title X clinics, we would be having a different debate. The Federal Government requires that a woman who is referred for sterilization be at least 21 years old. We require a written consent form which must be signed by the woman and the physician. We require that the physician certify that the woman is not under the influence of alcohol or drugs. We require a thirty-day waiting period.

None of these protections are provided for under title X. Is sterilization a more serious decision than abortion? If we are concerned that a woman should not be coerced into sacrificing her fertility, should we not be just as concerned that she not sacrifice her unborn child? I suggest that many Members do not want to know what is and what is not being said, they only want the issue to go away.

Finally, let me also make it clear to my colleagues who may erroneously believe that the proponents of this amendment would merely maintain the status quo in regards to counseling and referral. If we allow the regulations to be stopped today, the next step will be a significant expansion of Federal involvement in the abortion decision. Under the Porter-Wyden bill, which is waiting in the wings, there is not even the presumption of a physician-patient relationship. That legislation would make title X clinics into abortion information clearinghouses. It would require title X projects to treat abortion like any other referral service. This means that the projects would be required to actively assist the woman in obtaining an abortion. The projects would be required to share patient records with the abortion provider. These are significant changes which go beyond the previous title X guidelines.

I urge my colleagues to look past the full-page adds and the skillful political campaign being waged. The issue is, do you want to use tax dollars to tell 15-year-old girls that abortion is an acceptable method of family planning? Do you want to fund that biased viewpoint on abortion? We are not making that decision today, but we will be soon. Let us fully prepare ourselves. Let us begin by clearing away the smokescreen of free speech.

Mr. CAMPBELL of Colorado, Mr. Chairman, I rise in support of H.R. 2707, the Labor-HHS-Education appropriations bill for fiscal year 1992, which contains provisions which repeal the gag rule imposed by the Supreme Court in the recent Rust versus Sullivan decision.

I was shocked and dismayed by the Court's decision which flies in the face of our constitutional guarantee of free speech. At issue also is a physician's ability to counsel patients to the best of his or her ability, and whether the Government can force health care professionals to violate their legal and ethical obligations. I agree with the health care professionals who feel that this policy is nothing more than medical censorship. Last time I checked, abortion is still a legal process and to say something which is legal cannot even be referred to in the course of a conversation is totally absurd. The Court's reasoning is not only unfathomable, it's dangerous.

This decision also raises a question of equity among women. If a woman can afford private health care, she can receive counseling about prenatal care, adoption and abortion; however if she is poor, the Government has the right to dictate to a doctor what a doctor can and cannot tell a patient. I find it startling that a victim of rape or incest who just happens to be poor cannot get the guidance she needs to terminate an unwanted pregnancy—even though abortion is a legal option in America.

Family planning clinics are about the prevention of unintended pregnancies, and by providing contraceptive services which prevent unintended pregnancy, the program strives to lower the demand for abortion. Since the 1970's, title X programs have operated under carefully drafted guidelines which require nondirective, balanced couseling including all available options—prenatial care, infant care, foster care, adoption and abortion. Family planning clinics who receive Federal funds to not perform abortions with Federal moneys, but have given balanced, nondirective counseling about all options available to a pregnant woman. Congress has authorized family planning clinics within this framework that respects a woman's right to truthful answers from her physician and her right to make an informed decision without Government intervention.

I am pleased that the Appropriations Committee has seen fit to reauthorize title X clinics without these restrictive regulations and I urge my colleagues to join me today in support of this appropriation bill.

Mr. GEPHARDT. Mr. Chairman, the Supreme Court and the Bush administration have

embarked on an ill-advised campaign to increase abortions and to insert Government between patients and their doctors. This policy defies common sense.

The Supreme Court has misinterpreted Federal law and given the administration a license to gag doctors. That means, if a patient goes into a family planning clinic, the doctor is regulated by Government and prevented by Government from explaining all the options available to women who may be pregnant or considering starting a family.

This policy will increase abortions. If women believe, when they go to a federally funded clinic, that they're going to get less than honest advice, they're not going to go there even for family planning information. This will increase the number of unwanted pregnancies.

Family planning advice, as best I can figure it, is one of the best ways to cut down the number of abortions in the country. The current situation will not only diminish the quality of that advice, but it will also lead to the shutting down of clinics that can offer family planning alternatives to abortion to women who need such assistance.

Moreover, the American people do not think the Government should be telling doctors what they can say to people. Doctors have an oath that requires all physicians to help their patients get the best and most appropriate care, and an obligation to inform them fully of all options. These obligations go to the heart of the doctor-patient relationship. But what the Supreme Court and the Bush administration are saying is: Government, not the doctor, will decide what information is given a patient, or what an adviser in a clinic can tell them. And such a policy unwisely and unfairly inserts Government into the most intimate dialogue that can occur between a patient and a doctor, the conversation that occurs about planning a family.

Now, we don't pay for abortions and frankly I don't think the Federal Government should, and we don't use our clinics to perform abortions, and I support that policy was well. But this rule, which gags the doctor and stifles the patients is wrong, and the Congress is right to prevent its implementation, until we have the opportunity to overturn it.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the fiscal year 1992 Labor, HHS, and Education appropriation bill. I am particularly appreciative of the committee's decision to accept the Porter amendment on the abortion counseling gag rule. On May 23, the Supreme Court in the Rust versus Sullivan decision, upheld a regulation that prohibits federally funded clinics from counseling women on abortion. Current Federal regulations would deny women seeking information regarding how to respond to an unintended pregnancy from receiving accurate information about all of her options, including abortion. This means that even if a woman has been raped, or is a victim of incest, or finds her health seriously threatened by her pregnancy, her doctor would not be able to tell her the truth about her options.

The gag rule not only denies women information they are entitled to receive, but makes it impossible for doctors to practice medicine, and deepens the wedge between the health care haves and have-nots. Well-do-do women who go to private physicians would be able to learn about all their family planning choices, while poor women would be denied that same information.

Clearly this is an issue that goes well beyond the right to choose an abortion. Serious constitutional questions of free speech are at stake here—and that is why even some strong congressional opponents of abortion have joined with pro-choice advocates in an effort to block implementation of the gag rule. These opponents of abortion realize that if the gag rule is implemented, the number of abortions could increase significantly. When the clinics that can't ethically comply with the gag rule regulations lose their Federal funds, women's health care services will be cut. As a result, poor women won't get access to contraception, which prevents pregnancies. After all, the easiest way to limit the number of abortions is to prevent the need for them in the first place. Twenty-one national medical and nursing organizations—including the American Medical Association, the American College of Obstetricians and Gynecologists and the American Nurses Association—have declared the gag rule on title X family planning clinics to be in direct conflict with their codes of ethics. Who can serve as better advisors on this issue than the men and women who spend their days working to save lives? A recent public opinion poll shows that over 70 percent of the American public favor overturning the gag rule.

I urge passage of the Labor, HHS and Education appropriations bill, as amended. And it would be my hope that the President would reconsider his announced intention to veto this bill, and respect the feelings and views of the overwhelming majority of the American public.

Mr. HORTON. Mr. Chairman, the House of Representatives today passed H.R. 2707, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1992. One of the most controversial provisions in the bill barred the implementation of the administration regulations prohibiting family planning clinics receiving Federal title X funds from providing information on abortion.

Although a recorded vote was not called for on the issue today, I wish to express my support for the lifting of this so-called gag rule on federally funded family planning clinics. We can no longer have one set of rules for the poor in this country and another set of rules for the rest of America.

If the gag rule remains in place, the gap between those who can afford private health care and those who must attend public clinics will widen. If physicians in federally funded facilities are prohibited from providing all relevant medical information, they are not fully performing their duties and the health of millions of American women may be at risk.

The American Medical Association and other medical groups oppose the administrations restrictions on abortion counselling with good cause. Medical ethics require physicians to provide patients with all available options. The present title X restrictions not only force physicians to breach their ethical oaths but opens them up to potential malpractice suits.

Finally, I support lifting the gag rule on first amendment grounds. Merely providing financial assistance to an organizaiton does not give the Federal Government the right to infringe on the freedom of speech of American citizens. We must allow our physicians to advise their patients to the best of their ability and not interfere with the vital doctor-patient relationship.

Mr. MORAN. Mr. Chairman, the Supreme Court handed down a decision on May 23 entitled Rust versus Sullivan that must be oveturned by this body.

It must be overturned because it compromises the integrity of the medical profession and requires a separate system for medical care for America's women based on their economic class. Doctors are no longer allowed to give their full, honest and professional advice to all their patients.

Women who are unable to afford private care will no longer receive the same medical advice that women of the same age in the same physical condition will receive from their doctor solely because of the difference in their incomes.

Mr. Chairman, these distinctions are unfair and un-American. They represent a very real threat to the integrity of all of our institutions.

Mr. Chairman, I urge inclusion of the Porter amendment.

Mr. COX of Illinois. Mr. Chairman, I rise today in support of section 514 of H.R. 2707. This provision prevents the Secretary of Health and Human Services from using federally appropriated funds to institute the gag rule.

Through its recent rulings, the Supreme Court in Rust versus Sullivan has upheld the administration's interpretation of a statute enacted by this Congress creating many constitutional questions. The administration initiated Federal regulations which prohibit the giving of certain information to patients at federally funded title X medical clinics. The gag rule initiated by the Department of Health and Human Services in 1988 does not allow medical professionals the freedom of informing their patients of all medical options available to them.

Currently the gag rule would require doctors to read a script approved by the Government which basically states the clinic does not consider abortion as a family planning alternative. Even if a woman requests information on abortion, or is a victim of rape or incest, the answer is still the same: the clinic cannot advise or even refer a patient on the option of abortion.

Women go to the clinics seeking counsel to enable them to make an informed decision on family planning. They expect to be advised of all possible options available to them without bias. However, bias is just what the gag rule enforces.

What is perhaps most unfortunate of all about the gag rule is the impact it has on those who have no other options for family planning advice. The wealthy will no doubt be able to afford private health care, which provides them with honest and accurate advice on all family planning options. However, the poor and lower middle class can not afford this alternative. They will be forced to brave the consequences of a double standard which prohibits access to information because they can not afford the cost for honest advice.

The gag rule would effectively destroy the doctor patient relationship. How could a pa-

tient ever trust the thoroughness of the medical advice they are receiving at a federally funded clinic, when they know the Federal Government has the power to administratively decide what information should be provided to them regarding certain medical procedures? How could the doctors maintain their code of ethics when they know they are not telling their patients the whole truth?

Many federally funded clinics have stated their decision to refuse Government funding if they would be required to institute the gag rule. These clinics have been forced to choose between Federal funding or allowing their doctors to maintain the constitutional right to free speech, and providing their patients with all options. Understandably with the support of such organizations as Planned Parenthood and the American Medical Association, they have chosen the latter.

It is very frightening to realize the administration is supportive of Government censorship. Will we be subject to a growing Government intrusion in our private lives which will force doctors to practice medicine at the mercy of the Federal Government's Orwellian control? Can we allow this intrusion on medical professionals constitutional rights? One can only wonder who will be the next group subjected to Government control. As elected Members of this Chamber I believe it is our duty and responsibility to insure our constituents, who overwhelmingly oppose such control, that we will not allow this intrusion to occur.

I urge my colleagues to show their support for this provision by voting for its passage. Let's remove the gag rule and restore full and accurate medical advice and allow free speech to remain the right of all.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. WHEAT). The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Chairman, if a point of order is raised against the Weber language on parental notification in this bill, and if the Chairman would sustain the point of order, would I be in order at that time to ask for a rollcall vote on that sustaining of that point of order, making parental notification not in order of this bill?

The CHAIRMAN. Any such ruling of the Chair is subject to an appeal, as the gentleman is aware.

Mr. DANNEMEYER. The only way to get the rollcall vote is to appeal the ruling of the Chair?

The CHAIRMAN pro tempore. That might depend on the effect of the Chair's ruling.

Mr. DANNEMEYER. A further parliamentary inquiry: Is the appeal of a ruling of a Chair interpreted by some in this body as a procedural matter, as distinguished from a substantive matter?

The CHAIRMAN pro tempore. An appeal of the Chair's ruling goes only to the propriety of the Chair's ruling under the rules.

Mr. DANNEMEYER. Mr. Chairman, I interpret the Chair's remarks to mean it is procedural in nature rather than substantive.

The CHAIRMAN pro tempore. It should not be interpreted as a vote on the merits of the issue at hand.

PREFERENTIAL MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. DELLUMS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, I should not insist upon my privileged motion, but I did not have the opportunity to speak to the significant issue and chose this extraordinary vehicle to gain time to speak to my colleagues.

What we are talking about here is the gag rule, Mr. Chairman. We deal with rules in this body every single day.

In the legislative branch of the Congress there is a closed rule, which means we vote a rule up or down the way it is presented. There is a modified rule, that says there are only certain areas that we can debate. Then, Mr. Chairman, there is an open rule. An open rule means that any issue can be discussed, any issue can be debated.

A number of my colleagues on the other side of this issue have marched in the well, day after day, time after time, challenging gag rules. Why? Because they believe that we ought to have open rules, that we should fear no ideas. We should field no information, and that the Congress of the United States, in its wisdom or the lack thereof, should have the opportunity to work their will.

We are saying that that is what we ought to have. Well, what this debate is about is an open rule in the medical profession. To say that people should not be afraid of ideas, that all options should be available.

I would suggest to my colleagues, how can Members march in the well and challenge the assertion of the gentlewoman from California, or the gentleman from Illinois regarding the gag rule, and then day after day after day challenge rules that are not open rules? Because when we speak in favor of open rules, we say that all options shall be available to Members. That is the American way. That is the democratic way. Why, suddenly, should we become totalitarian, antidemocratic, violate the Constitution of the United States, and move against free speech, when it comes to a medical open rule?

If we believe that all options ought to be available to Members of Congress, what gives Members the arrogant notion that the elitist right that we have can have options beyond the American people, we truly represent them; and if we can speak eloquently to open rules and total options available to Members as representatives of the American people, can we march into the well and argue less for those persons for whom we represent? And because they happen to be women, does that give them any less right to have the options available to them?

Finally, as we frame this issue, it ought to be an issue based on the notion of free speech, because that is what this issue is all about. It is not about abortion. It is about trusting the right of American women. I have said oftentimes that many Members do not agree on the substantive issues. However, when we all ought to come together is our commitment to the integrity of the process. What is the process here? It is the Constitution of the United States. It is the first amendment to the Constitution of the United States that sets out the right of free speech. That is what we ought to be about.

If Members can argue on this floor against gag rules that govern legislation, they ought to be willing to stand in this well and challenge gag rules that deny women the opportunity for the total access of information. To do anything less is undignified. To do anything less is un-American. To do anything less is unpatriotic.

I ask unanimous consent to withdraw my motion.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The Chairman pro tempore. The gentleman will state it.

Mr. DANNEMEYER. On the gentleman's motion to strike the enacting clause, who is entitled to control the 5 minutes in opposition?

The CHAIRMAN pro tempore. One Member only is entitled to control the 5 minutes.

Mr. DANNEMEYER. Mr. Chairman, I make that request.

The CHAIRMAN pro tempore. A member of the committee takes precedence.

Mr. PURSELL. Mr. Chairman, I will control that time.

The CHAIRMAN pro tempore. The gentleman from Michigan [Mr. PURSELL] is recognized for 5 minutes.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Michigan [Mr. PURSELL] that he must remain on his feet during this debate. He controls all the time.

Mr. HYDE. Mr. Chairman, in the last speaker, some who I really enjoy hearing because he always has something to say and he says it so interestingly; he talked about elitists, and he looked over here.

□ 1600

I wonder if the gentleman meant the gentleman from Kentucky [Mr. NATCHER] who always votes with us on this issue.

I wonder if he meant the gentleman from Illinois [Mr. ROSTENKOWSKI] who always votes with us on this issue.

I wonder if he meant the gentleman from Michigan [Mr. KILDEE] who always votes with us on this issue.

I think characterizing those of us who want to protect the innocently inconvenient unborn, who is so defenseless in this situation, who cannot rise up in the streets, who cannot vote, who cannot escape, as the elitist right is quite interesting.

I would rather think some of those who want to get rid of people are the elitists who think there are too many unwanted people. There are too many handicapped. There are too many poor. There are too many unwanted children, so the solution? Exterminate them. Get rid of the people. It is certainly a direct way to do it.

I hope that this has been an illuminating discussion. It certainly has been passionate.

I certainly am not angry at anyone. I think this issue transcends ourselves, but I hope we can get some people thinking about it. It is literally an issue of life and death.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER.

Mr. DANNEMEYER. Mr. Chairman, I want to say in response to my colleague, the gentleman from California [Mr. DELLUMS], the gentleman was looking at me when he was talking.

You know, you talk about the right of free speech here. How about the right of free speech of that unborn child in the womb? Does not that child have a right to free speech just as much as the mother has the right to free speech?

The data is clearly that over 90 percent of the abortions performed in America today are for purposes of birth control. That is the data.

The irony is that the vast majority, in fact only 9 percent of the American public support abortion as a means of birth control.

What we are talking about in this whole debate, and I will come back to it again, this subterfuge of attaching this prohibition on language to an appropriations bill was designed specifically to avoid the reality that in the Policy Committee, they held an Environment Committee where I serve, we have the votes on a bipartisan basis to require that parental notification be a condition precedent of any young girl being referred to an abortion before that abortion takes place.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, may I stop the gentleman from California [Mr. DELLUMS] right there, my powerful oratorical friend.

There is an elitist right, just like there is an elitist left. We call your elitist left limousine liberals.

I will show you a list of true multimillionaire and billionarie elitist rightists, and guess what, I say to the gentleman from California [Mr. DELLUMS], they are all proabortion.

And do you know what they say to me over and over when they refuse to support me? "How are we going to pay for them if we allow them to be born?"

When I talked to the gentleman from California [Mr. DELLUMS] on this issue 12 years ago, I told the gentleman them in Florida, them were Cuban Americans, them in southern California were Hispanic Americans, them in New York were Puerto Rico Americans, and when the gentleman and I were marching for civil rights, them were African-Americans all over this country.

Elitists rightists in my party are going to be battling over this as a platform issue in Houston in August of next year. You bet we have an elitist right, and the gentleman from Oregon [Mr. AUCOIN] is not part of it, he is on your side, nor is the gentleman from Wisconsin [Mr. ASPIN], a great Desert Storm hero and popular.

Mr. PURSELL. Mr. Chairman, that was our top gun.

Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I will not take long. I want to address a comment to my friend, the gentleman from California [Mr. DELLUMS], if I can divert him from his friend, the gentleman from California [Mr. DORNAN].

I would say to the gentleman from California [Mr. DELLUMS] that the gentleman and I have had a good relationship over the years. We do not agree on this issue, but I was disappointed in one thing the gentleman said. In his last comment, the gentleman used the word unpatriotic to describe people who oppose him on this issue. The gentleman does not mean that, the gentleman does not mean the use of that word, does he?

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield, let us strike that.

What I was trying to say is those Members who stand on the floor and articulate their support of open rules, meaning total options, find themselves in a contradictory position when they argue gag rules with women in medical situations. That was my major argument. It is un-American, because it violates the Constitution of the United States.

Mr. PURSELL. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Henceforth, Mr. Chairman, I guess we can assume from the comments of the gentleman from California [Mr. DELLUMS] that from here on he will be voting against every rule that comes out of the Rules Committee, controlled by this party.

The gentleman from California [Mr. DELLUMS] made one quick point. He said this is not about abortions. Previous speakers said the same thing. That is absolutely untrue.

We are talking about an issue where abortion is facilitated by referrals, facilitated by counseling, and even Planned Parenthood some years back in talking about family planning and abortions said in their Planned Parenthood brochure in August 1963, "What is birth control?" the question goes. "Is it in abortion?"

"Definitely not. An abortion kills the life of a baby after it has begun."

That is from Planned Parenthood. They have now changed their minds on that.

The CHAIRMAN pro tempore (Mr. WHEAT). The Chair would ask if the gentleman from California [Mr. DELLUMS] wishes to withdraw his preferential motion?

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The preferential motion is withdrawn.

There being no amendments to section 514, the Clerk will read section 515.

The Clerk read as follows:

SEC. 515. Notwithstanding any other section of this Act, parents shall be notified to the extent and in the manner required by the law of the State in which the health care facility is located. The Secretary may not make a grant under section 1001 of the Public Health Service Act (42 U.S.C. 300) unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provide to the parent: *Provided*, That notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dewelling hours or usual place of abode (as defined by rule 4 of the Federal rules of civil procedures for the United States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

(2) The physician with principal responsibility for making the decision to perform

the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent here death and there is insufficient time to provide the required notice.

(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by State law: *Provided*, That in any such case the physician notifies the authorities specified by State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

(4) The entity complies with a State or local law then in effect that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.

Mr. PURSELL (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER

Mr. DEFAZIO. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DEFAZIO. Mr. Chairman, I wish to raise a point of order against this section.

I raise a point of order against section 515, beginning at page 74, line 16, through page 76, line 19 of the bill.

This section proposes to change existing law, and thus constitutes legislation on an appropriations bill, in violation of clause 2(b) of rule XXI.

The CHAIRMAN pro tempore. Does the gentleman from Kentucky desire to be heard on the point of order?

Mr. NATCHER. Mr. Chairman, I ask for a ruling of the Chair on the point of order.

The CHAIRMAN pro tempore. Does any other Member desire to be heard on the point of order?

Mr. HYDE. Mr. Chairman, I want to understand what we are doing here now.

The gentleman from Oregon [Mr. DEFAZIO] has raised a point of order. The issue now is a point of order against a part of the bill that provides for parental notice for an abortion of an unemancipated minor; the gentleman seeks to strike that on a point of order, is that right?

Mr. AUCOIN. Regular order, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Oregon seeks to strike section 515 of the bill on a point of order.

Mr. DEFAZIO. That is correct, Mr. Chairman.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore. Does any other Member desire to be heard on the point of order?

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Chairman, how much time does a Member in opposition to the point of order have on the point of order?

The CHAIRMAN pro tempore. The time is at the discretion of the Chair on a point of order.

Does the gentleman from California wish to be heard on the point of order?

Mr. DANNEMEYER. Yes, I do wish to be heard on the point of order, Mr. Chairman.

I would like to ask if the gentleman from California [Mr. WAXMAN], the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce is on the floor?

Mr. DEFAZIO. Regular order, Mr. Chairman; that is not relevant.

Mr. DANNEMEYER. Mr. Chairman, I wanted to ask when he planned to bring title X to the floor so that we can debate the merits of the issue on parental notification.

The CHAIRMAN pro tempore. The gentleman is not speaking to the point of order.

Does the gentleman wish to speak to the point of order?

Mr. DANNEMEYER. Well, Mr. Chairman, it is unfortunate to see a gag rule implemented on the Members of the House.

The CHAIRMAN pro tempore. Are there any other Members who wish to speak to the point of order?

If not, for the reasons stated by the gentleman from Oregon, the point of order against section 515 is sustained. That section is stricken.

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992".

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN pro tempore. The Clerk will report the preferential motion.

□ 1610

The Clerk read as follows:

Mr. SMITH of New Jersey moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore (Mr. WHEAT). The gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. I thank my friend.

Mr. Chairman, I think it is outrageous that our friends who claim to prochoice, the proabortionists who are in this Chamber, Mr. DEFAZIO by name in this case, has just used a point of order to strike the parental notification language which was affixed in committee, attached to the bill in committee by my good friend, Mr. WEBER from Minnesota.

Mr. Chairman, this is the most modest minimal policy I think any of us can ask for with regard to the entire issue of abortion. We are talking about minors. Mr. DANNEMEYER indicated earlier about one-third of the number of abortions procured in this country, of the 1.5 million, are on teenagers. And in many cases, if not most, the parents are left out of the equation.

We have instances, and we have had testimony before Mr. WAXMAN's committee and before other committees, by people, by young girls, 14 and 15, who are marched into title X clinics, the baby was aborted, and then the aftermath, the deleterious effects of that child was visited upon that young teenager and the parents found out afterwards.

Is it not ironic that in order for a minor to get her ears pierced, receive an aspirin because of a headache or fever, she needs parental permission? And in that irreversible decision of an abortion where an unborn child is decimated by an abortionist through chemical poisoning or by literal dismemberment, the parents do not even have to know.

Parental notification offered by my good friend was a very modest proposal, and I think our friends on the other side of the issue tipped their hands and they exposed their true feeling about both women and babies.

Mr. WEBER. Mr. Chairman, would the gentleman yield on that point?

Mr. SMITH of New Jersey. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

Mr. Chairman, I just want to point out the gentleman was certainly well within his right in raising the point of order. But it is important that the country understand exactly what has been struck from the bill. The gentleman from New Jersey has pointed out this is about the most modest parental rights language you could put in. One parent would have to be notified, not two. They merely have to be notified. We do not demand their consent. So even if that one parent objected, the woman could go ahead and have the abortion. It is not parental consent.

There are exceptions for the life of the mother, for rape, or for incest or for those situations where the woman would allege to the physician that she may be subject to abuse if she were to

tell either of her parents about it. You could not have a smaller step in the direction of establishing a minimal parental right than the language of the gentleman from Oregon just struck from the bill.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, we have been talking about information and what a terrible gag rule it is for the doctor not to give some pregnant women abortion counseling or advice rather than send her where she can get it. What about the lack of information to a mother and a father whose daughter finds herself in an abortion mill being urged to get rid of this embarrassment, this unwanted child? What about your daughter, your unemancipated daughter going under a surgeon's knife or an aspiration machine or whatever method they use to exterminate that unborn child in her womb, and not even letting the parents know about it? That is eroding the family.

Now, the majority party has just come out with a commissioned report that wants to give $1,000 tax deduction to families for each child. They understand the magic in the words the family. What is more corrosive of the family than having a child go get a major and life threatening, certainly terminal to the unborn, life-threatening surgery without even a requirement of notifying her father and mother? As though the father and mother are irrelevant to the health and the welfare of their daughter.

That is what the gentleman seeks to do and has done, and that is what we all sit silently by meditating.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, I want to explain to the Members of the body here in case any wonder why I did not move to appeal the ruling of the Chair on the issue of affirming the point of order striking out the parental notification language. We all know what goes on around here. That would have been immediately followed by a motion to table so the claim could be made by the members of the majority party who control this place that we are not voting on the merits of parental notification, we are only voting on the merits of sustaining the position of the leadership that you do not want to vote on the issue of parental notification, and how you can avoid that is this procedural tactic that you have used here today to gag our ability to give to the people of this country an indication of how the 435 Members of this body stand on the issue of parental notification. That is what is going on, and this Member, strong letter to follow, does not like that.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey [Mr. SMITH] has expired.

For what purpose does the gentleman from Wisconsin [Mr. OBEY] rise?

Mr. OBEY. Mr. Chairman, I rise to oppose the gentleman's motion.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes in opposition to the motion offered by the gentleman from New Jersey [Mr. SMITH].

Mr. OBEY. Mr. Chairman, no single issue is as important to the integrity of this body as is our willingness to always deal honestly and fairly and forthrightly with each other.

And I rise to oppose this motion and simply to correct some of the previous statements that I have just heard which, in my view, spectacularly mislead the public in terms of what is happening here.

I happen to be one Democrat who in committee voted for the parental notification language. I think that that language was a reasonable effort to try to reach a compromise on this issue. I also happen to recognize that Mr. DEFAZIO, under the rules of the House, has a perfect right to try to strike that language because, as anyone understands who has served here more than 2 days, it is legislating on an appropriation bill.

The Chair was correct parliamentarily in its position even though I do not happen to agree with the practical result.

The point I would simply like to make is this: I do not think this institution has to apologize for the debate we have had here today on this issue, because at least the institution has tried to grapple with this question. We should have done it a long time ago more successfully than we have. But at least today we have been grappling with this issue. Whether you agree with Mr. WEBER or not, there has been an honest effort in this place to try to do that.

I would simply make two points: No. 1, I would plead with both sides, both the prolifers and the prochoicers, to recognize that eventually what the public wants from both of us is not just to win in a narrow sense; what the public wants from all of us is an effort to try to reach a reasonable point of accommodation on a most sensitive and most controversial issue which affects the basic right to life and the basic right to privacy, both of which are legitimate rights to be defended.

And it seems to me, therefore, that sooner or later there needs to be some kind of language, if not the Weber language then some other language, which may more perfectly preserve the rights of families in situations to which that language was addressed.

But I want to say if there is one failure of leadership on this issue today, it does not lie with anyone here; it lies with the President, because on this bill and on the foreign aid bill which came up last week it is the President who is trying to rule by holding his breath and turning blue and saying "it shall be this way or no way."

And I frankly think the country has a right to better leadership than that.

I think the country has a right to expect the President to engage on this issue. I think the country has a right to expect that the President will sit down with the Congress and try to compromise on this issue so that we can find a reasonable proposition which meets the sensitivities of both sides and maintains the institutional dignity of this House.

So I congratulate the committee for trying to do that. I want to congratulate the people who have legitimately brought their arguments to bear on this issue. I do not want to congratulate those who have chosen to try to obfuscate the procedural situation today.

Most of all, I think the President has an obligation to try to rise above playing the narrow game of narrow, single-interest politics and work out a national accommodation on this issue. That is his responsibility—more than any other public servants—in the country.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I certainly want to associate myself with the statements the gentleman has made about the responsibilities of the executive and judicial branches, which have in effect placed the Congress in a situation of dealing with this very, very sensitive issue on an appropriation bill.

I think it has to be pointed out, though, that contrary to some of the comments that have been made to kind of obfuscate what this debate is all about, this Congress, this House of Representatives will deal with the reauthorization of title X. Congressman WAXMAN and Congressman DINGELL are preparing to bring that bill to the floor this summer. I know Mr. PORTER and Mr. WYDEN are prepared to debate this issue in the context of that bill.

Again, on the floor we will be dealing with these very, very difficult issues, including the question of parental notification and/or consent, which I think in the long run is the proper forum, the proper approach to dealing with an issue that needs to be understood by all the Members and are not to be carried as a rider on this bill.

Ms. DELAURO. Mr. Chairman, I am saddended that the Supreme Court has upheld such fundamentally unfair and flawed regulations that prohibit federally-funded clinics from providing their patients with information about abortion.

But it is now incumbent upon Congress to prevent such an intrusive and illconceived policy from being implemented.

The "gag" rule is the most offensive kind of paternalism that the Government can practice:

It says to women that they are not qualified to make the most deeply personal decisions about their well being and their reproductive lives.

It says to doctors that they are not qualified to exercise their professional judgement.

It says to those involved in this most intimate decision that only the Government is qualified to decide a woman's fate.

These regulations create second class citizens of those women who rely on health clinics rather than private physicians for their health care.

Contrary to the twisted logic of the majority opinion in Rust versus Sullivan, the gag rule is a direct and serious intrusion in the doctor patient relationship. It tells doctors what medical information they can and cannot impart to their patients, regardless of the individual circumstances.

This body should rather heed the admonition of Justice Blackmum in his dissent that the force of the first amendment is seriously eroded if it is "read to countenance the deliberate manipulation by the Government of the dialogue between a woman and her physician."

I urge my colleagues to protect the sanctity of the first amendment, to respect the confidentiality of the physician patient relationship, and to uphold a woman's reproductive freedom.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today to speak in opposition to a provision of H.R. 2707, the appropriations bill for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1992. This provision, contained in the appropriations to the Department of Health and Human Services under title II, will slash the Low-Income Home Energy Assistance Program [LIHEAP] from $1.61 billion to $1 billion, a cut of almost 40 percent in only 1 year. This comes on top of a 40-percent cut in real terms—after inflation—since fiscal year 1981. As many as 2 million families—or about 6.9 million people—will lose benefits.

Even at current funding of $1.6 billion, the Low-Income Home Assistance Program serves less than 25 percent of eligible households and on an average pays less than 25 percent of those recipients' total home energy bills. The majority of recipients are families with incomes under $6,000 a year. According to a study by the center on budget and policy priorities, such households typically pay 65 percent of their entire income for rent and utilities.

Mr. Chairman, I want my distinguished colleagues to understand that this bill should not be misinterpreted as maintaining current funding levels. In fact, the bill would remove $600 million from the program, setting it aside in a contingency fund available only upon submission by the President of a formal request designating it as an emergency; as a result, it is anticipated that these funds will not be available to the needy.

The Department of Health and Human Services argues that at a time of continued record deficits at the Federal level, and because energy assistance needs vary greatly from State to State, it is being proposed that States use other resources to cover a greater share of the low-income home energy assistance need. This is a curious argument in that States are now facing record deficits brought on in part because of previous Federal spending cuts, changes in Federal taxes which have affected State revenue, and the recession.

The administration also argues that this program is obsolete because it was a response to the oil price crisis of the 1970's. This is a fallacy. Although the original program was instituted to hold the poor harmless for the impact of oil decontrol, LIHEAP was cited as the safety net for the poor when natural gas price decontrol was authorized in 1983. In fact, less than 20 percent of the poor use fuels derived from oil; most use natural gas.

Mr. Chairman, the cuts in funding for LIHEAP are unacceptable. The impact on the States and territories will be devastating. In my district where about 60 percent of the population would qualify for LIHEAP benefits because the family income in American Samoa is so low, at the current funding level of only $31,000, we are only able to serve under 200 low-income families. If this provision passes today, about 40 percent of that amount will be cut. The administration suggest that other funds are available to these low-income households, so they do not need LIHEAP. In fact, Mr. Speaker, American Samoa does not have other public assistance programs such as food stamp, AFDC, and the SSI Program, so these funds are desparately needed.

I urge my colleagues fully fund this program as well as the drug education and prevention funds which have also been reduced in this legislation. When you vote today, please vote against these reductions.

Mr. ROE. Mr. Chairman, I would like to take this opportunity to associate myself with the words of my distinguished colleague Congressman THOMAS RIDGE and his efforts to help restore full funding to the Low Income Home Energy Assistance Program [LIHEAP]; and at the same time I would like to thank the distinguished chairman of the Appropriations Subcommittee Congressman NATCHER for his efforts and his willingness to discuss this program in conference.

LIHEAP is a vital program that deserves the continued support of the Federal Government. LIHEAP provides a necessity of life to the poor and disadvantaged, and equitably distributes the cost to all Americans as a basic social responsibility.

This appropriation bill provides $1 billion for LIHEAP. This is a reduction of $610 million from the fiscal year 1991 funding level. It is estimated that in my State of New Jersey alone that we will lose about $28 million if the funding for LIHEAP is reduced to the $1 billion funding level. Current estimates show that the average recipient in New Jersey would see their average benefits slashed from $400 to $236.

As many as 2 million families will be cut off from energy assistance this winter. This bill forces low income Americans to choose which basic necessities they can afford. Energy needs—heating, light, hot water, and emergency cooling—are essential to the quality of life. They cannot be separated from the necessities of education, affordable housing, or health. The costs to society of not providing for these needs can be tragic.

The cuts in funding for LIHEAP are disappointing. Yet I am hopeful that with the strong leadership of Chairman NATCHER and the members of the subcommittee we can collectively work together in conference to restore the funding of this vital program.

I urge my colleagues to look at these cuts and how they will affect your constituents; and I ask the Members in the other body to truly consider the effects that this cut will have on our Nation's disadvantaged when they consider this appropriation bill in the Senate.

Mr. SCHEUER. Mr. Chairman, I rise today to express my dismay over H.R. 2707's proposed cut of LIHEAP, the Low Income Home Energy Assistance Program. This program serves low-income children and families, the disabled, and many fixed income elderly. The average family income for a LIHEAP recipient household is less than $6,000 a year. For these families, LIHEAP does not supply frivolities; rather, it allows their basic energy needs—for heating, light, hot water, emergency cooling—to be met.

In my home State of New York alone, an estimated quarter of a million households will no longer be eligible for the LIHEAP Program. Nationwide, the number of ineligible swells to 1.9 million. Families that do qualify will be forced to choose among energy needs: Will they pay the rent or have light; heat the house or have hot water?

The argument has been made that fully funding LIHEAP would use money which could otherwise be allocated for education programs served under the HHS budget. We must consider that even the best education programs will not aid poor children if they must return to a house in which it is too cold to study due to the decrease in LIHEAP funding.

I realize that times are tough and we must control Federal spending. However as the ranks of the "new poor" continue to grow, this Congress cannot afford to overlook the needs of the less fortunate and slash this crucial program.

□ 1620

The CHAIRMAN pro tempore (Mr. WHEAT). All time has expired.

Does the gentleman from New Jersey [Mr. SMITH] insist upon his preferential motion?

Mr. SMITH of New Jersey. No, Mr. Chairman, I withdraw my motion.

The CHAIRMAN pro tempore. Without objection, the preferential motion is withdrawn.

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise

and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker, having assumed the chair, Mr. WHEAT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2707) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

□ 1624

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. BOXER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 74, not voting 5, as follows:

[Roll No. 200]

YEAS—353

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—74

Allard
Archer
Armey
Ballenger
Barrett
Barton
Bennett
Boehner
Bunning
Burton
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Gallegly
Gradison
Hall (TX)
Hancock
Hansen
Hefley
Henry
Herger
Holloway
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kyl
Lagomarsino
Lightfoot
Lipinski
Livingston
Marlenee
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Moorhead
Nichols
Nussle
Packard
Pallone
Paxon
Petri
Quillen
Roberts
Roe
Rohrabacher
Roth
Santorum
Sarpalius
Sensenbrenner
Shuster
Smith (NJ)
Smith (OR)
Spence
Stump
Tauzin
Thomas (CA)
Thomas (WY)
Walker
Zeliff

NOT VOTING—5

Hopkins
Mrazek
Rhodes
Solomon
Sundquist

□ 1646

Messrs. IRELAND, GALLEGLY, SPENCE, and JOHNSON of Texas changed their vote from "yea" to "nay."

Messrs. COBLE, VOLKMER, KASICH, and EMERSON changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DETAILED TABLE SETTING FORTH AMOUNTS PROVIDED IN H.R. 2707, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Madam Speaker, I ask unanimous consent to insert in the RECORD at this point a detailed table showing the amounts provided for in H.R. 2707, the bill just passed, with appropriate comparisons.

The SPEAKER pro tempore. (Mrs. UNSOELD). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The table referred to is as follows:

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
SUMMARY					
Title I - Department of Labor:					
Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	-106,464,000	+98,626,000
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(+167,491,000)	(+114,512,000)
Title II - Department of Health and Human Services:					
Federal Funds (all years)	151,535,902,000	165,657,345,000	167,266,742,000	+15,730,840,000	+1,609,397,000
Current year	(130,398,968,000)	(139,119,345,000)	(139,605,750,000)	(+9,206,782,000)	(+486,405,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(+383,052,000)	(+394,633,000)
Title III - Department of Education:					
Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	+5,382,639,000	+1,685,187,000
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(+4,248,532,000)	(+1,685,187,000)
Title IV - Related Agencies:					
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	-49,677,000	-6,377,000
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(+15,650,000)	(+314,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(+10,252,000)	(-12,632,000)
Total, all titles:					
Federal Funds (all years)	183,040,909,000	200,611,414,000	203,998,247,000	+20,957,338,000	+3,386,833,000
Current year	(161,585,339,000)	(173,813,414,000)	(176,083,946,000)	(+14,498,607,000)	(+2,270,532,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(+560,795,000)	(+496,513,000)
TITLE I - DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
PROGRAM ADMINISTRATION 1/					
Job training programs	19,884,000	21,528,000	21,528,000	+1,644,000	.....
Trust funds	(2,118,000)	(2,179,000)	(2,179,000)	(+61,000)	.....
Employment security	316,000	442,000	442,000	+126,000	.....
Trust funds	(12,611,000)	(13,472,000)	(13,472,000)	(+861,000)	.....
Financial and administrative management	13,343,000	14,502,000	14,502,000	+1,159,000	.....
Trust funds	(10,075,000)	(10,686,000)	(10,686,000)	(+611,000)	.....
Executive direction and administration	4,376,000	5,031,000	5,031,000	+655,000	.....
Trust funds	(3,870,000)	(4,047,000)	(4,047,000)	(+177,000)	.....
Regional operations	15,215,000	16,132,000	16,132,000	+917,000	.....
Trust funds	(24,319,000)	(26,745,000)	(26,745,000)	(+2,426,000)	.....
Apprenticeship services	16,051,000	16,553,000	16,553,000	+502,000	.....
Total, Program Administration	122,178,000	131,317,000	131,317,000	+9,139,000	.....
Federal funds	69,185,000	74,188,000	74,188,000	+5,003,000	.....
Trust funds	(52,993,000)	(57,129,000)	(57,129,000)	(+4,136,000)	.....
TRAINING AND EMPLOYMENT SERVICES					
Grants to States:					
Block grant	1,778,484,000	1,778,484,000	1,773,484,000	-5,000,000	-5,000,000
Summer youth employment and training program	682,912,000	682,912,000	682,912,000	.....	.....
Dislocated worker assistance	526,986,000	526,986,000	576,986,000	+50,000,000	+50,000,000
Federally administered programs:					
Native Americans	59,625,000	58,690,000	59,625,000	.....	+935,000
Migrants and seasonal farmworkers	70,288,000	56,911,000	75,288,000	+5,000,000	+18,377,000
Job Corps:					
Operations	800,238,000	837,033,000	846,033,000	+45,795,000	+9,000,000
Construction and renovation 2/	67,259,000	50,464,000	52,464,000	-14,795,000	+2,000,000
Subtotal, Job Corps	867,497,000	887,497,000	898,497,000	+31,000,000	+11,000,000
Veterans' employment	9,120,000	8,792,000	9,120,000	.....	+328,000
National activities:					
Pilots and demonstrations	36,216,000	27,753,000	27,753,000	-8,463,000	.....
Research, demonstration and evaluation	12,927,000	10,000,000	10,000,000	-2,927,000	.....
Other	22,673,000	13,706,000	16,706,000	-5,967,000	+3,000,000
Subtotal, National activities	71,816,000	51,459,000	54,459,000	-17,357,000	+3,000,000
Subtotal, Federal activities	1,078,346,000	1,063,349,000	1,096,989,000	+18,643,000	+33,640,000
Total, Job Training Partnership Act	4,066,728,000	4,051,731,000	4,130,371,000	+63,643,000	+78,640,000
Job training for the homeless	11,223,000	.....	7,400,000	-3,823,000	+7,400,000
Total, Training and Employment Services	4,077,951,000	4,051,731,000	4,137,771,000	+59,820,000	+86,040,000

1/ Reflects reprogramming approved 5/91.

2/ 1992 request includes $20,000,000 reappropriation request.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS					
National contracts	304,481,000	267,395,000	304,481,000		+37,086,000
State grants	85,879,000	75,419,000	85,879,000		+10,460,000
Total	390,360,000	342,814,000	390,360,000		+47,546,000
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES 1/					
Trade adjustment	269,000,000	226,000,000	226,000,000	-43,000,000	
Other activities	500,000	250,000	250,000	-250,000	
Total	269,500,000	226,250,000	226,250,000	-43,250,000	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS					
Unemployment Compensation (Trust Funds):					
State Operations 2/	(1,458,435,000)	(1,510,973,000)	(1,510,973,000)	(+52,538,000)	
State Integrity activities	(278,249,000)	(304,723,000)	(304,723,000)	(+26,474,000)	
National Activities	(6,213,000)	(6,486,000)	(6,486,000)	(+273,000)	
Contingency	(391,544,000)	(440,703,000)	(440,703,000)	(+49,159,000)	
Subtotal, Unemployment Compensation (trust funds)	(2,134,441,000)	(2,262,885,000)	(2,262,885,000)	(+128,444,000)	
Employment Service:					
Allotments to States:					
Federal funds	21,177,000	22,500,000	21,177,000		-1,323,000
Trust funds	(783,940,000)	(727,500,000)	(783,940,000)		(+56,440,000)
Subtotal	805,117,000	750,000,000	805,117,000		+55,117,000
National Activities:					
Federal funds	3,806,000	2,200,000	2,200,000	-1,606,000	
Trust funds 3/	(56,114,000)	(72,500,000)	(85,000,000)	(+28,886,000)	(+12,500,000)
Targeted jobs tax credit 4/	(19,518,000)	(20,000,000)	(20,000,000)	(+482,000)	
Subtotal, Employment Service	884,555,000	844,700,000	912,317,000	+27,762,000	+67,617,000
Federal funds	24,983,000	24,700,000	23,377,000	-1,606,000	-1,323,000
Trust funds	(859,572,000)	(820,000,000)	(888,940,000)	(+29,368,000)	(+68,940,000)
Total, State Unemployment 5/	3,018,996,000	3,107,585,000	3,175,202,000	+156,206,000	+67,617,000
Federal Funds	24,983,000	24,700,000	23,377,000	-1,606,000	-1,323,000
Trust Funds	(2,994,013,000)	(3,082,885,000)	(3,151,825,000)	(+157,812,000)	(+68,940,000)
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	328,000,000	236,990,000	236,990,000	-91,010,000	
Total, Employment and Training Administration	8,208,985,000	8,096,687,000	8,297,890,000	+90,905,000	+201,203,000
Federal funds	5,159,979,000	4,956,673,000	5,088,936,000	-71,043,000	+132,263,000
Trust funds	(3,047,006,000)	(3,140,014,000)	(3,208,954,000)	(+161,948,000)	(+68,940,000)
LABOR - MANAGEMENT SERVICES					
SALARIES AND EXPENSES					
Labor-management relations service	5,733,000	5,526,000	5,526,000	-207,000	
Labor-management standards enforcement	25,238,000	26,530,000	26,530,000	+1,292,000	
Pension and welfare benefit programs	56,405,000	63,784,000	63,784,000	+7,379,000	
Total, LMSA	87,376,000	95,840,000	95,840,000	+8,464,000	
PENSION BENEFIT GUARANTY CORPORATION					
Program Administration subject to limitation (Trust Funds)	(41,641,000)	(47,787,000)	(47,787,000)	(+6,146,000)	
Services related to terminations not subject to limitations (Trust Funds)	(27,773,000)	(25,025,000)	(25,025,000)	(-2,748,000)	
Total, PBGC (trust funds)	(69,414,000)	(72,812,000)	(72,812,000)	(+3,398,000)	
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES 1/					
Enforcement of wage and hour standards	91,295,000	97,336,000	97,336,000	+6,041,000	
Federal contractor EEO standards enforcement	52,585,000	55,909,000	55,909,000	+3,324,000	
Federal programs for workers' compensation	60,427,000	67,985,000	67,985,000	+7,558,000	
Trust funds	(992,000)	(1,035,000)	(1,035,000)	(+43,000)	
Executive direction and support services	10,846,000	11,396,000	11,396,000	+550,000	
Total, salaries and expenses	216,145,000	233,661,000	233,661,000	+17,516,000	
Federal funds	215,153,000	232,626,000	232,626,000	+17,473,000	
Trust funds	(992,000)	(1,035,000)	(1,035,000)	(+43,000)	

1/ Does not include $164,000,000 in savings proposed for later transmittal.

2/ FY 1991 total includes $18,427,000 for automation activities, available for obligation April 1, 1991.

3/ FY 1991 total for computer operations not available for obligation until Oct. 1, 1991. Recommendation includes $12,500,000 for computer operations, not available for obligation until 9/30/92.

4/ Reflects FY 1992 budget amendment transmitted Feb. 22, 1991.

5/ Includes Federal, Trust and advance Trust funds.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
SPECIAL BENEFITS					
Federal employees compensation benefits	318,000,000	188,000,000	188,000,000	-130,000,000	.....
Longshore and harbor workers' benefits	4,000,000	4,000,000	4,000,000	.....	.....
Total, Special Benefits	322,000,000	192,000,000	192,000,000	-130,000,000	.....
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments and interest on advances	866,019,000	861,135,000	861,135,000	-4,884,000	.....
Employment Standards Administration, salaries and expenses	28,900,000	30,145,000	30,145,000	+1,245,000	.....
Departmental Management, salaries and expenses	23,171,000	25,579,000	25,579,000	+2,408,000	.....
Departmental Management, Inspector general	371,000	333,000	333,000	-38,000	.....
Subtotal, Black Lung Disability Trust Fund, appropriation	918,461,000	917,192,000	917,192,000	-1,269,000	.....
Treasury administrative costs (indefinite)	756,000	756,000	756,000	.....	.....
Total, Black Lung Disability Trust Fund	919,217,000	917,948,000	917,948,000	-1,269,000	.....
Total, Employment Standards Administration	1,457,362,000	1,343,609,000	1,343,609,000	-113,753,000	.....
Federal funds	1,456,370,000	1,342,574,000	1,342,574,000	-113,796,000	.....
Trust funds	(992,000)	(1,035,000)	(1,035,000)	(+43,000)	.....
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES 1/					
Safety and health standards	7,620,000	8,078,000	8,078,000	+458,000	.....
Enforcement:					
Federal Enforcement	123,935,000	133,508,000	133,508,000	+9,573,000	.....
State programs	63,731,000	66,344,000	66,344,000	+2,613,000	.....
Technical Support	16,684,000	17,708,000	17,708,000	+1,024,000	.....
Compliance Assistance	37,370,000	38,942,000	38,942,000	+1,572,000	.....
Safety and health statistics	29,116,000	30,390,000	30,390,000	+1,274,000	.....
Executive direction and administration	6,737,000	7,137,000	7,137,000	+400,000	.....
Total, OSHA	285,193,000	302,107,000	302,107,000	+16,914,000	.....
MINE SAFETY AND HEALTH ADMINISTRATION 2/					
SALARIES AND EXPENSES					
Enforcement:					
Coal	87,338,000	94,750,000	94,750,000	+7,412,000	.....
Metal/nonmetal	35,223,000	37,718,000	37,718,000	+2,495,000	.....
Standards development	1,363,000	1,516,000	1,516,000	+153,000	.....
Assessments	2,313,000	2,455,000	2,455,000	+142,000	.....
Educational policy and development	14,953,000	14,152,000	14,152,000	-801,000	.....
Technical support	20,563,000	21,322,000	21,322,000	+759,000	.....
Program administration	11,808,000	14,244,000	14,244,000	+2,436,000	.....
Total, Mine Safety and Health Administration	173,561,000	186,157,000	186,157,000	+12,596,000	.....
BUREAU OF LABOR STATISTICS					
SALARIES AND EXPENSES					
Employment and Unemployment Statistics	67,159,000	85,709,000	85,709,000	+18,550,000	.....
Labor Market Information (Trust Funds)	(51,488,000)	(50,399,000)	(50,399,000)	(-1,089,000)	.....
Prices and cost of living	74,336,000	85,000,000	85,000,000	+10,664,000	.....
Wages and industrial relations	25,738,000	45,216,000	45,216,000	+19,478,000	.....
Productivity and technology	5,699,000	6,316,000	6,316,000	+617,000	.....
Economic growth and employment projections	3,479,000	3,844,000	3,844,000	+365,000	.....
Executive direction and staff services	27,258,000	32,419,000	32,419,000	+5,161,000	.....
Total, Bureau of Labor Statistics	255,157,000	308,903,000	308,903,000	+53,746,000	.....
Federal Funds	203,669,000	258,504,000	258,504,000	+54,835,000	.....
Trust Funds	(51,488,000)	(50,399,000)	(50,399,000)	(-1,089,000)	.....
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Executive direction	21,419,000	27,911,000	24,911,000	+3,492,000	-3,000,000
Legal services	52,722,000	58,588,000	58,588,000	+5,866,000	.....
Trust funds 3/	(278,000)	(332,000)	(332,000)	(+54,000)	.....
International labor affairs	6,572,000	7,284,000	7,284,000	+712,000	.....
Administration and management	20,209,000	21,812,000	21,175,000	+966,000	-637,000
Adjudication	14,603,000	16,187,000	16,187,000	+1,584,000	.....
Promoting employment of the disabled	4,077,000	4,078,000	4,078,000	+1,000	.....
Women's Bureau	7,413,000	7,562,000	7,562,000	+149,000	.....
Civil Rights Activities	4,338,000	4,534,000	4,534,000	+196,000	.....
Total, Salaries and expenses	131,631,000	148,288,000	144,651,000	+13,020,000	-3,637,000
Federal funds	131,353,000	147,956,000	144,319,000	+12,966,000	-3,637,000
Trust funds	(278,000)	(332,000)	(332,000)	(+54,000)	.....

1/ Reflects reprogramming approved 5/91.

2/ Reflects reprogramming approved 5/91.

3/ FY 1992 amount incorrectly reflected in Appendix bill language.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
VETERANS EMPLOYMENT AND TRAINING					
State Administration:					
Disabled Veterans Outreach Program	(77,170,000)	(34,910,000)	(79,170,000)	(+2,000,000)	(+44,260,000)
Local Veterans Employment Program	(71,095,000)	(74,223,000)	(73,095,000)	(+2,000,000)	(-1,128,000)
Subtotal, State Administration	(148,265,000)	(109,133,000)	(152,265,000)	(+4,000,000)	(+43,132,000)
Federal Administration	(21,180,000)	(20,054,000)	(20,054,000)	(-1,126,000)	.....
National Veterans Training Institute	(2,440,000)	.....	(2,440,000)	.....	(+2,440,000)
Total, Trust Funds	(171,885,000)	(129,187,000)	(174,759,000)	(+2,874,000)	(+45,572,000)
OFFICE OF THE INSPECTOR GENERAL 1/					
Audit:					
Federal funds	20,693,000	20,673,000	20,673,000	-20,000	.....
Trust funds	(3,784,000)	(4,023,000)	(4,023,000)	(+239,000)	.....
Investigation:					
Federal funds	7,729,000	8,245,000	8,245,000	+516,000	.....
Trust funds	(310,000)	(334,000)	(334,000)	(+24,000)	.....
Office of Labor Racketeering	10,495,000	11,322,000	11,322,000	+827,000	.....
Executive Direction and Management	5,119,000	6,396,000	6,396,000	+1,277,000	.....
Total, Office of the Inspector General	48,130,000	50,993,000	50,993,000	+2,863,000	.....
Federal funds	44,036,000	46,636,000	46,636,000	+2,600,000	.....
Trust funds	(4,094,000)	(4,357,000)	(4,357,000)	(+263,000)	.....
Total, Departmental Management	351,646,000	328,468,000	370,403,000	+18,757,000	+41,935,000
Federal funds	175,389,000	194,592,000	190,955,000	+15,566,000	-3,637,000
Trust funds	(176,257,000)	(133,876,000)	(179,448,000)	(+3,191,000)	(+45,572,000)
Undistributed salaries and expenses reduction	.....	.....	-30,000,000	-30,000,000	-30,000,000
Total, Labor Department 2/	10,886,694,000	10,734,563,000	10,947,721,000	+61,027,000	+213,138,000
Federal funds	7,541,537,000	7,336,447,000	7,435,073,000	-106,464,000	+98,626,000
Trust funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(+167,491,000)	(+114,512,000)
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HEALTH RESOURCES AND SERVICES ADMINISTRATION					
HEALTH RESOURCES AND SERVICES 3/					
Health Care Delivery and Assistance:					
Community health centers	478,191,000	478,191,000	478,191,000	.....	.....
Rural outreach grants	19,518,000	.....	.....	-19,518,000	.....
HUD health service grants	3,416,000	3,000,000	7,500,000	+4,084,000	+4,500,000
Targeted infant mortality initiative:					
Healthy start	25,000,000	138,659,000	69,330,000	+44,330,000	-69,329,000
Community health centers	.....	.....	69,329,000	+69,329,000	+69,329,000
Subtotal	25,000,000	138,659,000	138,659,000	+113,659,000	.....
Total, Community Health Services	526,125,000	619,850,000	624,350,000	+98,225,000	+4,500,000
Migrant health	51,723,000	51,723,000	51,723,000	.....	.....
Black lung clinics	3,708,000	3,708,000	3,708,000	.....	.....
Health care for the homeless	39,036,000	63,041,000	51,000,000	+11,964,000	-12,041,000
Family planning	144,311,000	150,000,000	.....	-144,311,000	-150,000,000
National Health Service Corps:					
Field placements	42,256,000	42,256,000	42,256,000	.....	.....
Loans and scholarships	48,795,000	53,795,000	58,795,000	+10,000,000	+5,000,000
Subtotal, National Health Service Corps	91,051,000	96,051,000	101,051,000	+10,000,000	+5,000,000
Hansen's Disease services (Carville)	19,792,000	19,489,000	19,489,000	-303,000	.....
Payment to Hawaii, treatment of Hansen's Disease	3,383,000	3,000,000	3,000,000	-383,000	.....
Home health demonstration grants	2,928,000	.....	.....	-2,928,000	.....
Total, Health Care Delivery and Assistance	882,057,000	1,006,862,000	854,321,000	-27,736,000	-152,541,000
Health Professions:					
Exceptional need scholarships	9,759,000	10,400,000	9,759,000	.....	-641,000
Minority centers of excellence	14,151,000	14,920,000	27,920,000	+13,769,000	+13,000,000
Public health special projects	3,757,000	.....	3,757,000	.....	+3,757,000
Health administration grants	1,554,000	.....	1,554,000	.....	+1,554,000
Public health traineeships	3,416,000	.....	3,416,000	.....	+3,416,000
Health administration traineeships	484,000	.....	484,000	.....	+484,000
Preventive medicine residencies	1,654,000	.....	1,654,000	.....	+1,654,000
Family medicine residencies	36,108,000	.....	36,108,000	.....	+36,108,000
General dentistry residencies	3,834,000	.....	3,834,000	.....	+3,834,000
General internal medicine and pediatrics	17,256,000	.....	17,256,000	.....	+17,256,000
Family medicine departments	6,831,000	.....	6,831,000	.....	+6,831,000
Physician assistants	5,021,000	.....	5,021,000	.....	+5,021,000
Area health education centers	19,237,000	.....	19,237,000	.....	+19,237,000

1/ Reflects reprogramming approved 5/91.

2/ Includes Federal and Trust funds.

3/ Budget and recommendation include delayed obligation of $86,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Health education and training centers	3,904,000		3,904,000		+3,904,000
Health professions data analysis	1,762,000		1,762,000		+1,762,000
Disadvantaged assistance	30,817,000	32,841,000	30,817,000		-2,024,000
Disadvantaged minority health improvement	10,734,000	10,734,000	23,234,000	+12,500,000	+12,500,000
Minority HPSL initiative	2,928,000	15,000,000	15,000,000	+12,072,000	
Allied health grants and contracts	1,659,000		1,659,000		+1,659,000
Interdisciplinary traineeships	4,392,000		4,392,000		+4,392,000
Health professions special education initiatives	2,398,000		2,398,000		+2,398,000
Geriatric centers and training	13,708,000		13,708,000		+13,708,000
Pacific Basin activities (including Medical officer training)	2,440,000		2,440,000		+2,440,000
Native Hawaiian health care	3,416,000		3,416,000		+3,416,000
National practitioner data bank	1,926,000	5,000,000	7,000,000	+5,074,000	+2,000,000
User fees		-5,000,000	-5,000,000	-5,000,000	
Nurse training:					
Advanced nurse education	12,463,000		12,463,000		+12,463,000
Nurse practitioners / nurse midwives	14,639,000		14,639,000		+14,639,000
Special projects	10,532,000		10,532,000		+10,532,000
Traineeships	13,664,000		13,664,000		+13,664,000
Nurse anesthetists	1,430,000		1,430,000		+1,430,000
Undergraduate scholarships	2,380,000		2,380,000		+2,380,000
Loan repayment for shortage area service	1,455,000		1,455,000		+1,455,000
Nurse disadvantaged assistance	3,416,000	4,160,000	3,416,000		-744,000
Subtotal, Nurse training	59,979,000	4,160,000	59,979,000		+55,819,000
Total, Health professions	263,125,000	88,055,000	301,540,000	+38,415,000	+213,485,000
MCH and Resources Development:					
Maternal and child health block grant	587,310,000	553,627,000	580,000,000	-7,310,000	+26,373,000
Pediatric emergency care	4,880,000		4,880,000		+4,880,000
Organ transplantation	3,723,000	3,387,000	5,137,000	+1,414,000	+1,750,000
Health teaching facilities interest subsidies	476,000	450,000	450,000	-26,000	
Perinatal facilities	976,000			-976,000	
Total, Resources Development	597,365,000	557,464,000	590,467,000	-6,898,000	+33,003,000
Buildings and facilities	1,844,000			-1,844,000	
Rural health research	4,674,000	4,139,000	4,139,000	-535,000	
Acquired Immune Deficiency Syndrome (AIDS):					
Training of health personnel	17,029,000	17,029,000	17,029,000		
Facilities renovation grants	4,029,000	4,029,000		-4,029,000	-4,029,000
Pediatric health care demonstrations	19,518,000	19,518,000	19,518,000		
Ryan White AIDS Programs:					
Emergency assistance	87,831,000	87,831,000	100,000,000	+12,169,000	+12,169,000
Comprehensive care programs	87,831,000	87,831,000	91,819,000	+3,988,000	+3,988,000
Early intervention program	44,891,000	44,891,000	55,000,000	+10,109,000	+10,109,000
Subtotal, Ryan White AIDS programs	220,553,000	220,553,000	246,819,000	+26,266,000	+26,266,000
Subtotal, AIDS	261,129,000	261,129,000	283,366,000	+22,237,000	+22,237,000
Program management including AIDS	98,548,000	100,851,000	103,700,000	+5,152,000	+2,849,000
Total, Health resources and services	2,108,742,000	2,018,500,000	2,137,533,000	+28,791,000	+119,033,000
MEDICAL FACILITIES GUARANTEE AND LOAN FUND: Interest subsidy program	20,000,000	19,000,000	19,000,000	-1,000,000	
HEALTH EDUCATION ASSISTANCE LOANS PROGRAM (HEAL):					
New loan subsidies		21,813,000	30,000,000	+30,000,000	+8,187,000
Liquidating account		35,502,000	48,000,000	+48,000,000	+12,498,000
HEAL loan limitation (non-add)	(260,000,000)	(185,000,000)	(260,000,000)		(+75,000,000)
Subtotal		57,315,000	78,000,000	+78,000,000	+20,685,000
Program management	1,400,000	1,500,000	1,500,000	+100,000	
Total, HEAL	1,400,000	58,815,000	79,500,000	+78,100,000	+20,685,000
VACCINE INJURY COMPENSATION:					
Pre - FY89 claims (appropriation)	79,920,000		80,000,000	+80,000	+80,000,000
Post - FY88 claims (trust fund)	154,080,000	84,920,000	84,920,000	-69,160,000	
HRSA administration (trust fund)	2,500,000	2,000,000	2,500,000		+500,000
Subtotal, Vaccine injury compensation	236,500,000	86,920,000	167,420,000	-69,080,000	+80,500,000
Total, Health Resources and Services Administration	2,366,642,000	2,183,235,000	2,403,453,000	+36,811,000	+220,218,000
CENTERS FOR DISEASE CONTROL DISEASE CONTROL 1/					
Preventive Health Services Block Grant	92,702,000	107,472,000	92,702,000		-14,770,000
Prevention centers	4,367,000	3,949,000	4,367,000		+418,000
Lead poisoning prevention	7,790,000	14,949,000	7,790,000		-7,159,000
Sexually transmitted diseases:					
Grants	73,638,000	77,638,000	73,638,000		-4,000,000
Direct operations	11,330,000	11,910,000	11,330,000		-580,000
Subtotal, Sexually transmitted diseases	84,968,000	89,548,000	84,968,000		-4,580,000

1/ Budget and recommendation include delayed obligation of $94,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Immunization:					
Grants	182,004,000	208,865,000	248,865,000	+66,861,000	+40,000,000
Direct operations	30,129,000	46,510,000	46,510,000	+16,381,000	.....
Vaccine stockpile	2,928,000	.....	.....	-2,928,000	.....
Adverse events reporting	2,470,000	2,470,000	2,470,000	.....	.....
Subtotal, Immunization programs	217,531,000	257,845,000	297,845,000	+80,314,000	+40,000,000
Infectious disease excluding AIDS/TB	43,689,000	45,179,000	45,179,000	+1,490,000	.....
Tuberculosis grants	9,109,000	12,334,000	13,334,000	+4,225,000	+1,000,000
Chronic and environmental disease prevention	51,408,000	56,664,000	56,664,000	+5,256,000	.....
Breast and cervical cancer screening	29,259,000	50,000,000	50,000,000	+20,741,000	.....
Injury control	24,036,000	26,066,000	26,066,000	+2,030,000	.....
Occupational Safety and Health (NIOSH):					
Research	86,508,000	86,508,000	86,508,000	.....	.....
Training	10,472,000	10,472,000	10,472,000	.....	.....
Subtotal, NIOSH	96,980,000	96,980,000	96,980,000	.....	.....
National Center for Health Statistics:					
Program operations	48,301,000	48,301,000	48,301,000	.....	.....
Program support	3,105,000	3,105,000	3,105,000	.....	.....
1% evaluation funds (non-add)	(19,000,000)	(33,800,000)	(25,000,000)	(+6,000,000)	(-8,800,000)
Subtotal, health statistics	51,406,000	51,406,000	51,406,000	.....	.....
Epidemic services	68,714,000	78,228,000	73,714,000	+5,000,000	-4,514,000
Buildings and facilities	31,951,000	8,338,000	6,338,000	-25,613,000	-2,000,000
Program management	3,016,000	3,309,000	3,309,000	+293,000	.....
Acquired Immune Deficiency Syndrome (AIDS)	494,660,000	494,660,000	480,000,000	-14,660,000	-14,660,000
Total, Disease Control	1,311,586,000	1,396,927,000	1,390,662,000	+79,076,000	-6,265,000
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS) 1/					
National Cancer Institute	1,676,507,000	1,772,560,000	1,793,257,000	+116,750,000	+20,697,000
Research training	37,252,000	37,670,000	37,252,000	.....	-418,000
Subtotal	1,713,759,000	1,810,230,000	1,830,509,000	+116,750,000	+20,279,000
National Heart, Lung, and Blood Institute	1,080,251,000	1,162,725,000	1,155,707,000	+75,456,000	-7,018,000
Research training	46,691,000	47,199,000	46,691,000	.....	-508,000
Subtotal	1,126,942,000	1,209,924,000	1,202,398,000	+75,456,000	-7,526,000
National Institute of Dental Research	142,867,000	154,771,000	155,184,000	+12,317,000	+413,000
Research training	6,051,000	6,168,000	6,051,000	.....	-117,000
Subtotal	148,918,000	160,939,000	161,235,000	+12,317,000	+296,000
National Institute of Diabetes, Digestive, and Kidney Diseases	590,853,000	633,863,000	643,401,000	+52,548,000	+9,538,000
Research training	24,419,000	24,694,000	24,419,000	.....	-275,000
Subtotal	615,272,000	658,557,000	667,820,000	+52,548,000	+9,263,000
National Institute of Neurological Disorders and Stroke	528,398,000	569,838,000	570,010,000	+41,612,000	+172,000
Research training	13,345,000	13,517,000	13,345,000	.....	-172,000
Subtotal	541,743,000	583,355,000	583,355,000	+41,612,000	.....
National Institute of Allergy and Infectious Diseases	887,089,000	955,581,000	952,643,000	+65,554,000	-2,938,000
Research training	20,187,000	21,130,000	20,187,000	.....	-943,000
Subtotal	907,276,000	976,711,000	972,830,000	+65,554,000	-3,881,000
National Institute of General Medical Sciences	667,930,000	738,292,000	728,080,000	+60,150,000	-10,212,000
Research training	92,080,000	94,888,000	92,080,000	.....	-2,808,000
Subtotal	760,010,000	833,180,000	820,160,000	+60,150,000	-13,020,000
National Institute of Child Health and Human Development	462,584,000	503,137,000	508,289,000	+45,705,000	+5,152,000
Research training	16,372,000	17,447,000	16,372,000	.....	-1,075,000
Subtotal	478,956,000	520,584,000	524,661,000	+45,705,000	+4,077,000
National Eye Institute	245,947,000	264,767,000	264,966,000	+19,019,000	+199,000
Research training	7,294,000	7,493,000	7,294,000	.....	-199,000
Subtotal	253,241,000	272,260,000	272,260,000	+19,019,000	.....
National Institute of Environmental Health Sciences	230,122,000	243,472,000	244,006,000	+13,884,000	+534,000
Research training	10,906,000	11,012,000	10,906,000	.....	-106,000
Subtotal	241,028,000	254,484,000	254,912,000	+13,884,000	+428,000
National Institute on Aging	313,969,000	338,664,000	352,745,000	+38,776,000	+14,081,000
Research training	9,783,000	9,894,000	9,783,000	.....	-111,000
Subtotal	323,752,000	348,558,000	362,528,000	+38,776,000	+13,970,000
National Institute of Arthritis and Musculoskeletal and Skin Diseases	186,393,000	197,859,000	198,123,000	+11,730,000	+264,000
Research training	6,854,000	6,938,000	6,854,000	.....	-84,000
Subtotal	193,247,000	204,797,000	204,977,000	+11,730,000	+180,000

1/ Budget and recommendation include delayed obligation of $400,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
National Institute on Deafness and Other Communication Disorders	130,950,000	142,287,000	140,510,000	+9,560,000	-1,777,000
Research training	3,985,000	4,034,000	3,985,000		-49,000
Subtotal	134,935,000	146,321,000	144,495,000	+9,560,000	-1,826,000
National Center for Research Resources	332,589,000	318,230,000	306,534,000	-26,055,000	-11,696,000
Research training	2,666,000	2,745,000	2,666,000		-79,000
Subtotal	335,255,000	320,975,000	309,200,000	-26,055,000	-11,775,000
National Center for Nursing Research	35,330,000	39,247,000	38,751,000	+3,421,000	-496,000
Research training	4,392,000	4,500,000	4,392,000		-108,000
Subtotal	39,722,000	43,747,000	43,143,000	+3,421,000	-604,000
National Center for Human Genome Research	83,309,000	105,178,000	89,006,000	+5,697,000	-16,172,000
Research training	4,109,000	5,309,000	4,109,000		-1,200,000
Subtotal	87,418,000	110,487,000	93,115,000	+5,697,000	-17,372,000
John E. Fogarty International Center	17,519,000	19,922,000	19,922,000	+2,403,000	
National Library of Medicine:					
Regular program	66,251,000	73,308,000	74,408,000	+8,157,000	+1,100,000
Medical library assistance	14,691,000	16,309,000	14,691,000		-1,618,000
Biotechnology information	10,466,000	10,937,000	10,466,000		-471,000
Subtotal	91,408,000	100,554,000	99,565,000	+8,157,000	-989,000
Office of the Director	97,651,000	95,176,000	149,176,000	+51,525,000	+54,000,000
Buildings and facilities	168,687,000	104,125,000	108,625,000	-60,062,000	+4,500,000
Total, N.I.H. funding including AIDS	8,276,739,000	8,774,886,000	8,824,886,000	+548,147,000	+50,000,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH (INCLUDES AIDS)					
National Institute of Mental Health:					
Research	455,500,000	491,754,000	491,754,000	+36,254,000	
Instrumentation grants	1,323,000	1,338,000	1,323,000		-15,000
Research training	26,942,000	27,701,000	26,942,000		-759,000
Clinical training	13,670,000		8,000,000	-5,670,000	+8,000,000
Community support demonstrations	24,885,000	25,880,000	24,885,000		-995,000
Prevention demonstrations	4,880,000	5,075,000	4,880,000		-195,000
Grants to States for the homeless (PATH)	26,153,000	43,116,000	26,153,000		-16,963,000
Homeless services demonstrations	5,861,000		5,861,000		+5,861,000
Homeless research demonstrations		20,000,000			-20,000,000
Protection and advocacy	15,614,000		15,614,000		+15,614,000
Direct operations	40,982,000	43,982,000	43,982,000	+3,000,000	
Subtotal, mental health	615,810,000	658,846,000	649,394,000	+33,584,000	-9,452,000
National Institute on Drug Abuse:					
Research	257,896,000	284,624,000	270,000,000	+12,104,000	-14,624,000
Instrumentation grants	504,000	524,000	504,000		-20,000
Research training	6,783,000	7,020,000	6,783,000		-237,000
Treatment demonstrations	45,465,000	46,955,000	46,955,000	+1,490,000	
AIDS demonstrations	73,193,000	71,550,000	71,550,000	-1,643,000	
Direct operations	32,186,000	35,552,000	35,552,000	+3,366,000	
Subtotal, drug abuse	416,027,000	446,225,000	431,344,000	+15,317,000	-14,881,000
National Institute on Alcoholism and Alcohol Abuse:					
Research	138,849,000	149,932,000	149,932,000	+11,083,000	
Instrumentation grants	575,000	581,000	575,000		-6,000
Research training	3,542,000	3,666,000	3,542,000		-124,000
Substance abuse homeless demonstrations	15,983,000		15,983,000		+15,983,000
Direct operations	11,789,000	12,596,000	12,596,000	+807,000	
Subtotal, alcoholism	170,738,000	166,775,000	182,628,000	+11,890,000	+15,853,000
Office for Treatment Improvement:					
Alcohol, Drug Abuse and Mental Health block grant	1,268,670,000	1,268,670,000	1,235,000,000	-33,670,000	-33,670,000
Treatment grants to crisis areas	31,296,000	32,548,000	31,296,000		-1,252,000
Treatment improvement grants	83,363,000	86,698,000	83,363,000		-3,335,000
Capacity expansion program		68,000,000			-68,000,000
Transfer from forfeiture fund		(31,000,000)			(-31,000,000)
Treatment waiting list grants reappropriation	38,545,000			-38,545,000	
Direct operations	5,209,000	7,718,000	7,718,000	+2,509,000	
Subtotal, Treatment improvement	1,427,083,000	1,463,634,000	1,357,377,000	-69,706,000	-106,257,000
Office for Substance Abuse Prevention:					
Prevention programs	112,003,000	125,505,000	112,003,000		-13,502,000
Community youth activity program	20,162,000		15,162,000	-5,000,000	+15,162,000
Community prevention grants	99,118,000	113,852,000	99,118,000		-14,734,000
Training	25,986,000	25,986,000	25,986,000		
Direct operations	14,200,000	16,237,000	16,237,000	+2,037,000	
Subtotal, Substance Abuse Prevention	271,469,000	281,580,000	268,506,000	-2,963,000	-13,074,000

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	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Treatment outcome evaluations	8,134,000	8,598,000	8,598,000	+464,000	.....
Buildings and facilities	7,775,000	7,775,000	5,000,000	-2,775,000	-2,775,000
Office of the Administrator	11,368,000	14,895,000	14,895,000	+3,527,000	.....
Total, Alcohol, Drug Abuse and Mental Health	2,928,404,000	3,048,328,000	2,917,742,000	-10,662,000	-130,586,000
ST. ELIZABETHS HOSPITAL	11,711,000	.....	.....	-11,711,000	.....
Total, Alcohol, Drug Abuse and Mental Health Administration	2,940,115,000	3,048,328,000	2,917,742,000	-22,373,000	-130,586,000
ASSISTANT SECRETARY FOR HEALTH					
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH 1/					
Population affairs: Adolescent family life	7,789,000	12,000,000	.....	-7,789,000	-12,000,000
Health Initiatives :					
Office of Disease Prevention and Health Promotion	4,577,000	4,577,000	4,027,000	-550,000	-550,000
Physical fitness and sports	1,443,000	1,443,000	1,443,000	.....	.....
Minority health	14,470,000	15,016,000	15,016,000	+546,000	.....
National vaccine program	9,631,000	2,300,000	12,500,000	+2,869,000	+10,200,000
Health Service Management	21,020,000	21,220,000	21,770,000	+750,000	+550,000
Acquired Immune Deficiency Syndrome (AIDS)	8,238,000	8,773,000	8,773,000	+535,000	.....
Undistributed	.....	.....	5,789,000	+5,789,000	+5,789,000
Total, OASH	67,168,000	65,329,000	69,318,000	+2,150,000	+3,989,000
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS 2/					
Retirement payments	95,717,000	104,303,000	104,303,000	+8,586,000	.....
Survivors benefits	5,926,000	6,650,000	6,650,000	+724,000	.....
Dependent's medical care	19,230,000	20,499,000	20,499,000	+1,269,000	.....
Military Services Credits	3,399,000	3,222,000	3,222,000	-177,000	.....
Total, Retirement pay and medical benefits	124,272,000	134,674,000	134,674,000	+10,402,000	.....
AGENCY FOR HEALTH CARE POLICY AND RESEARCH					
Health services research:					
Research	25,424,000	5,329,000	25,424,000	.....	+20,095,000
Trust funds	(1,012,000)	(1,050,000)	(1,012,000)	.....	(-38,000)
AIDS	10,252,000	10,800,000	10,252,000	.....	-548,000
Program support	2,274,000	2,330,000	2,274,000	.....	-56,000
Subtotal including trust funds	38,962,000	19,509,000	38,962,000	.....	+19,453,000
1% evaluation funding (non-add)	(13,444,000)	(39,544,000)	(13,444,000)	.....	(-26,100,000)
Medical treatment effectiveness:					
Federal funds	57,806,000	15,824,000	57,806,000	.....	+41,982,000
Trust funds	(4,880,000)	(36,723,000)	(4,880,000)	.....	(-31,843,000)
Subtotal, Medical treatment effectiveness	62,686,000	52,547,000	62,686,000	.....	+10,139,000
1% evaluation funding (non-add)	.....	(10,400,000)	.....	.....	(-10,400,000)
Total, Health Care Policy and Research:					
Federal Funds	95,756,000	34,283,000	95,756,000	.....	+61,473,000
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	.....	(-31,881,000)
Total, 1% evaluation funding (non-add)	(13,444,000)	(49,944,000)	(13,444,000)	.....	(-36,500,000)
Total, Health Care Policy and Research (non-add)	(115,092,000)	(122,000,000)	(115,092,000)	.....	(-6,908,000)
PHS travel reduction	.....	.....	-8,000,000	-8,000,000	-8,000,000
Total, Public Health Service:					
Federal Funds	15,182,278,000	15,637,662,000	15,828,491,000	+646,213,000	+190,829,000
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	.....	(-31,881,000)
HEALTH CARE FINANCING ADMINISTRATION					
GRANTS TO STATES FOR MEDICAID 3/					
Medicaid current law benefits	48,794,085,000	56,712,895,000	56,712,895,000	+7,918,810,000	.....
State and local administration	2,760,865,000	3,186,254,000	3,186,254,000	+425,389,000	.....
Proposed legislation	.....	-91,500,000	.....	.....	+91,500,000
Subtotal, Medicaid program level, FY 1992	51,554,950,000	59,807,649,000	59,899,149,000	+8,344,199,000	+91,500,000
Less funds advanced in prior year	-10,400,000,000	-13,500,000,000	-13,500,000,000	-3,100,000,000	.....
Total, current request, FY 1992	41,154,950,000	46,307,649,000	46,399,149,000	+5,244,199,000	+91,500,000
New advance, 1st quarter, FY 1993	13,500,000,000	17,100,000,000	17,100,000,000	+3,600,000,000	.....

1/ Budget proposes delayed obligation of $4,000,000 until Sept. 19, 1992.

2/ Does not include $110,953,000 in savings proposed for later transmittal.

3/ Does not include $25,000,000 in legislative additions proposed for later transmittal.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
PAYMENTS TO HEALTH CARE TRUST FUNDS 1/					
Supplemental medical insurance	34,730,000,000	38,684,000,000	38,684,000,000	+3,954,000,000	
Hospital insurance for uninsured	559,000,000	584,000,000	584,000,000	+25,000,000	
Federal uninsured payment	46,000,000	37,000,000	37,000,000	-9,000,000	
Program management		116,485,000	116,485,000	+116,485,000	
Proposed legislation		-20,402,000			+20,402,000
Total, Payment to Trust Funds	35,335,000,000	39,401,083,000	39,421,485,000	+4,086,485,000	+20,402,000
PROGRAM MANAGEMENT					
Research, demonstration, and evaluation:					
Regular program, trust funds	(35,621,000)	(36,000,000)	(45,621,000)	(+10,000,000)	(+9,621,000)
Rural hospital transition demonstrations, trust funds	(24,398,000)		(21,000,000)	(-3,398,000)	(+21,000,000)
Essential access community hospitals, trust funds	(9,759,000)		(9,759,000)		(+9,759,000)
Subtotal, research, demonstration, and evaluation	(69,778,000)	(36,000,000)	(76,380,000)	(+6,602,000)	(+40,380,000)
Medicare Contractors (Trust Funds):					
Operating funds, current	(1,493,959,000)	(1,457,000,000)	(1,457,000,000)	(-36,959,000)	
Contingency reserve fund	(58,210,000)	(100,000,000)	(257,000,000)	(+198,790,000)	(+157,000,000)
Subtotal, Contractors	(1,552,169,000)	(1,557,000,000)	(1,714,000,000)	(+161,831,000)	(+157,000,000)
State Certification:					
Medicare certification, trust funds	(159,497,000)	(160,000,000)	(160,000,000)	(+503,000)	
Proposed legislation, user fees, trust funds		(-160,000,000)			(+160,000,000)
Subtotal, State certification	(159,497,000)		(160,000,000)	(+503,000)	(+160,000,000)
Federal Administration:					
Trust funds	(301,409,000)	(333,006,000)	(331,752,000)	(+30,343,000)	(-1,254,000)
Less current law user fees	(-248,000)	(-77,000)	(-77,000)	(+171,000)	
Proposed legislation, user fees, trust funds		(-34,902,000)			(+34,902,000)
Subtotal, Federal Administration	(301,161,000)	(298,027,000)	(331,675,000)	(+30,514,000)	(+33,648,000)
Total, Program management	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(+199,450,000)	(+391,028,000)
Total, Health Care Financing Administration:					
Federal funds	89,989,950,000	102,808,732,000	102,920,634,000	+12,930,684,000	+111,902,000
Current year, FY 1992	(76,489,950,000)	(85,708,732,000)	(85,820,634,000)	(+9,330,684,000)	(+111,902,000)
New advance, 1st quarter, FY 1993	(13,500,000,000)	(17,100,000,000)	(17,100,000,000)	(+3,600,000,000)	
Trust funds	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(+199,450,000)	(+391,028,000)
SOCIAL SECURITY ADMINISTRATION					
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	46,958,000	40,968,000	40,968,000	-5,990,000	
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	837,511,000	813,000,000	813,000,000	-24,511,000	
Administration	7,081,000	7,336,000	7,336,000	+255,000	
Subtotal, Black Lung, FY 1992 program level	844,592,000	820,336,000	820,336,000	-24,256,000	
Less funds advanced in prior year	-215,000,000	-203,000,000	-203,000,000	+12,000,000	
Total, Black Lung, current request, FY 1992	629,592,000	617,336,000	617,336,000	-12,256,000	
New advance, 1st quarter, FY 1993	203,000,000	198,000,000	198,000,000	-5,000,000	
SUPPLEMENTAL SECURITY INCOME 2/					
Federal benefit payments	16,184,751,000	16,105,000,000	16,105,000,000	-79,751,000	
Beneficiary services	32,517,000	39,100,000	39,100,000	+6,583,000	
Research demonstration	8,275,000	11,000,000	11,000,000	+2,725,000	
Administration	1,183,378,000	1,321,391,000	1,321,391,000	+138,013,000	
Zebley administration	232,000,000			-232,000,000	
Subtotal, SSI FY 1992 program level	17,640,921,000	17,476,491,000	17,476,491,000	-164,430,000	
Less funds advanced in prior year	-3,157,000,000	-3,550,000,000	-3,550,000,000	-393,000,000	
Total, SSI, current request, FY 1992	14,483,921,000	13,926,491,000	13,926,491,000	-557,430,000	
New advance, 1st quarter, FY 1993	3,550,000,000	5,240,000,000	5,240,000,000	+1,690,000,000	
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds) 3/	(3,557,159,000)	(3,884,000,000)	(3,934,000,000)	(+376,841,000)	(+50,000,000)
Zebley administration	(232,000,000)			(-232,000,000)	
Portion treated as budget authority	(600,150,000)	(648,000,000)	(648,000,000)	(+47,850,000)	
(Contingency reserve, non-add)	(46,385,000)	(50,000,000)	(100,000,000)	(+53,615,000)	(+50,000,000)
Subtotal, LAE	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(+192,691,000)	(+50,000,000)
Total, Social Security Administration:					
Federal funds	18,913,471,000	20,022,795,000	20,022,795,000	+1,109,324,000	
Current year FY 1992	(15,160,471,000)	(14,584,795,000)	(14,584,795,000)	(-575,676,000)	
New advances, 1st quarter FY 1993	(3,753,000,000)	(5,438,000,000)	(5,438,000,000)	(+1,685,000,000)	
Trust funds	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(+192,691,000)	(+50,000,000)

1/ Does not include $960,000,000 in legislative savings proposed for later transmittal.

2/ Does not include $96,000,000 in legislative savings proposed for later transmittal.

3/ Budget and recommendation include delayed obligation of $80,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
ADMINISTRATION FOR CHILDREN AND FAMILIES					
FAMILY SUPPORT PAYMENTS TO STATES 1/					
Aid to Families with Dependent Children (AFDC)	11,296,000,000	12,135,000,000	12,135,000,000	+839,000,000	.....
Payments to territories	16,346,000	16,346,000	16,346,000	.....	.....
Emergency assistance	191,600,000	176,900,000	176,900,000	-14,700,000	.....
Repatriation	5,000,000	1,000,000	1,000,000	-4,000,000	.....
State and local welfare administration	1,448,200,000	1,512,800,000	1,512,800,000	+64,600,000	.....
Work activities / child care	317,000,000	433,000,000	433,000,000	+116,000,000	.....
At risk child care	150,000,000	300,000,000	300,000,000	+150,000,000	.....
Proposed regulatory savings	.....	-38,900,000	-38,900,000	-38,900,000	.....
Subtotal, Welfare payments	13,424,146,000	14,536,146,000	14,536,146,000	+1,112,000,000	.....
Child Support Enforcement:					
State and local administration	1,181,000,000	1,309,000,000	1,309,000,000	+128,000,000	.....
Federal incentive payments	296,000,000	332,000,000	332,000,000	+36,000,000	.....
Less federal share collections	-906,000,000	-1,015,000,000	-1,015,000,000	-109,000,000	.....
Subtotal, Child support	571,000,000	626,000,000	626,000,000	+55,000,000	.....
Total, Payments, FY 1992 program level	13,995,146,000	15,162,146,000	15,162,146,000	+1,167,000,000	.....
Less funds advanced in previous years	-3,000,000,000	-3,300,000,000	-3,300,000,000	-300,000,000	.....
Total, Payments, current request, FY 1992	10,995,146,000	11,862,146,000	11,862,146,000	+867,000,000	.....
New advance, 1st quarter, FY 1993	3,300,000,000	4,000,000,000	4,000,000,000	+700,000,000	.....
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS	1,000,000,000	1,000,000,000	1,000,000,000	.....	.....
ENERGY ASSISTANCE PROGRAMS					
LOW INCOME HOME ENERGY ASSISTANCE:					
Regular program 2/	1,415,055,000	925,000,000	1,000,000,000	-415,055,000	+75,000,000
Emergency allocation 3/	.....	.....	(600,000,000)	(+600,000,000)	(+600,000,000)
ENERGY EMERGENCY CONTINGENCY FUND	195,180,000	100,000,000	.....	-195,180,000	-100,000,000
Total, Energy assistance programs	1,610,235,000	1,025,000,000	1,000,000,000	-610,235,000	-25,000,000
Total including contingency	(1,610,235,000)	(1,025,000,000)	(1,600,000,000)	(-10,235,000)	(+575,000,000)
REFUGEE AND ENTRANT ASSISTANCE					
Cash and medical assistance 4/	234,216,000	.....	117,600,000	-116,616,000	+117,600,000
Social services	82,952,000	.....	82,952,000	.....	+82,952,000
Voluntary agency program	39,036,000	.....	39,036,000	.....	+39,036,000
Preventive health	5,631,000	.....	5,631,000	.....	+5,631,000
Targeted assistance	48,795,000	.....	48,795,000	.....	+48,795,000
Undistributed	.....	410,630,000	.....	.....	-410,630,000
Total, Refugee Resettlement	410,630,000	410,630,000	294,014,000	-116,616,000	-116,616,000
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS					
Current year	-566,854,000	-1,122,992,000	-1,122,992,000	-556,138,000	.....
Advance funding	583,934,000	.....	1,122,992,000	+539,058,000	+1,122,992,000
Total	17,080,000	-1,122,992,000	.....	-17,080,000	+1,122,992,000
COMMUNITY SERVICES BLOCK GRANT					
Grants to States for Community Services	349,372,000	.....	349,372,000	.....	+349,372,000
Homeless services grants	33,181,000	.....	25,000,000	-8,181,000	+25,000,000
Discretionary funds:					
Community economic development	20,494,000	.....	21,500,000	+1,006,000	+21,500,000
Rural housing	4,099,000	.....	4,099,000	.....	+4,099,000
Farmworker assistance	3,025,000	.....	3,025,000	.....	+3,025,000
National youth sports	10,832,000	10,832,000	12,000,000	+1,168,000	+1,168,000
Technical assistance	244,000	.....	244,000	.....	+244,000
Subtotal, discretionary funds	38,694,000	10,832,000	40,868,000	+2,174,000	+30,036,000
Community Partnerships	4,050,000	.....	.....	-4,050,000	.....
Community Food and Nutrition	2,440,000	.....	5,484,000	+3,044,000	+5,484,000
Total, Community services	427,737,000	10,832,000	420,724,000	-7,013,000	+409,892,000
GRANTS TO STATES FOR CHILD CARE 5/					
Block grants to States	731,925,000	731,925,000	825,000,000	+93,075,000	+93,075,000
Rescission	-144,925,000	.....	.....	+144,925,000	.....
Subtotal, block grants	587,000,000	731,925,000	825,000,000	+238,000,000	+93,075,000
Licensing grants to States	13,000,000	13,000,000	25,000,000	+12,000,000	+12,000,000
Total, Child care grants	600,000,000	744,925,000	850,000,000	+250,000,000	+105,075,000

1/ Does not include $120,000,000 in legislative savings proposed for later transmittal.

2/ FY 1991 total includes $74,610,000 for obligation Sept. 30, 1991. FY 1992 request and recommendation include delayed obligation of $50,000,000 until Sept. 30, 1992.

3/ Available only upon submission of a formal budget request designating the need for funds as an emergency as defined by the BEA.

4/ Includes State administrative costs.

5/ FY 1991 total makes available Sept. 7, 1991. FY 1992 request and recommendation include delayed obligation of these funds until Sept. 19, 1992. Recommendation assumes rescission of $144,925,000 of FY 1991 funds.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
PROGRAM ADMINISTRATION					
Federal Administration	76,093,000	81,000,000	81,000,000	+4,907,000	.....
Research and evaluation	10,735,000	6,500,000	6,500,000	-4,235,000	.....
Total, program administration	86,828,000	87,500,000	87,500,000	+672,000	.....
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,800,000,000	2,800,000,000	2,800,000,000	.....	.....
HUMAN DEVELOPMENT SERVICES					
Programs for Children, Youth, and Families:					
Head start:					
Regular grants	1,951,800,000	2,051,800,000	1,963,800,000	+12,000,000	-88,000,000
Transfer from "Educational Excellence"	.....	.....	(250,000,000)	(+250,000,000)	(+250,000,000)
Subtotal	(1,951,800,000)	(2,051,800,000)	(2,213,800,000)	(+262,000,000)	(+162,000,000)
Child development associate scholarships	1,397,000	1,397,000	1,397,000	.....	.....
Family crisis program:					
Child abuse state grants	19,518,000	19,518,000	19,518,000	.....	.....
Child abuse challenge grants	5,367,000	5,367,000	5,367,000	.....	.....
Runaway and homeless youth	35,132,000	35,132,000	35,132,000	.....	.....
Family violence	10,735,000	10,735,000	10,735,000	.....	.....
Abandoned infants assistance	12,557,000	12,557,000	12,557,000	.....	.....
Emergency protection grants - substance abuse	19,518,000	19,518,000	19,518,000	.....	.....
Subtotal, family crisis	102,827,000	102,827,000	102,827,000	.....	.....
Dependent care planning and development	13,175,000	13,175,000	13,175,000	.....	.....
Child welfare services 1/	273,911,000	273,911,000	273,911,000	.....	.....
Less amounts derived by transfer	-27,352,000	.....	.....	+27,352,000	.....
Subtotal, child welfare services	246,559,000	273,911,000	273,911,000	+27,352,000	.....
Subtotal, Programs for Children, Youth, and Families	2,315,758,000	2,443,110,000	2,355,110,000	+39,352,000	-88,000,000
Programs for the Aging:					
Grants to States:					
Supportive services and centers	290,818,000	290,818,000	290,818,000	.....	.....
Ombudsman activities	5,367,000	5,367,000	5,367,000	.....	.....
Nutrition:					
Congregate meals	361,083,000	361,083,000	361,083,000	.....	.....
Home-delivered meals	87,831,000	87,831,000	87,831,000	.....	.....
Federal Council on Aging 2/	181,000	181,000	181,000	.....	.....
Grants to Indians	14,639,000	14,639,000	14,639,000	.....	.....
Frail elderly in-home services	6,831,000	6,831,000	6,831,000	.....	.....
Subtotal, Aging programs	766,750,000	766,750,000	766,750,000	.....	.....
Developmental disabilities program:					
State grants	64,409,000	64,409,000	64,409,000	.....	.....
Protection and advocacy	20,982,000	20,982,000	20,982,000	.....	.....
Subtotal, Developmental disabilities	85,391,000	85,391,000	85,391,000	.....	.....
Native American Programs	33,376,000	33,376,000	33,376,000	.....	.....
Human services research, training and demonstration:					
Comprehensive child development centers	24,398,000	24,398,000	45,000,000	+20,602,000	+20,602,000
Child abuse discretionary activities	14,639,000	14,638,000	14,639,000	.....	+1,000
Runaway youth - transitional living	9,939,000	9,939,000	12,000,000	+2,061,000	+2,061,000
Runaway youth activities - drugs	14,786,000	14,786,000	14,786,000	.....	.....
Youth gang substance abuse	14,786,000	14,786,000	7,100,000	-7,686,000	-7,686,000
Temporary childcare/crisis nurseries	11,055,000	11,055,000	11,055,000	.....	.....
Child welfare training	3,559,000	3,559,000	3,559,000	.....	.....
Child welfare research	6,652,000	7,807,000	6,652,000	.....	-1,155,000
Adoption opportunities	12,687,000	12,687,000	12,687,000	.....	.....
Aging research, training and special projects	26,917,000	25,941,000	25,941,000	-976,000	.....
Social services research	2,879,000	3,879,000	7,879,000	+5,000,000	+4,000,000
Developmental disabilities special projects	3,025,000	3,025,000	3,025,000	.....	.....
Developmental disabilities university affiliated programs	13,907,000	13,907,000	15,407,000	+1,500,000	+1,500,000
Total, Human services research, training and demonstration	159,229,000	160,407,000	179,730,000	+20,501,000	+19,323,000
Program direction	73,906,000	88,000,000	88,000,000	+14,094,000	.....
Total, Human Development Services	3,434,410,000	3,577,034,000	3,508,357,000	+73,947,000	-68,677,000

1/ Does not include $90,000,000 in legislative additions proposed for later transmittal.

2/ President's budget proposes to fund under Program direction.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE 1/					
Foster care	1,813,188,000	2,223,668,000	2,223,668,000	+410,482,000	.....
Adoption assistance	189,832,000	201,861,000	201,861,000	+12,029,000	.....
Independent living	60,000,000	70,000,000	70,000,000	+10,000,000	.....
Prior year claims	520,911,000	118,476,000	118,476,000	-402,435,000	.....
Transfer to child welfare service	27,352,000	.....	.....	-27,352,000	.....
Total, Payments to States	2,611,281,000	2,614,005,000	2,614,005,000	+2,724,000	.....
Total, Administration for Children and Families	27,293,347,000	27,009,080,000	28,436,746,000	+1,143,399,000	+1,427,666,000
Current year	(23,554,338,000)	(23,009,080,000)	(23,313,754,000)	(-240,584,000)	(+304,674,000)
FY 1993	(3,883,934,000)	(4,000,000,000)	(5,122,992,000)	(+1,239,058,000)	(+1,122,992,000)
OFFICE OF THE SECRETARY 2/					
GENERAL DEPARTMENTAL MANAGEMENT:					
Federal funds	78,944,000	91,673,000	86,673,000	+7,729,000	-5,000,000
Trust funds	(22,451,000)	(22,786,000)	(19,111,000)	(-3,340,000)	(-3,675,000)
Portion treated as budget authority	(7,899,000)	(8,215,000)	(6,890,000)	(-1,009,000)	(-1,325,000)
Total, Departmental management	109,294,000	122,674,000	112,674,000	+3,380,000	-10,000,000
OFFICE OF THE INSPECTOR GENERAL:					
Federal funds	51,918,000	63,842,000	63,842,000	+11,924,000	.....
Trust funds	(19,202,000)	(20,476,000)	(16,363,000)	(-2,839,000)	(-4,113,000)
Portion treated as budget authority	(23,467,000)	(26,871,000)	(21,470,000)	(-1,997,000)	(-5,401,000)
Total, Inspector General	94,587,000	111,189,000	101,675,000	+7,088,000	-9,514,000
OFFICE FOR CIVIL RIGHTS:					
Federal funds	17,066,000	18,524,000	18,524,000	+1,458,000	.....
Trust funds	(97,000)	(99,000)	(99,000)	(+2,000)	.....
Portion treated as budget authority	(3,807,000)	(3,901,000)	(3,901,000)	(+94,000)	.....
Total, Civil Rights	20,970,000	22,524,000	22,524,000	+1,554,000	.....
POLICY RESEARCH	8,928,000	5,037,000	5,037,000	-3,891,000	.....
Total, Office of the Secretary:					
Federal funds	156,856,000	179,076,000	174,076,000	+17,220,000	-5,000,000
Trust funds	(76,923,000)	(82,348,000)	(67,834,000)	(-9,089,000)	(-14,514,000)
Total, Office of the Secretary	(233,779,000)	(261,424,000)	(241,910,000)	(+8,131,000)	(-19,514,000)
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION	.....	.....	-116,000,000	-116,000,000	-116,000,000
Total, Department of Health and Human Services:					
Federal Funds	151,535,902,000	165,657,345,000	167,266,742,000	+15,730,840,000	+1,609,397,000
Current year FY 1992	(130,398,968,000)	(139,119,345,000)	(139,605,750,000)	(+9,206,782,000)	(+486,405,000)
FY 1993	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
Trust funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(+383,052,000)	(+394,633,000)
TITLE III - DEPARTMENT OF EDUCATION					
COMPENSATORY EDUCATION FOR THE DISADVANTAGED 3/					
Grants for the Disadvantaged (Chapter 1):					
Grants to local educational agencies: 4/					
Basic grants	5,001,975,000	5,001,975,000	5,805,000,000	+803,025,000	+803,025,000
Concentration grants	555,775,000	674,775,000	645,000,000	+89,225,000	-29,775,000
Subtotal, grants to LEA's	5,557,750,000	5,676,750,000	6,450,000,000	+892,250,000	+773,250,000
Capital expenses for private school children	36,108,000	36,108,000	38,000,000	+1,892,000	+1,892,000
Even start	49,771,000	60,000,000	100,000,000	+50,229,000	+40,000,000
State agency programs:					
Migrant	294,596,000	294,596,000	322,000,000	+27,404,000	+27,404,000
Neglected and delinquent	36,108,000	36,108,000	36,000,000	-108,000	-108,000
State administration	59,140,000	59,140,000	64,500,000	+5,360,000	+5,360,000
State program improvement grants	14,785,000	30,000,000	32,250,000	+17,465,000	+2,250,000
Evaluation and technical assistance 5/	13,175,000	17,000,000	17,000,000	+3,825,000	.....
Rural technical assistance centers 5/	4,463,000	4,463,000	5,000,000	+537,000	+537,000
Total, Chapter 1	6,065,896,000	6,214,165,000	7,064,750,000	+998,854,000	+850,585,000

1/ Does not include $246,631,000 in legislative savings proposed for later transmittal.

2/ Does not include $5,000,000 for a clearinghouse proposed in legislation for later transmittal.

3/ $200 million originally requested within this account for Choice Schools considered under the Educational Excellence account.

4/ Handicapped activities transferred to Special Education account.

5/ Current funded.

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H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Migrant education:					
High school equivalency program 1/	7,807,000	8,135,000	8,500,000	+693,000	+365,000
College assistance migrant program 1/	1,952,000	2,034,000	2,500,000	+548,000	+466,000
Subtotal, migrant education	9,759,000	10,169,000	11,000,000	+1,241,000	+831,000
Total, Compensatory Education programs	6,075,655,000	6,224,334,000	7,075,750,000	+1,000,095,000	+851,416,000
IMPACT AID					
Maintenance and operations:					
Payments for "a" children	585,540,000	588,540,000	585,540,000		-3,000,000
Payments for "b" children	136,626,000		136,626,000		+136,626,000
Payments for Federal property (Section 2)	16,590,000	16,590,000	16,590,000		
Payments related to decreased activity (Section 3e)	1,952,000			-1,952,000	
Subtotal	740,708,000	605,130,000	738,756,000	-1,952,000	+133,626,000
Disaster assistance (Section 7)	13,663,000			-13,663,000	
Construction	26,349,000	15,000,000	26,000,000	-349,000	+11,000,000
Total, Impact aid	780,720,000	620,130,000	764,756,000	-15,964,000	+144,626,000
SCHOOL IMPROVEMENT PROGRAMS 2/					
Educational Improvement (Chapter 2):					
State and Local Programs:					
State block grants 3/	448,914,000	448,914,000	450,000,000	+1,086,000	+1,086,000
Evaluation	976,000			-976,000	
Subtotal	449,890,000	448,914,000	450,000,000	+110,000	+1,086,000
National programs:					
Inexpensive book distribution (RIF)	9,271,000	9,271,000	10,000,000	+729,000	+729,000
Arts in education:					
Regular program	4,392,000	4,392,000	3,700,000	-692,000	-692,000
Initial forward funding 3/			4,900,000	+4,900,000	+4,900,000
Law - related education	5,855,000		9,000,000	+3,145,000	+9,000,000
Subtotal, National programs	19,518,000	13,663,000	27,600,000	+8,082,000	+13,937,000
Total, Chapter 2	469,408,000	462,577,000	477,600,000	+8,192,000	+15,023,000
Drug-free schools and communities:					
State grants 3/	497,709,000	497,709,000	497,709,000		
School personnel training	23,395,000	23,395,000	23,395,000		
National programs:					
Regular programs	60,914,000	60,914,000	60,914,000		
Emergency grants	24,331,000	49,500,000	25,000,000	+669,000	-24,500,000
Subtotal, drug-free schools	606,349,000	631,518,000	607,018,000	+669,000	-24,500,000
Strengthening teaching and administration:					
Eisenhower mathematics & science education State grants 3/	202,011,000	239,011,000	240,000,000	+37,989,000	+989,000
Christa McAuliffe fellowships	1,954,000	2,036,000	2,000,000	+46,000	-36,000
Other school improvement programs:					
Magnet schools, desegregation program	109,977,000	109,977,000	110,000,000	+23,000	+23,000
Education for homeless children and youth 3/ 4/	7,313,000		37,000,000	+29,687,000	+37,000,000
Women's educational equity	1,995,000	500,000	2,000,000	+5,000	+1,500,000
Training and advisory services (Civil Rights IV-A)	21,329,000	21,329,000	22,000,000	+671,000	+671,000
Dropout prevention demonstrations	34,064,000	29,214,000	50,000,000	+15,936,000	+20,786,000
General assistance to the Virgin Islands	4,366,000	4,366,000	4,500,000	+134,000	+134,000
Ellender fellowships/Close up 3/	4,101,000		4,100,000	-1,000	+4,100,000
Follow through	7,265,000		10,000,000	+2,735,000	+10,000,000
Native Hawaiian Education	6,366,000		6,400,000	+34,000	+6,400,000
Foreign Language Assistance 3/	4,880,000		5,000,000	+120,000	+5,000,000
Subtotal, other school improvement programs	201,656,000	165,386,000	251,000,000	+49,344,000	+85,614,000
National writing project	1,952,000			-1,952,000	
School year extension study commission	976,000			-976,000	
Total, School improvement programs	1,484,306,000	1,500,528,000	1,577,618,000	+93,312,000	+77,090,000
Subtotal, forward funded	(1,164,928,000)	(1,185,634,000)	(1,238,709,000)	(+73,781,000)	(+53,075,000)

1/ Current funded.

2/ Many activities previously funded in this account transferred to Education Research and Improvement.

3/ Forward funded.

4/ 1992 homeless funds requested under new HUD block grant.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
EDUCATIONAL EXCELLENCE / AMERICA 2000					
Educational Excellence:					
New generation of American schools	.....	180,000,000	.....	.....	-180,000,000
Merit schools	.....	100,000,000	.....	.....	-100,000,000
Governors' academies for teachers	.....	70,000,000	.....	.....	-70,000,000
Governors' academies for school leaders	.....	22,500,000	.....	.....	-22,500,000
Assistance for parental choice programs	.....	200,000,000	.....	.....	-200,000,000
Choice demonstrations of national significance	.....	30,000,000	.....	.....	-30,000,000
Alternative teacher and principal certification	.....	25,000,000	.....	.....	-25,000,000
Commission on time, study, learning, and teaching	.....	1,000,000	.....	.....	-1,000,000
Subtotal, Educational excellence	.....	628,500,000	.....	.....	-628,500,000
Vocational and Adult Education:					
Regional literacy resource centers	.....	5,000,000	.....	.....	-5,000,000
Literacy initiatives	.....	5,000,000	.....	.....	-5,000,000
Higher Education: Endowment grants for HBCUs	.....	10,000,000	.....	.....	-10,000,000
Assessment, Statistics, Research and Improvement:					
World class standards/achievement tests	.....	12,400,000	.....	.....	-12,400,000
Goals panel: National report card	.....	2,000,000	.....	.....	-2,000,000
America on line	.....	5,000,000	.....	.....	-5,000,000
Assessing workplace literacy skills	.....	2,000,000	.....	.....	-2,000,000
Statistics: Expansion of the adult literacy survey	.....	1,100,000	.....	.....	-1,100,000
Assessment: Preparing interim tests	.....	5,000,000	.....	.....	-5,000,000
Fund for the Improvement & Reform of Schools and Teaching	.....	10,700,000	.....	.....	-10,700,000
Subtotal, ASRI	.....	38,200,000	.....	.....	-38,200,000
Departmental Management: Program administration	.....	3,300,000	.....	.....	-3,300,000
Head start 1/	.....	.....	250,000,000	+250,000,000	+250,000,000
Consolidated funds	.....	.....	250,000,000	+250,000,000	+250,000,000
Total, Educational excellence	.....	690,000,000	500,000,000	+500,000,000	-190,000,000
BILINGUAL AND IMMIGRANT EDUCATION					
Bilingual education:					
Bilingual programs	121,039,000	123,814,000	171,000,000	+49,961,000	+47,186,000
Support services	11,632,000	11,632,000	12,000,000	+368,000	+368,000
Training grants	36,066,000	36,066,000	36,000,000	-66,000	-66,000
Immigrant education	29,277,000	29,277,000	30,000,000	+723,000	+723,000
Total	198,014,000	200,789,000	249,000,000	+50,986,000	+48,211,000
SPECIAL EDUCATION					
State grants:					
EHA grants to States part "b"	1,854,210,000	1,976,095,000	1,976,095,000	+121,885,000	.....
Chapter 1 handicapped grants	148,861,000	125,661,000	135,661,000	-13,200,000	+10,000,000
Preschool grants	292,770,000	295,920,000	295,920,000	+3,150,000	.....
Grants for infants and families	117,108,000	128,819,000	175,000,000	+57,892,000	+46,181,000
Subtotal, State grants	2,412,949,000	2,526,495,000	2,582,676,000	+169,727,000	+56,181,000
Special purpose funds:					
Deaf-blindness	12,849,000	12,849,000	13,000,000	+151,000	+151,000
Severe disabilities	7,869,000	7,869,000	8,000,000	+131,000	+131,000
Serious emotional disturbance	1,952,000	1,952,000	4,000,000	+2,048,000	+2,048,000
Early childhood education	24,202,000	24,202,000	25,000,000	+798,000	+798,000
Secondary and transitional services	14,639,000	14,639,000	17,000,000	+2,361,000	+2,361,000
Postsecondary education	8,559,000	8,559,000	9,000,000	+441,000	+441,000
Innovation and development	20,174,000	20,174,000	24,000,000	+3,826,000	+3,826,000
Media and captioning services	16,424,000	16,424,000	17,000,000	+576,000	+576,000
Technology applications	5,593,000	5,593,000	10,000,000	+4,407,000	+4,407,000
Special studies	3,904,000	3,904,000	4,000,000	+96,000	+96,000
Personnel development	69,289,000	69,289,000	89,800,000	+20,511,000	+20,511,000
Parent training	9,759,000	9,759,000	10,200,000	+441,000	+441,000
Clearing houses	1,525,000	1,525,000	2,000,000	+475,000	+475,000
Regional resource centers	6,620,000	6,620,000	7,000,000	+380,000	+380,000
Subtotal, Special purpose funds	203,358,000	203,358,000	240,000,000	+36,642,000	+36,642,000
Total, Special education	2,616,307,000	2,729,853,000	2,822,676,000	+206,369,000	+92,823,000
REHABILITATION SERVICES AND DISABILITY RESEARCH					
Vocational rehabilitation State grants:					
Grants to States	1,632,625,000	.....	1,735,480,000	+102,855,000	+1,735,480,000
Supported employment State grants	29,150,000	.....	29,150,000	.....	+29,150,000
Client assistance	8,310,000	.....	8,310,000	.....	+8,310,000
Subtotal, State grants	1,670,085,000	.....	1,772,940,000	+102,855,000	+1,772,940,000
Special purpose funds:					
Special demonstration programs	18,368,000	.....	18,368,000	.....	+18,368,000
Supported employment projects	10,023,000	.....	10,023,000	.....	+10,023,000
Recreational programs	2,617,000	.....	2,617,000	.....	+2,617,000
Migratory workers	1,060,000	.....	1,060,000	.....	+1,060,000
Projects with industry	19,445,000	.....	19,445,000	.....	+19,445,000
Helen Keller National Center	5,367,000	.....	5,367,000	.....	+5,367,000

1/ To be made available on July 1, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Independent living:					
Comprehensive services	13,619,000	.....	13,619,000	.....	+13,619,000
Centers	27,579,000	.....	27,579,000	.....	+27,579,000
Services for older blind	5,914,000	.....	5,914,000	.....	+5,914,000
Protection and advocacy for severely disabled	976,000	.....	976,000	.....	+976,000
Subtotal, Independent living	48,088,000	.....	48,088,000	.....	+48,088,000
Training	33,353,000	.....	33,353,000	.....	+33,353,000
National Institute on Disability and Rehabilitation Research	58,924,000	.....	58,924,000	.....	+58,924,000
Technology assistance	20,982,000	27,340,000	27,340,000	+6,358,000	.....
Evaluation	976,000	.....	976,000	.....	+976,000
Subtotal, Special purpose funds	219,203,000	27,340,000	225,561,000	+6,358,000	+198,221,000
Consolidated request, new legislation 1/	.....	1,976,040,000	.....	.....	-1,976,040,000
Total, Rehabilitation services	1,889,288,000	2,003,380,000	1,998,501,000	+109,213,000	-4,879,000
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES					
AMERICAN PRINTING HOUSE FOR THE BLIND	6,136,000	6,136,000	5,500,000	-636,000	-636,000
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:					
Operations	36,884,000	36,884,000	38,500,000	+1,616,000	+1,616,000
Endowment grant	328,000	342,000	.....	-328,000	-342,000
Subtotal, N T I D	37,212,000	37,226,000	38,500,000	+1,288,000	+1,274,000
GALLAUDET UNIVERSITY:					
University programs	47,623,000	47,623,000	47,623,000	.....	.....
Computer acquisition	.....	.....	850,000	+850,000	+850,000
Precollege programs 2/	21,223,000	21,223,000	21,223,000	.....	.....
Endowment grant	976,000	1,000,000	976,000	.....	-24,000
Construction	2,440,000	1,000,000	2,500,000	+60,000	+1,500,000
Subtotal, Gallaudet University	72,262,000	70,846,000	73,172,000	+910,000	+2,326,000
Total, Special Institutions for Disabled	115,610,000	114,208,000	117,172,000	+1,562,000	+2,964,000
VOCATIONAL AND ADULT EDUCATION					
Vocational education:					
Basic grants	856,503,000	890,656,000	1,077,000,000	+220,497,000	+186,344,000
Supplemental grants, equipment	.....	.....	100,000,000	+100,000,000	+100,000,000
Community - based organizations	11,711,000	11,711,000	12,000,000	+289,000	+289,000
Consumer and homemaking education	33,352,000	.....	38,000,000	+4,648,000	+38,000,000
State councils	8,783,000	8,783,000	9,000,000	+217,000	+217,000
Tech Prep	63,434,000	63,434,000	100,000,000	+36,566,000	+36,566,000
Tribally controlled post-secondary vocational institutions	2,440,000	2,440,000	2,500,000	+60,000	+60,000
National programs:					
Research	6,831,000	10,000,000	10,000,000	+3,169,000	.....
Technical assistance, sec. 404 (d)	.....	.....	2,000,000	+2,000,000	+2,000,000
Demonstrations	12,970,000	9,000,000	12,000,000	-970,000	+3,000,000
Data systems including NOICC/SOICC	4,880,000	4,880,000	5,000,000	+120,000	+120,000
Subtotal, national programs	24,681,000	23,880,000	29,000,000	+4,319,000	+5,120,000
Bilingual vocational training	2,888,000	2,888,000	3,000,000	+112,000	+112,000
Subtotal, Applied technology education	1,003,792,000	1,003,792,000	1,370,500,000	+366,708,000	+366,708,000
Adult education:					
State Programs	201,035,000	221,500,000	250,000,000	+48,965,000	+28,500,000
National programs	7,807,000	9,000,000	9,000,000	+1,193,000	.....
Literacy training for homeless adults	9,759,000	.....	.....	-9,759,000	.....
Workplace literacy partnerships	19,251,000	19,251,000	20,000,000	+749,000	+749,000
English literacy grants	976,000	976,000	1,000,000	+24,000	+24,000
Subtotal, adult education	238,828,000	250,727,000	280,000,000	+41,172,000	+29,273,000
Technology education demonstrations	964,000	.....	1,000,000	+36,000	+1,000,000
Commercial truck driver training	1,952,000	.....	.....	-1,952,000	.....
Total, Vocational and adult education	1,245,536,000	1,254,519,000	1,651,500,000	+405,964,000	+396,981,000
STUDENT FINANCIAL ASSISTANCE					
Pell Grants: Academic year 1992 - 1993 3/	5,374,282,000	5,775,121,000	5,350,000,000	-24,282,000	-425,121,000
Contingency	.....	.....	100,000,000	+100,000,000	+100,000,000
Presidential Scholarships, new legislation	.....	170,000,000	.....	.....	-170,000,000
Supplemental educational opportunity grants	520,155,000	346,945,000	570,000,000	+49,845,000	+223,055,000
Work-study	594,689,000	396,615,000	595,000,000	+311,000	+198,385,000
Income contingent loans	4,880,000	10,000,000	5,000,000	+120,000	-5,000,000

1/ President's budget proposes for later transmittal.

2/ Kendall Elementary and Model Secondary Schools.

3/ 1991 includes prior year shortfall and contingency.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Perkins loans:					
Federal capital contributions	156,144,000		156,000,000	-144,000	+156,000,000
Loan cancellations		15,000,000	13,000,000	+13,000,000	-2,000,000
Subtotal, Perkins loans	156,144,000	15,000,000	169,000,000	+12,856,000	+154,000,000
State student incentive grants	63,531,000		64,000,000	+469,000	+64,000,000
Total, Student Financial Assistance 1/	6,713,681,000	6,713,681,000	6,853,000,000	+139,319,000	+139,319,000
GUARANTEED STUDENT LOANS (LIQUIDATING) 2/					
Contract authority to liquidate pre-1992 loan subsidies	(4,209,818,000)	(3,075,711,000)	(3,075,711,000)	(-1,134,107,000)	
Appropriation, including shortfalls (non-add)	(5,361,422,000)	(3,105,711,000)	(3,105,711,000)	(-2,275,711,000)	
GUARANTEED STUDENT LOANS PROGRAM					
Guaranteed Student Loans:					
New loan subsidies (contract authority)		2,655,636,000	2,655,636,000	+2,655,636,000	
Mandatory admin expenses (contract authority)		164,611,000	164,611,000	+164,611,000	
Total 3/		2,820,247,000	2,820,247,000	+2,820,247,000	
GSL LOAN ADMINISTRATION	34,671,000	46,433,000	46,433,000	+11,762,000	
HIGHER EDUCATION					
Aid for institutional development:					
Strengthening institutions	87,831,000	87,831,000	90,000,000	+2,169,000	+2,169,000
Strengthening historically black colleges and univ	87,831,000	87,831,000	100,000,000	+12,169,000	+12,169,000
Strengthening historically black grad institutions	11,711,000	11,711,000	12,000,000	+289,000	+289,000
Endowment grants	17,462,000	7,462,000	7,500,000	-9,962,000	+38,000
Subtotal, Institutional development	204,835,000	194,835,000	209,500,000	+4,665,000	+14,665,000
Program development:					
Fund for the Improvement of Postsecondary Education	14,639,000	14,639,000	15,000,000	+361,000	+361,000
Minority science improvement	5,855,000	6,101,000	6,000,000	+145,000	-101,000
Innovative projects for community services	1,464,000	6,830,000	1,463,000	-1,000	-5,367,000
Student Literacy Corps	5,367,000		5,367,000		+5,367,000
International education and foreign language studies:					
Domestic programs	28,670,000	28,670,000	34,000,000	+5,330,000	+5,330,000
Overseas programs	5,855,000	5,855,000	6,000,000	+145,000	+145,000
Foreign language and area studies fellowships VI	11,342,000	11,342,000	13,000,000	+1,658,000	+1,658,000
Subtotal, International education	45,867,000	45,867,000	53,000,000	+7,133,000	+7,133,000
Cooperative education	13,175,000	13,175,000	14,000,000	+825,000	+825,000
Law school clinical experience	5,855,000		8,000,000	+2,145,000	+8,000,000
Subtotal, Program development	92,222,000	86,612,000	102,830,000	+10,608,000	+16,218,000
Construction:					
Interest subsidy grants, prior year construction	20,396,000	19,412,000	19,412,000	-984,000	
Academic facilities	4,197,000			-4,197,000	
Subtotal, Construction	24,593,000	19,412,000	19,412,000	-5,181,000	
Special grants:					
Assistance to Guam	488,000		500,000	+12,000	+500,000
Margaret Chase Smith Library	976,000			-976,000	
John McCormack Institute	2,928,000			-2,928,000	
Robert A. Taft Institute	683,000	550,000	550,000	-133,000	
Magnuson Endowment	2,928,000			-2,928,000	
Model Law Center, Seton Hall University	5,367,000			-5,367,000	
Bethune-Cookman			300,000	+300,000	+300,000
Subtotal, Undergraduate outreach	13,370,000	550,000	1,350,000	-12,020,000	+800,000
Special programs for the disadvantaged (TRIO plus):					
Student support services	120,700,000	129,799,000	126,099,000	+5,399,000	-3,700,000
Undergraduate outreach 4/	203,382,000	253,000,000	249,000,000	+45,618,000	-4,000,000
Subtotal, Undergraduate outreach	324,082,000	382,799,000	375,099,000	+51,017,000	-7,700,000
Graduate outreach:					
Ronald E. McNair post-baccalaureate program	5,000,000		5,000,000		+5,000,000
Minority participation in graduate education	5,953,000		5,826,000	-127,000	+5,826,000
McNair graduate outreach (proposed legislation)		10,826,000			-10,826,000
Subtotal, Graduate outreach	10,953,000	10,826,000	10,826,000	-127,000	
School, college and university partnerships	3,904,000		4,000,000	+96,000	+4,000,000
Staff training	3,700,000		3,700,000		+3,700,000
Evaluation	976,000	1,450,000	1,450,000	+474,000	
Subtotal, Special programs for disadvantaged	343,615,000	395,075,000	395,075,000	+51,460,000	

1/ President's budget proposes for later transmittal.

2/ Excludes legislative savings of $49,759,000 proposed for later transmittal.

3/ President's budget proposes for later transmittal.

4/ President's budget proposes consolidated grants not approved by Committee.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Undergraduate scholarships:					
Byrd honors scholarships	9,271,000	9,271,000	9,271,000		
National science scholars	976,000	10,000,000	4,500,000	+3,524,000	-5,500,000
Douglas teacher scholarships	14,639,000	14,639,000	15,000,000	+361,000	+361,000
Subtotal, Undergraduate scholarships	24,886,000	33,910,000	28,771,000	+3,885,000	-5,139,000
Graduate fellowships:					
Harris graduate fellowships	17,566,000		17,600,000	+34,000	+17,600,000
Harris public service fellowships	3,198,000		3,200,000	+2,000	+3,200,000
Javits fellowships	7,807,000		8,000,000	+193,000	+8,000,000
Graduate assistance in areas of national need	24,885,000		30,000,000	+5,115,000	+30,000,000
Library career training 1/	651,000			-651,000	
National graduate fellowships (proposed legislation)		54,107,000			-54,107,000
Subtotal, Graduate fellowships	54,107,000	54,107,000	58,800,000	+4,693,000	+4,693,000
Veterans' education outreach	2,733,000		2,700,000	-33,000	+2,700,000
Legal training for the disadvantaged (CLEO)	2,928,000		3,000,000	+72,000	+3,000,000
Total, Higher education 2/	763,289,000	784,501,000	821,438,000	+58,149,000	+36,937,000
HOWARD UNIVERSITY					
Academic program	153,515,000	153,515,000	153,515,000		
Endowment grant	2,928,000	4,500,000	2,928,000		-1,572,000
Research	4,616,000	4,616,000	4,616,000		
Howard University Hospital	28,301,000	28,301,000	28,301,000		
Emergency construction	5,855,000		23,600,000	+17,745,000	+23,600,000
Total, Howard University	195,215,000	190,932,000	212,960,000	+17,745,000	+22,028,000
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS (LIQUIDATING):					
Borrowing authority	29,277,000			-29,277,000	
Interest subsidy payments	8,449,000	3,598,000	3,598,000	-4,851,000	
Total, College Housing Liquidating	37,726,000	3,598,000	3,598,000	-34,128,000	
EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT					
Research	64,714,000	74,296,000	71,000,000	+6,286,000	-3,296,000
High technology demonstration program			8,000,000	+8,000,000	+8,000,000
Statistics	44,313,000	51,974,000	50,000,000	+5,687,000	-1,974,000
Assessment (NAEP)	19,211,000	28,086,000	28,000,000	+8,789,000	-86,000
Fund for Innovation in Education	27,737,000	27,737,000	19,000,000	-8,737,000	-8,737,000
Fund for the Improvement and Reform of Schools and Teaching:					
Grants for schools and teachers	5,284,000	1,880,000	5,284,000		+3,404,000
Family-school partnerships	3,611,000	927,000	3,611,000		+2,684,000
Eisenhower mathematics and science education national program	11,711,000	14,711,000	14,000,000	+2,289,000	-711,000
National Diffusion Network	14,151,000	14,151,000	14,000,000	-151,000	-151,000
Blue ribbon schools	885,000	885,000		-885,000	-885,000
Javits gifted and talented students education	9,732,000	9,732,000	9,732,000		
Star schools	14,417,000	10,000,000		-14,417,000	-10,000,000
Educational partnerships	4,233,000	4,233,000	4,233,000		
Territorial teacher training	1,769,000	1,769,000	1,769,000		
Leadership in educational administration (LEAD)	3,831,000	370,000	370,000	-3,461,000	
Midcareer teacher training	987,000			-987,000	
National board for professional teacher standards	4,880,000		4,880,000		+4,880,000
National council on educational goals	1,952,000			-1,952,000	
Innovations in teacher education, new legislation 3/		20,000,000			-20,000,000
Total, E R S I	233,418,000	260,751,000	233,879,000	+461,000	-26,872,000
LIBRARIES					
Public libraries:					
Services	83,898,000	35,000,000	83,898,000		+48,898,000
Construction	19,218,000		14,218,000	-5,000,000	+14,218,000
Interlibrary cooperation	19,908,000		19,908,000		+19,908,000
Training 4/			5,000,000	+5,000,000	+5,000,000
Research and demonstrations	325,000		325,000		+325,000
Research libraries	5,855,000		5,855,000		+5,855,000
Library literacy programs	8,163,000		8,163,000		+8,163,000
College library technology	3,904,000		3,904,000		+3,904,000
Foreign language materials (Title V-LSCA, VI-HEA)	976,000		1,476,000	+500,000	+1,476,000
Total, Libraries	142,247,000	35,000,000	142,747,000	+500,000	+107,747,000

1/ See "Libraries" account.

2/ President's budget proposes $778,096,000 for later transmittal.

3/ President's budget proposes for later transmittal.

4/ Training funds requested under Higher Education.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
DEPARTMENTAL MANAGEMENT					
PROGRAM ADMINISTRATION	284,595,000	303,567,000	301,952,000	+17,357,000	-1,615,000
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	48,405,000	56,000,000	56,000,000	+7,595,000	
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	24,837,000	28,521,000	26,932,000	+2,095,000	-1,589,000
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION			-10,000,000	-10,000,000	-10,000,000
Total, Departmental management	357,837,000	388,088,000	374,884,000	+17,047,000	-13,204,000
Total, Department of Education	22,883,520,000	26,580,972,000	28,266,159,000	+5,382,639,000	+1,685,187,000
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(+4,248,532,000)	(+1,685,187,000)
TITLE IV - RELATED AGENCIES					
Action (Domestic Programs):					
Volunteers in Service to America:					
VISTA operations	30,287,000	35,803,000	32,693,000	+2,406,000	-3,110,000
VISTA Literacy Corps	4,621,000	4,930,000	4,621,000		-309,000
Student Community Service	976,000	976,000	976,000		
Subtotal	35,884,000	41,709,000	38,290,000	+2,406,000	-3,419,000
Special Volunteer Programs: Drug programs	2,191,000	1,451,000	1,000,000	-1,191,000	-451,000
Older Americans Volunteer Programs:					
Foster Grandparents Program	62,946,000	62,946,000	62,946,000		
Senior Companion Program	27,569,000	27,569,000	27,569,000		
Retired Senior Volunteer Program	33,425,000	33,425,000	33,425,000		
Subtotal, Older Volunteers	123,940,000	123,940,000	123,940,000		
Inspector General	976,000	1,017,000	920,000	-56,000	-97,000
Program Support	28,301,000	30,435,000	29,528,000	+1,227,000	-907,000
Total, Action	191,292,000	198,552,000	193,678,000	+2,386,000	-4,874,000
Corporation for Public Broadcasting: 1/					
FY 1994 (current request)	253,309,000	260,000,000	253,309,000		-6,691,000
FY 1993 satellite replacement	65,327,000			-65,327,000	
Subtotal, Corporation for Public Broadcasting	318,636,000	260,000,000	253,309,000	-65,327,000	-6,691,000
Federal Mediation and Conciliation Service	27,037,000	28,145,000	28,118,000	+1,081,000	-27,000
Federal Mine Safety and Health Review Commission	4,189,000	4,719,000	4,357,000	+168,000	-362,000
National Commission on Acquired Immune Deficiency Syndrome	2,928,000	3,000,000	2,000,000	-928,000	-1,000,000
National Commission on Children	1,073,000			-1,073,000	
National Commission on Libraries and Information Science	732,000	911,000	750,000	+18,000	-161,000
National Commission to Prevent Infant Mortality	390,000		390,000		+390,000
National Council on Disability	1,439,000	1,642,000	1,497,000	+58,000	-145,000
National Labor Relations Board	147,461,000	162,000,000	162,000,000	+14,539,000	
National Mediation Board	6,514,000	7,008,000	6,775,000	+261,000	-233,000
Occupational Safety and Health Review Commission	6,247,000	6,711,000	6,497,000	+250,000	-214,000
Physician Payment Review Commission (trust funds)	(3,778,000)	(4,495,000)	(4,300,000)	(+522,000)	(-195,000)
Prospective Payment Assessment Commission (trust funds)	(3,875,000)	(4,210,000)	(4,030,000)	(+155,000)	(-180,000)
Railroad Retirement Board:					
Dual benefits payments account 2/	326,927,000	315,000,000	315,000,000	-11,927,000	
Interest payment			9,000,000	+9,000,000	+9,000,000
Less income tax receipts on dual benefits	-16,000,000	-18,000,000	-18,000,000	-2,000,000	
Subtotal, dual benefits	310,927,000	297,000,000	306,000,000	-4,927,000	+9,000,000
Federal payment to the Railroad Retirement Account	400,000	400,000	400,000		
Limitation on administration:					
(Retirement)	(69,936,000)	(74,037,000)	(74,037,000)	(+4,101,000)	
(Unemployment)	(15,287,000)	(17,263,000)	(17,263,000)	(+1,976,000)	
Subtotal, administration	(85,223,000)	(91,300,000)	(91,300,000)	(+6,077,000)	
(Special Management Improvement Fund) 3/		(13,910,000)	(3,264,000)	(+3,264,000)	(-10,646,000)
Total, limitation on administration	(85,223,000)	(105,210,000)	(94,564,000)	(+9,341,000)	(-10,646,000)
(Review activity)	(5,855,000)	(7,700,000)	(6,089,000)	(+234,000)	(-1,611,000)
Soldiers' and Airmen's Home (trust fund limitation):					
Operation and maintenance	40,581,000	42,123,000	40,581,000		-1,542,000
Capital outlay	11,223,000	4,220,000	4,220,000	-7,003,000	
United States Institute of Peace	8,393,000	8,911,000	8,393,000		-518,000
United States Naval Home (trust fund limitation):					
Operation and maintenance		10,055,000	10,055,000	+10,055,000	
Capital program		1,253,000	1,253,000	+1,253,000	
White House Conference on Library and Information Services	488,000			-488,000	
Total, Title IV, Related Agencies:					
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	-49,677,000	-6,377,000
Current year, FY 1992	(761,314,000)	(776,650,000)	(776,964,000)	(+15,650,000)	(+314,000)
FY 1994	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust funds	(98,731,000)	(121,615,000)	(108,983,000)	(+10,252,000)	(-12,632,000)

1/ FY 1991 appropriation advance in FY 1989 is $298,870,000. FY 1992 appropriation advance in FY 1990 is $327,280,000. FY 1993 appropriation advance in FY 1991 is $318,636,000.

2/ Does not include $78,750,000 in legislative savings proposed for later transmittal.

3/ Request available for FY 1992 - FY 1996. Recommendation available for FY 1992 only.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
SUMMARY					
Title I - Department of Labor:					
Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	-106,464,000	+98,626,000
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(+167,491,000)	(+114,512,000)
Title II - Department of Health and Human Services:					
Federal Funds (all years)	151,535,902,000	165,657,345,000	167,266,742,000	+15,730,840,000	+1,609,397,000
Current year	(130,398,968,000)	(139,119,345,000)	(139,605,750,000)	(+9,206,782,000)	(+486,405,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(+383,052,000)	(+394,633,000)
Title III - Department of Education:					
Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	+5,382,639,000	+1,685,187,000
Total Including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(+4,248,532,000)	(+1,685,187,000)
Title IV - Related Agencies:					
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	-49,677,000	-6,377,000
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(+15,650,000)	(+314,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(+10,252,000)	(-12,632,000)
Total, all titles:					
Federal Funds (all years)	183,040,909,000	200,611,414,000	203,998,247,000	+20,957,338,000	+3,386,833,000
Current year	(161,585,339,000)	(173,813,414,000)	(176,083,946,000)	(+14,498,607,000)	(+2,270,532,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(+560,795,000)	(+496,513,000)

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., WEDNESDAY, JULY 3, 1991, TO FILE SUNDRY REPORTS

Mr. CONYERS. Madam Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. on Wednesday, July 3, 1991, to file sundry reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 6 P.M., FRIDAY, JUNE 28, 1991, TO FILE REPORT ON H.R. 2507, THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1991

Mr. WAXMAN. Madam Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until 6 p.m., Friday, June 28, 1991, to file the report on H.R. 2507, the National Institutes of Health Revitalization Amendments of 1991, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL IN CEREMONY TO HONOR MEMBERS OF ARMED SERVICES AND CIVILIANS STILL IMPRISONED, MISSING, AND UNACCOUNTED FOR AS RESULT OF VIETNAM CONFLICT

Mr. CLAY. Madam Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 158) authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the armed services and civilians still imprisoned, missing, and unaccounted for as a result of the Vietnam conflict.

The Clerk read the title of the concurrent resolution.

□ 1650

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Missouri?

Mr. BARRETT. Madam Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. CLAY] for the purpose of explaining his request.

Mr. CLAY. Madam Speaker, I thank the gentleman for yielding.

House Concurrent Resolution 158 provides for the use of the Capitol rotunda by the National League of POW/MIA Families on July 13, 1991 at 11 a.m. for a ceremony to honor the members of the armed services and civilians still imprisoned, missing and unaccounted for as a result of the Vietnam conflict.

Today, over 2300 American servicemen remain unaccounted for in Southeast Asia. This ceremony will underscore our ongoing efforts to achieve the fullest possible accounting of these missing American servicemen and civilians as soon as possible.

Mr. BARRETT. Madam Speaker, I thank the gentleman for his explanation.

I rise in support of House Concurrent Resolution 158, authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Forces and civilians who are still in prison, missing and unaccounted for as a result of the Vietnam conflict.

As the gentleman from Missouri has just stated, there are 2,273 American men and women, both military and civilian, who are still missing as a result of the Vietnam conflict. Those POW/MIA's are tragic heroes, lost patriots, sustained for years by an unyielding love for their country.

We have an obligation to remember these brave individuals and to recog-

nize their dedication and to honor their fate.

The National League of POW/MIA Families is dedicated to achieving the fullest possible accounting for those still missing as well as the repatriation of all recoverable remains of those who sacrificed their lives serving our Nation in Southeast Asia.

This must be our solemn commitment. As Secretary of Defense Cheney has so eloquently stated, and I quote:

> A nation that will not care for those fallen in battle, a nation that will not seek freedom for those held captive, a nation that forgets its missing in action, such a nation has lost its soul. That will not be the final legacy of Vietnam.

This ceremony will ensure that though these brave men and women are lost, that they might be found in the memory of a proud and grateful Nation.

Madam Speaker, I urge my colleagues to unanimously support this resolution.

Madam Speaker, further reserving right to object, I yield to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Madam Speaker, I appreciate the gentleman yielding to me. I am happy to join with our distinguished colleagues, the gentleman from New York [Mr. SOLARZ] and the gentleman from California [Mr. LAGOMARSINO], as a cosponsor of this particular resolution.

As a former combat infantryman in the Second World War, I know from personal experience what it is to have buddies listed as missing in action when there was uncertainty as to their fate or their whereabouts after a skirmish, a firefight or a full-fledged battle.

But I also realize that the anguish felt by the families of POW/MIA's is infinitely greater than that felt by even the closest comrade-in-arms of a POW/MIA and that is why I consider it an honor to be a sponsor of the resolution.

The National League of POW/MIA Families is the largest, most effective and most dedicated group of its kind in the United States today. The league has worked with a number of administrations and with bipartisan congressional task forces to keep this issue alive. Through bipartisan support of both bodies in the 100th Congress, the league's POW/MIA flag stands permanently displayed over in the great rotunda of this Capitol Building. It is there as a symbol of our Nation's commitment to resolving the fate of America's POW/MIA's.

Therefore, it is only fitting that league members should get the chance to use the great rotunda to honor those in prison, missing, and unaccounted for from the Vietnam war.

In my long experience in Congress, few issues have generated such fierce emotions as this one. There are those who are critical of the Government's efforts in this area. I believe the critics of the Government's POW/MIA effort over the years have a right to be heard, to present their case to the Congress. That is why the House task force has played such a major role in improving the POW/MIA effort.

I just want to thank the gentleman from New York [Mr. SOLARZ] and the gentleman from California [Mr. LAGOMARSINO] for their patience, their dedication and the belief in the cause of the POW/MIA families.

As in many issues that generate such emotions, there are going to be heated, sometimes fierce disagreements as to the efficiency of public policy. Some critics of POW/MIA policy believe in a conspiratorial view of history in which five American Presidents, innumerable Defense Department officials and administrations of both parties, the House POW/MIA Task Force and the League of POW/MIA families are all engaged in some monstrous plot to thwart efforts to find out the truth about the POW/MIA's.

Conspiracy theorists do not allow for errors in judgment or in differing but honest interpretations of data or errors made solely because of the complexity of the POW/MIA issue. Every fault in the system, according to theorists, can be traced to a sinister, decades-long effort to deliberately keep POW/MIA's in captivity. I mention this only to emphasize that it is the conspiracy cult that gains the headlines of the POW/MIA issue. The conspiracy cult makes sensational charges amounting to accusations of treasonous conduct on the part of the Government employees or league members and then offers no evidence to support let alone prove the outrageous slanders. They were invited to come before the Intelligence Committee to lay it on the line and under oath and none have responded to the request. The quiet efficient work of the league, the House task force and the Defense Department does not get the same kind of media interest.

I hope the work of the task force and the league will get the kind of respect and attention it deserves.

A look at the complete evidence, not partially selected data, will show that our Government's efforts to help resolve the uncertainty of POW/MIA families has improved in recent years. It is not perfect. It has faults. It has got to be improved. But the important thing is that the Government is trying to do what is right for POW/MIA families.

In conclusion, let me just say to all the families of POW/MIA's, I pledge our willingness to do all we can to keep up the fight to account for their loved ones who will be honored in the great rotunda on July 13, 1991.

I thank the gentleman for yielding to me.

Mr. BARRETT. Madam Speaker, I do not object to the measure.

Mr. LAGOMARSINO. Mr. Speaker, as an original cosponsor of House Concurrent Resolution 158, I rise in strong support of this measure, which authorizes the use of the Capitol by the National League of Families for a ceremony to honor members of the armed services and civilians still imprisoned, missing and unaccounted for as a result of the Vietman conflict. The league, which is the only national organization comprised solely of the family members of American POW/MIA's in Southeast Asia, will hold this ceremony in conjunction with the annual convention being held by the league here in Washington on July 11–14.

I also want to take this opportunity to commend the Republican leader in the House, Representative BOB MICHEL of Illinois, for sponsoring this measure. As chairman of the bipartisan House POW/MIA Task Force, I very much appreciate and welcome the continued strong support Congressman MICHEL has given to the league and his unwavering dedication to the POW/MIA issue.

Congress does care deeply about the POW/MIA issue and the families of those still missing in action. Just a couple of years ago, I was honored to join Congressman MICHEL and others in sponsoring legislation to place the POW/MIA flag in the rotunda. It will remain there as a reminder to the American people until we achieve the fullest possible accounting of those still missing in Indochina. While today's resolution authorizing the use of the Capitol is a small gesture, it does underscore our commitment to those still missing and their families and our sincere interest in helping them any way we can.

I will have the opportunity to speak to the visiting POW/MIA families directly on Friday, July 12. I know that many of my colleagues will be visited by family members who are their constituents. While I will speak with them further about recent efforts our Government has undertaken to achieve the fullest possible accounting and ensure the POW/MIA issue remains the top national priority Presidents Reagan and Bush have assigned it, I want to give them an early welcome and reconfirm my strong support for these families and their missing loved ones.

I strongly urge my colleagues to join me in supporting House Concurrent Resolution 158.

Mr. BARRETT. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 158

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol may be used by the National League of POW/MIA Families on July 13, 1991, from 11:00 o'clock ante meridiem until 12:00 o'clock noon, for a ceremony to honor the members of the Armed Services and civilians still imprisoned, missing and unaccounted for as a result of the Vietnam conflict. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The concurent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF ROTUNDA FOR UNVEILING OF PORTRAIT BUST OF PRESIDENT GEORGE BUSH

Mr. CLAY. Madam Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 49) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. BARRETT. Madam Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. CLAY] for the purpose of explaining his request.

Mr. CLAY. Madam Speaker, I thank the gentleman for yielding.

Senate Concurrent Resolution 49 authorizes the use of the rotunda by the Senate Rules Committee for unveiling of the portrait bust of President George Bush tomorrow, June 27, at 1:30 p.m.

□ 1700

The Senate has asked the House to process the resolution, and as a matter of comity, the House shall approve this resolution.

Mr. BARRETT. Madam Speaker, I thank the gentleman for his explanation.

Madam Speaker, George Herbert Walker Bush, now our 41st President, was the 43d man to serve as Vice President, and only the 14th of our Vice Presidents to later become President of the United States. We all look forward to the unveiling of the portrait bust of President Bush, and its placement in the Senate corridors, where it will join the marble busts of the other men who served the country as Vice President and fulfilled their constitutional duty as presiding officer of the Senate.

Madam Speaker, I will not object to the request by the gentleman from Missouri and withdraw my reservation.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Missouri.

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush at 2:30 p.m. on June 27, 1991. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2698, the bill about to be considered today, and that I be permitted to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. WHITTEN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2698) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Madam Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New Mexico [Mr. SKEEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from New Jersey [Mr. HUGHES] as Chairman of the Committee of the Whole, and requests the gentleman from Kansas [Mr. GLICKMAN] to assume the chair temporarily.

□ 1702

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 2698, with Mr. GLICKMAN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill totals $52.6 billion, $1.5 billion below last year, and $9.9 million below the budget request.

The bill is within the committee's 602(b) allocation for both budget authority and outlays.

Of the total, $31.5 billion, or 60 percent, is for the feeding or consumer programs. Agriculture programs are $12.7 billion; conservation programs are $2.7 billion; Farmers Home and rural development programs are $3 billion; foreign assistance programs, mainly Public Law 480, are $1.7 billion, and related agencies and Food and Drug Administration is $900 million.

Mandatory spending totals $42.2 billion with only $12.4 billion of the bill in discretionary spending.

Mr. Chairman, we tried to address the concerns of the Members and their sections of the country to the fullest extent possible in view of the ceilings. This year we received 1,116 written requests from Members. Thirty-two Members testified before our committee. We had a total of 382 witnesses. Our hearing record totals 6,101 pages.

May I call attention that, again, this is the 12th appropriations bill, I think in 1988 we were able to get through the appropriation bills on time, but I call attention, again, that it has not been the fault of the committee. We cooperate fully, and at each instance we have been asked by the leadership to delay consideration on the House side.

We had 2 years where we were held up because of our colleagues on the other side of the Capitol.

Mr. Chairman, I am on the Defense Appropriations Subcommittee and all the other subcommittees. I have been on Defense Appropriations since I started with the Navy panel in 1943.

AGRICULTURE—OUR LARGEST INDUSTRY

Mr. Chairman, American Agriculture is the envy of the world and often is described as the "Eighth Wonder of the World." It is our largest industry—larger than the auto, steel, and housing industries combined. It is our largest employer, our largest market for the products of industry and labor, and our biggest dollar earner in world trade.

Agriculture is the foundation of our Nation's entire economy. Our wealth comes primarily from the use of raw materials and natural resources which come from the Earth. It has been reliably estimated that each dollar of wealth taken from the Earth multiplies seven times as it travels through the economy.

A study of history shows that the Great Depression of the 1930's was preceded by the drastic drop in farm income, which then spread throughout the country. We did not pull out of that depression until purchasing power was restored to agriculture—our largest in-

dustry and our largest producer of new wealth.

WHAT IS OUR SITUATION?

Mr. Chairman, we are in a prolonged recession here at home, at a time when our Nation owes a greater debt than any nation in the history of the world—over $3.6 trillion—but not because of discretionary appropriation bills. For our Committee on Appropriations, since 1945, has held the total of appropriations bills $180.8 billion below the recommendations of our Presidents. It is entitlements and binding contracts, which bypass our committee's discretion, which have done us in.

Almost all of the Nation's debt occurred because of the policies and actions of our Government.

First, enactment of the 1981 Tax Act has cost us over $2.4 trillion in Federal revenue. Second, we have sustained an increase of over $1 trillion in our trade deficit during the last 10 years—first, because we have given away a large share of our domestic markets and, thereby, destroyed many of our farmers and businesses; and second, because we have failed to retain our normal share of foreign markets.

We are now faced with having to borrow money from foreign sources to finance our debt. Interest on that debt in fiscal year 1991 is $197.0 billion; for fiscal year 1992 it is projected to be $206.3 billion. This interest comes off the top of our economy. Our trade deficit has gone from $19.3 billion in 1980 to $152.1 billion in 187, $119.8 billion in 1988, $108.6 billion in 1989, and $101 billion in 1990. A decade in the red.

In 1986, for the first time since 1914, the United States became a debtor nation and now owes the largest debt of any nation ever throughout history.

Foreigners are buying up our country at an alarming rate. Foreign investment in our country has gone from $8.1 billion in 1983 to $64.6 billion in 1989. The Japanese already own most of the major buildings in Los Angeles and in many other major cities, including Honolulu. We're afraid to ask foreigners how much they own because we have to rely on them to finance our debt.

We are about to get in the situation where we are faced with doing only what our creditors will finance, if we are not already there.

AGRICULTURE MUST AGAIN BECOME A PARTNER

Mr. Chairman, American agriculture is not merely one of the cornerstones of our economy—agriculture, industry and labor—it is basic, the foundation on which the other two depend. Agriculture no longer gets a balanced income, since in 1981 agricultural policy was redirected from one of moving our surplus production in world markets at competitive prices to one of requiring the farmer to get his income through a check from the U.S. Treasury, while requiring him to reduce production and sell below cost. Since that time, the Department of Agriculture has not been using the Commodity Credit Corporation and other farm programs, as authorized by law, to stimulate production, regain our normal share of world markets and enable the producer to receive a fair price from the purchaser of his products. For years we have pointed out that if we let agriculture go down, the overall economy will follow.

For 48 years farm prices were supported at a level of agricultural income sufficient to offset costs and surpluses were sold in world trade at competitive prices. Unfortunately, these sound policies were abandoned during the past decade and the farmers are now being paid not to produce, when the world needs our production and we need the income.

Agriculture, with fewer and fewer directly engaged on the farm, now depends on high priced farm equipment, fertilizer and other high priced essentials. Too often solutions are designed to help other industries; the farm banking industry; the commodity processing industry; or the retailer—ignoring the fact that the producer, who must stay in business if those industries are to survive, doesn't get equal treatment. We need to return to the system that worked for 48 years.

Since 1981 our committee has repeatedly pointed out that if farmers went under financially, the rest of the Nation would follow. They did and it has, although borrowing on credit has tended to hide the true situation until recently.

During the decade of the 1980's, due to the Government's domestic and trade policies, over 300,000 farmers went bankrupt or were forced out of business—adding to our urban problems as well as rural problems. Small towns dried up, except where they were located next to military bases or had businesses that had military contracts. What followed is the national debt of over $3.6 trillion.

WHAT CAUSED OUR FARM PROBLEMS?

Mr. Chairman, for the last decade the farmer and agriculture have been unable to maintain the balance with industry and labor. Often, well meaning actions are taken by our Government that have devastating effects on those engaged in Agriculture.

In 1980 the President placed an embargo on sales to Russia because of her invasion of Afghanistan. The embargo didn't hurt Russia. The action just transferred a part of our farmers' domestic market to our competitors, to a degree, destroying our farmers financially.

In 1983 the President announced the PIK Program to reduce our production, which cost over $12 billion. Our domestic production was reduced 11 percent, our exports were reduced 11 percent, and our competitors overseas increased their production and sales by a like percentage.

Since 1981 our agricultural exports have declined from $43.8 billion to a low of $26.2 billion in 1986 and back to an estimated $38.5 billion for fiscal year 1991. Yet, adjusted for inflation, they would only be $26.3 billion or only 60 percent of the 1981 level. Under the Department's program, the profit has gone to the exporter but the cost is charged to the farmer.

Since 1981 agricultural imports have risen from $10.8 billion to a projected $22.0 billion in 1991, a 100 percent increase; in many cases, these are products our own farmers could be selling.

FAULTY GOVERNMENT RESPONSE

Mr. Chairman, for the last decade our Government has refused to use the Commodity Credit Corporation as originally intended. CCC was set up by Congress so we could compete in world trade with countries which could form government/corporation partnerships for trade. Our competitors often deal on a government-to-government basis. Under our system, we had no means to compete on equal footing so CCC was chartered by Congress. For the last decade our Government has refused to use CCC for its original purpose and, instead, gave the profits on our exports to corporations rather than to the farm producer. Today, CCC is used to fund numerous nonprice support programs, often to avoid budget ceilings.

Instead of using CCC, we have paid large international corporations, many foreign-owned, $3.5 billion in incentives during the last 6 years alone to move our commodities in world trade, and the Department is requesting $1.2 billion more for next year, which is attributed to the farmer through farm programs.

Instead of using CCC, we have paid U.S. corporations $930 million in the last 6 years to promote their products, and the Department is requesting $200 million more for next year, which is also attributed to the farmer through farm programs.

Under the budget ceilings, these costs are all charged to the farmer through the farm program, yet farmers are not the beneficiaries. When our Government refuses to use CCC and section 32 of the Triple A Act for their original purposes, we all suffer. Section 32, where 30 percent of customs receipts are set aside to buy surplus perishable commodities and put them to good use, was intended to be a companion program to CCC, but the funds have been diverted to consumer programs.

To many in Government, the farmer and agriculture are still viewed as supplier of cheap raw materials.

Government planners seem to believe that if they want more, then the solution is to pay a higher price.

If they want less, then they pay a lower price—unware that, with fixed costs, the farmer goes broke unless he produces more units to offset the lower price.

WHAT CAN WE DO TO CORRECT IT?

Mr. Chairman, existing law enables the Government to reinstate the farm programs which operated successfully for 48 years—a program where a fair price was received from the purchaser, both at home and abroad, where we kept our price competitive. During those 48 years, farmers were, to a degree, kept in balance with industry and labor, who are able to pass their increased costs on to the purchasers of their products.

DROP IN TRUE DOLLAR VALUE

Since 1981 commodity prices have fallen, but when viewed in 1981 dollars, the drop has been extreme: Corn was $2.47 and is now $1.52 per bushel; wheat was $3.69 and is now $2.18 per bushel; rice was $9.05 and is now $5.28 per hundredweight; Soybeans were $6.07 and are now $3.89 per bushel; and other commodities have followed the same path.

Remember, restoring the price the farmer receives would have only a small impact on prices. A 60-cent loaf of bread contains only 5 cents worth of wheat. A $16 cotton shirt has 43 cents worth of cotton. If we were to increase the price received by the farmer by 10 percent, it would only add a penny or two to the cost of these items if only that were passed on. Under our system, however, the retailer would charge what the traffic would bear.

OUR GOVERNMENT MUST ACT

Mr. Chairman, there are a number of actions which should be taken to restore the farm economy to a strong and healthy condition.

We should use the authority of the Commodity Credit Corporation Charter Act to develop and maintain foreign markets and enable the American farmer to be competitive in such markets. We should return to a policy of offering Government-held commodities on a competitive bid basis to American exporters for export, controlling how much and when so we don't flood the market, for we live in a competitive world. The large holdings, until recently, of agricultural commodities in CCC inventories, which we had until recently, were the result of failure to sell abroad competitively—not the farm price support program.

By controlling the quantity offered and the spacing of such offerings, we can avoid dumping and use the private enterprise system to benefit the farm producer and thereby restore our Government's finances. Further, we can enable the American farmer to be competitive in world markets. Failure to do so in the past has held an umbrella over world markets and has helped to increase foreign production at the expense of American agriculture. Actually, our foreign competitors take such action now as may be required to sell and then tax their people to offset their costs. Then, by one means or another, they keep our commodities out. On trade agreements, we get out-traded.

Our Government should maintain target prices on basic commodities at a level which will enable the farm producer to cover his costs of production, plus a profit to enable him and his family to remain on the farm. Such target prices must be at a level high enough to compensate for high U.S. labor and material costs established by other basic laws. Farmers either make costs plus enough profit to make a living like everyone else, as they did for many years prior to 1981, or they deplete the land, go broke and move to town.

We should return to those farm programs which, for many years, enabled the farmer to secure his income from the users of his products rather than from the U.S. Treasury.

Also, we should follow policies which encourage full production, since volume is as important to the farmer's income as price, and it is important to world needs. Even if a farmer is guaranteed parity prices or higher, reductions in production reduce his gross income to a level insufficient to cover his costs of production and living expenses. That has been demonstrated by the 300,000 farmers who went bankrupt during the past 10 years and had to leave farming.

RESTORATION OF PRODUCTION PROGRAMS ESSENTIAL

Mr. Chairman, to place added emphasis on the importance of agriculture, the title of the bill has been changed to Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee. It must be realized that the best rural development program in the world is a sound farm program—a farm program that allows the farmer to pay for his land, educate his family, and purchase the products of industry and labor.

In this context the committee has strengthened the programs of the Farmers Home Administration, including the restoration of operating loans, and has not provided funds for splitting the agency into two separate agencies.

AUTHORIZATION VERSUS BUDGET CEILINGS

The 1990 authorization bill for the Department of Agriculture, which was signed into law on November 28, 1990, authorized numerous additional costly requirements for the Department which, because of lack of regulations written, hearings as to the effects of the proposed changes—as well as ceilings imposed by the Budget Act, are not implemented at this time.

Likewise, the committee is equally concerned over the Food and Drug Administration where, in 1990 alone, 12 major new responsibilities have been assigned through various authorizing laws.

Members of the committee support many of the new programs authorized for FDA and the Department, yet budget ceilings have required the committee to postpone their funding.

SCOPE OF BILL

Mr. Chairman, the bill includes funds for all agencies of the U.S. Department of Agriculture, except the Forest Service, which is funded in another bill. It also includes funds for certain related agencies such as the Food and Drug Administration and the Commodity Futures Trading Commission. In addition, it establishes limitations on funds for the Farm Credit Administration and the Farm Credit System Assistance Board.

Title I of the bill provides funds for the Department's agricultural programs, including production and processing, research, extension, animal and plant health, food safety and marketing services. It also funds farm income stabilization—price supports—crop insurance and farm export programs.

Title II of the bill funds the conservation programs of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service—programs of the Department designed to protect and preserve the soil and water resources of the Nation for future generations.

Title III includes funds for the rural development assistance programs of the Department, including the loan programs of the Farmers Home Administration and the Rural Electrification Administration. The committee has included funds to restore these programs which are so essential to farmers and rural residents.

Title IV provides funds for the Department's domestic food programs, including women, infants, and children [WIC], child nutrition, special milk, food stamps, food donations, food assistance aid to the elderly, and human nutrition information. As previously mentioned, 60 percent of the funds in this bill are for these consumer programs.

Title V provides funding for the Department's foreign assistance and related programs, including the Foreign Agricultural Service, Public Law 480, the Office of International Cooperation and Development, and export programs of the Commodity Credit Corporation.

Title VI provides appropriations and establishes limitations for the Food and Drug Administration and other various related agencies.

Agriculture is the base on which we build, because that is where wealth comes from, and industry and labor are dependent upon the well-being of American agriculture.

I have had occasion to study, since I have been here, the Great Depression that we had. It started with a break in farm income, and it lasted until we restored the income of farming, the purchasing power of agriculture. Today we seem to have forgotten.

I am for the consumer programs that we have been so fortunate as to have,

but let me remind the Members that you have got to produce first before you can consume. We do not seem to realize that.

Let me tell you that as much as we afford the things that we enjoy, and we hope we can keep in, 60 percent of this bill is for consumer programs, and there is more and more, and we well have some arguments today about looking after rural areas.

HELP FOR THE INNER CITIES

Mr. Chairman, I have had some of my friends from Chicago and other places point out to me that we have places that are not rural that need help, our inner cities. In nearly every big city of this country they have areas that need help from Washington. I mention this is the report about certain sections of the country, and sooner or later we are going to have to deal with that problem.

JOBS BILL

Mr. Chairman, for 48 years we had a prosperous United States. We had prosperity all over the country. Then in about 1981 we started letting agriculture have what was left, and I have tried to point out that if you keep it up you are going to have a depression. Right now we are in the middle of a recession. I am not trying to be all that blue, but about 3 months ago I recognized the trend of the times.

□ 1710

I introduced the jobs bill. Not only that, but we have the savings and loan situation. All of its traces back to rural areas failing to come through because of the decline in agriculture since 1981.

In connection with that, if we look at the overall situation, our economy will not come back until we do recognize that we have to have a sound agricultural base.

RECONSTRUCTION FINANCE CORPORATION

I recently talked to the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ]. In my experience practicing law before I came to this Chamber, I had refunded a number of organizations through the Reconstruction Finance Corporation, a corporation set up by President Hoover during his tenure, but which was really used by Roosevelt. The difference between the Reconstruction Finance Corporation and what we are doing now is that with the RFC we could run the operation until we got the money worked out of it. Today we run a real risk in giving away great assets, to get rid of them instead of holding onto them.

RURAL DEVELOPMENT ADMINISTRATION

Mr. Chairman, later today an amendment will be offered to the bill to strike a provision related to the Rural Development Administration. As we point out in our report, there are no funds in the bill for this proposed new Agency.

At this point in the RECORD, Mr. Chairman, I would like to insert a statement from the Office of Management and Budget which also points out that there is no money in the bill for the proposed Agency.

(The statement follows:)

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, June 26, 1991.

STATEMENT OF ADMINISTRATION POLICY

[This statement has been coordinated by OMB with the concerned agencies.]

H.R. 2698—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1992

This Statement of Administration Policy expresses the Administration's views on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 1992, as reported by the Committee.

Budget and farm bill agreements

It is the Administration's view that the Committee bill would undermine several important provisions of the Omnibus Budget and Reconciliation Act (OBRA) and the farm bill. These laws, enacted last year, reflect agreement between the Congress and the Administration on agricultural policy and funding priorities.

The Committee bill would significantly alter sections 1201 and 1202 of OBRA. These sections prescribe loan levels for each of the next five years for both the Rural Electrification Administration (REA) insured electric and telephone loans and the Farmers Home Administration (FmHA) farm ownership and operating loans. The OBRA savings from agriculture were carefully developed by the Congress and the Administration to ensure a fair and balanced distribution of reductions across agricultural programs and interests.

The Committee's recommendations would significantly undercut this balanced approach by not only exempting a major part of the agricultural community from responsibility for shouldering reductions, but by actually increasing the availability of loans over FY 1991 levels. Most importantly, this exemption would go to the most wealthy of Federal aid recipients: REA telephone borrowers, at the end of FY 1989, telephone borrowers had $1.6 billion in cash on hand, with many holding cash in excess of twice the value of their physical assets. In FY 1990, only $58 million in loan requests out of $145 million in telephone loans actually granted qualified outright for highly subsidized five-percent telephone loans. Virtually all other applicants could well afford REA loans of 8.5 percent, or commercial loans.

The Committee bill would greatly increase the subsidized farm operating direct loan program by adding $500 million more in direct loans than was authorized in OBRA, while not reducing the provision of subsidized guaranteed loans that OBRA increased to offset direct loan reductions. Subsidized guaranteed loans provide borrower financing that is just as affordable as direct loans and, in addition, help Federal borrowers establish needed relations with commercial banks.

Rural Development Administration

No funding is provided for the Rural Development Administration (RDA), which was authorized by the 1990 farm bill and requested at a program level of $73 million in the FY 1992 Budget. A general provision of the Committee bill (section 739) would prohibit the RDA's establishment, which would provide the first step toward better coordination of the many rural development programs throughout USDA. In the absence of the RDA, the confusion voiced by rural Americans about the purpose and availability of Federal assistance for rural development would continue. The Administration urges the House to permit the establishment of the RDA.

Quarantine Inspection Program

The Committee bill also undermines an OBRA and farm bill agreement (sections 1203 and 2509, respectively) for the collection of user fees to cover the cost of the Agriculture Quarantine Inspection program of the Department of Agriculture. Under the budget agreement, the Department was to recover the costs (estimated at $82 million in FY 1992) of inspection of passengers and freight arriving at the mainland U.S. border from other countries as well as from off-shore domestic sites. The Committee bill would prohibit the use of appropriated funds to develop or operate the domestic fee program, at a cost of $13 million in forgone revenue. OBRA and the farm bill intended to shift the burden of the inspection costs from the taxpayer to those carrying or shipping potentially dangerous animal and plant diseases and pests into the mainland.

The Administration urges the House to amend the Committee bill to conform with the national agricultural priorities already established by the farm bill and OBRA.

Food and Drug Administration

Instead of adopting the Administration's proposal for Food and Drug Administration (FDA) user fees to recoup industry benefits from FDA approvals, the Committee has made one-quarter of the FDA's resources dependent upon a subsequent budget request from the Executive Branch. The Administration believes that the FDA requires the full $770 million requested in the FY 1992 Budget to protect the health and safety of the American people. The Administration would not submit an amended budget request and urges the House to make the full appropriations available upon enactment and to adopt the Administration's proposal for user fees. If the Congress provides the funding level in the Committee bill the direct and unavoidable result will be an increased health and safety risk to millions of Americans.

Basic research in agricultural science

The Administration urges the House to restore adequate funding for basic research in agricultural science. The Committee bill would provide only $99 million of the $125 million that the President requested for competitive grants. Authorized by the farm bill, the National Initiative for Research on Agriculture, Food, and Environment would enable the U.S. to maintain and build its competitive edge in agriculture by supporting the development of new food production, processing, and marketing technologies. It is the Administration's view that—with the prospect of free global farm trade ahead—this is not the time to undercut the research that will form the foundation of farming's prosperity.

Rural housing programs

The Committee has constrained the options available for financing low-income housing by not funding the Farmers Home Administration's (FmHA's) subsidized guaranteed home purchase loans and voucher

program for rural rental assistance. For FY 1992, the President has requested a $317 million increase over the FY 1991 level for subsidized guarantees. Although the Committee has funded both unsubsidized direct and guaranteed loans, it has eliminated subsidized guarantees entirely. With the rural housing market in need of credit, the subsidized guaranteed loans available in FY 1991 have filled a gap for low-income home borrowers who need modest Federal assistance to qualify for commercial loans. The Administration believes that the $190 million requested for housing vouchers should be restored. Vouchers are a proven, cost-effective alternative to providing housing assistance to rural Americans, especially those who cannot afford FmHA home purchase loans at one percent. The successful rural voucher demonstration program in FY 1988 underscored the demand for and effectiveness of vouchers in rural areas.

Initial scoring of bill

On the basis of OMB's initial scoring, the Administration finds that the Committee bill exceeds the House 602(b) domestic discretionary budget authority allocation by $40 million and the domestic discretionary outlay allocation by $51 million. The bill is within the House 602(b) allocation for international discretionary budget authority and outlays. In aggregate, the House 602(b) allocations are consistent with the statutory spending limits enacted in the Budget Enforcement Act.

Additional administration concerns with bill

Additional Administration concerns with the Committee-reported bill are discussed in the attachment.

[Additional concerns]

H.R. 2698—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding levels

Department of Agriculture

Conservation Programs.—Environmental goals of the President, echoed in the farm bill, would be seriously compromised by the Committee's action. First, the Committee bill fails to provide funds for the wetland reserve component of the Environmental Conservation Acreage Reserve Program (ECARP). The President has requested $124 million to purchase easements on 150,000 acres of farmland, working toward a wetland reserve enrollment goal of 600,000 acres as part of the farm bill minimum enrollment goal for ECARP of 40 million acres. Wetland acres would be selected in a nationwide competition to ensure that environmental and wildlife benefits would be maximized.

In addition, by reducing the President's request by $25 million, the Committee bill would markedly hamper the Soil Conservation Service's work with farmers to implement recently-completed conservation compliance plans.

These programs would provide a significant environmental benefit by improving the land and water resource base through farm management actions and wetland restoration and protection. At the same time that the Committee has reduced funding for the farm bill-mandated programs, it has provided an increase of $56.8 million, or 33 percent, above the budget request for discretionary watershed and river basin programs that fail to provide broad environmental benefits. The Administration urges the House to fund fully the important environmental initiatives addressed in the President's request.

Federal Crop Insurance Corporation (FCIC).—The Committee-reported bill would provide $87 million less than requested for the Federal Crop Insurance Corporation Fund. The Administration believes that only a $50 million reduction can be justified. The difference arises out of variance in assumptions concerning the level of reimbursement to the Fund necessary to provide for its prior-year spending for administrative expenses. These operating costs are paid out of FCIC's Administrative and Operating Expenses appropriation unless funds there are insufficient to cover the total need. Then, FCIC may use the Fund's resources to meet selected expenses. The Administration believes that $37 million of reimbursement for FYs 1980–90 expenses is still required in the FY 1992 appropriation but agrees that the $50 million in reimbursement originally requested for FY 1991 is not needed. The Administration urges the House to fund the necessary $37 million.

Food and Nutrition Service (FNS): Commodity Supplemental Food Program.—The Committee has provided nearly $6 million more than requested for elderly caseload despite information from FNS suggesting that carryover balances from FY 1991 would be sufficient to support the elderly. The Administration urges the House to reduce the excess funding for elderly caseload.

FNS: Food Stamp Program.—The Administration is pleased that the Committee has included a reasonable contingency fund for the Food Stamp Program but is concerned that the appropriations language does not include the phrase, "such sums as may be necessary," as requested in the FY 1992 Budget. Funding needs for the program have become increasingly uncertain, as the once certain relationship between unemployment and food stamp participation has broken down. "Such sums" language would ensure the continued availability of food stamp benefits to millions of participants. The Administration urges the House to include "such sums" language.

FNS: Child Nutrition Program.—The Administration objects to the Committee bill's doubling of the request for nutrition education and training (NET). The increase in NET funding is unwarranted and would improve neither nutritional intake nor program accountability. The Administration urges the House to reduce funding for this program to the requested level.

Office of the Inspector General.—The Administration supports full implementation of the CFOs Act of 1990. The Committee has not provided $4.5 million that was requested for audits of financial statements. The Administration urges restoration of this funding to carry out implementation of the CFOs Act at the level required by law.

Departmental Administration.—A major objective of the Administration is to improve the efficiency and effectiveness of managing agencies' programs and operations. The Committee's reduction of $1.5 million to the request for Departmental Administration represents an 80-percent reduction in the funding requested for new programs to support improved management. The committee-approved level would hamper management of the Department's planning, coordination, review, and assessment efforts in financial management, personnel, information resources, and general operation of the Department. The Committee's recommended level would not allow appropriate implementation of important initiatives related to the preparation of financial statements and necessary integration of administrative and financial management systems. The Administration urges the House to provide full funding for this area.

B. Language provisions

Micro-management: Implementation of Regulations.—Section 714 of the Committee bill would prohibit the use of funds to implement, administer, or enforce regulations disapproved by resolution. This represents unwarranted micromanagement and is an intrusion into Executive Branch functions. The Administration urges the House to remove this section.

Micro-management: Farmers Home Administration (FmHA) Loan Programs.—The Committee bill includes general provisions that represent micro-management of FmHA's loan programs, including a prohibition on the use of private debt collection agencies to collect delinquent payments from FmHA borrowers (section 729). The use of debt collection agencies for seriously delinquent debt is a proven private sector debt collection tool. Federal agencies received authority to use this tool in the Debt Collection Act of 1982. Several Federal agencies have successfully used these collection services for housing, student, and business loans. In the Administration's view, there is no reason to exempt the rural sector of the country from a technique that is intended simply to supplement the efforts of agency personnel to collect problem debts. The Administration urges the House to delete this provision.

FTE Floors.—The Administration objects to the continuation of arbitrary personnel floors for the Food and Drug Administration, the Farmers Home Administration, the Agricultural Stabilization and Conservation Service, the Rural Electrification Administration, and the Soil Conservation Service. Personnel floors are an unwarranted intrustion into Executive Branch management prerogatives and can only result in the inefficient allocation of scarce Federal resources. For example, the FDA personnel floor would slow the drug-approval process and reduce the flexibility needed to respond to emergencies by tying up funds in maintaining unneeded personnel. Further, FDA would not have the flexibility to contract for non-Federal expertise or invest in developing the agency's capability to meet future challenges. The Administration urges the House to delete section 724.

New Projects.—The Administration objects to the section 721 requirement that not less than 20 new construction projects be initiated under the Watershed Protection and Flood Prevention Act (P.L. 566), and not less than five new projects be initiated under the Flood Control Act (P.L. 534). Such requirements applied within a fixed appropriation would necessitate that funding be applied to the more expensive construction projects and would reduce funding for environmentally sensitive land treatment activities. The Administration urges the House to delete section 720.

Mr. Chairman, I would also like to include in the RECORD two letters we received regarding the committee position. The first is from my good friend, the gentleman from Texas [Mr. GONZALEZ], the chairman of the Banking, Finance and Urban Affairs Committee. The second letter is from a number of rural housing organizations who also support the committee's position.

The letters follow:

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, June 26, 1991.

Hon. JAMIE L. WHITTEN,
Chairman, House Committee on Appropriations, Washington, DC.

DEAR JAMIE: I'm writing to offer my strong support for the Agriculture, Rural Development and Related Agencies Appropriations bill for the fiscal year 1992 as reported by your Committee, particularly with regard to the funding of the Rural Development Administration. As I have expressed to Secretary Madigan, I am quite concerned about the effect of the creation of the RDA on the administration of the rural housing programs of the Farmers Home Administration. I can see little that can be gained by disrupting a good housing delivery system and decimating a strong and stable housing program to expend funds on a largely duplicative agency within the Department of Agriculture. The FmHA housing programs have long been hailed as the most successful housing programs serving rural areas in large part because of the loan origination and servicing by the dedicated employees of the FmHA in the existing FmHA district offices.

I do not believe that the RDA will improve the administration of rural development programs or improve services to the residents of rural America. There is a clear and inseparable relationship between community facilities and the development of housing in rural areas and I believe that funding the RDA will severely disturb that essential relationship.

As you know, we are now marking up the bank reform legislation or I would be present on the floor to express my strong support for the Committee's position. I would deeply appreciate it if you would offer this letter of support for the record.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

JUNE 26, 1991.

DEAR REPRESENTATIVE WHITTEN: We are writing to you as a coalition of organizations representing rural housing and community development interests, including homebuilders, developers and consumers. We are in full support of the general provision in the Agriculture Appropriation Bill which prohibits the establishment of a Rural Development Administration (RDA) within the U.S. Department of Agriculture.

The RDA will not improve administration of rural development programs. At present, one federal agency, Farmers Home Administration (FmHA), is responsible for rural housing and community development programs. If the RDA is approved, local borrowers will be forced to deal with two federal agencies, rather than one.

Creation of the RDA will not result in more coordination where it counts: in rural America. In most rural areas, central facilities are necessary to improve housing. FmHA housing and community facilities programs work to improve rural areas. If the RDA is approved, community facilities programs will be separated from housing.

The RDA will not improve service to rural areas. Cost considerations make it virtually impossible to duplicate the existing system of FmHA offices which administer housing and community development programs in rural areas.

The RDA will divert resources from FmHA, thereby weakening the principal federal rural development agency. Resources will be taken from FmHA to establish a new, unnecessary, more centralized bureaucracy which may well be less responsive to rural needs. The creation of the RDA will not result in better service to rural areas, just more rigmarole and red tape.

FmHA has changed the face of rural America. In its history, FmHA has made more than 60,000 loans and grants totalling more than $22 billion to provide needed community facilities and economic opportunity in rural areas. Rural housing conditions have improved as FmHA has made over 2 million rural housing loans totaling more than $57 billion. We see little reason to change a program that has worked.

We urge you to defeat any attempt to strike the general provision related to the Rural Development Administration.

Council for Rural Housing and Development, National Association of Home Builders, National Rural Housing Coalition, North Carolina Council for Rural Rental Housing, Rural Builders Council of California.

Mr. Chairman, our committee has always strongly supported rural development. We do not support efforts to split the Farmers Home Administration and set up a separate agency.

Our committee has provided funding for rural development in the Farmers Home Administration—the agency that has successfully carried out these programs for many years. A summary of activities and funds take up a full page in our report which I will include in the RECORD.

Our bill restores and increases funding for rural housing, water, and sewer grants and loans and the other essential rural development programs—programs Congress has worked hard to maintain.

Rural America can ill-afford to lose personnel and support for the programs so essential to a healthy rural economy.

Mr. Chairman, the table which I will include shows the very extensive rural developments programs we have provided under the Farmers Home Administration.

(The table follows:)

FARMERS HOME ADMINISTRATION LOAN AND GRANT LEVELS

[Dollars in thousands]

	1991 level	1992 level	1992 provisions
Rural housing insurance fund:			
Low-income housing loans (sec. 502)	$1,226,451	$559,000	$1,226,451
Unsubsidized direct loans	50,000	0	50,000
Unsubsidized guaranteed loans	70,000	347,000	350,000
Subsidized guaranteed loans	30,000	347,000	0
Rural housing development loans (sec. 524)	600	0	600
Rural rental housing loans (sec. 515)	573,900	341,000	573,900
Very low income repair loans (sec. 504)	11,330	11,100	11,330
Domestic farm labor plans	16,300	16,250	16,300
Credit sales of acquired property	0	284,000	284,000
Subtotal Rural housing insurance fund	1,978,581	1,905,350	2,512,581
Self-help housing land development fund	500	0	500

FARMERS HOME ADMINISTRATION LOAN AND GRANT LEVELS—Continued

[Dollars in thousands]

	1991 level	1992 level	1992 provisions
Agricultural credit insurance fund:			
Farm ownership loans:[1]			
Direct	33,000	37,000	46,500
Fiscal Year 1990 Act	13,500	0	0
Unsubsidized guaranteed loans	509,000	150,000	509,000
Subsidized guaranteed loans	0	50,000	0
Soil and water loans:			
Direct	5,500	0	5,500
Guaranteed	1,500	0	1,500
Indian land acquisition	1,000	2,000	1,000
Farm operating loans:[1]			
Direct	900,000	410,000	900,000
Unsubsidized guaranteed loans	2,600,000	2,000,000	2,600,000
Subsidized guaranteed loans	0	564,000	0
Emergency loans	600,000	25,000	600,000
Watershed and flood prevention loans	4,000	0	4,000
Resource conservation and development loans	600	0	600
Credit sales of acquired property	0	250,000	250,000
Subtotal, Agricultural credit insurance fund	4,668,100	3,488,000	4,918,100
Rural development insurance fund:			
Water and waste disposal loans	500,000	425,000	600,000
Guaranteed	35,000	0	35,000
Community facility loans	100,000	45,700	100,000
Guaranteed	25,000	50,000	25,000
Rural industrialization loans (guaranteed)	100,000	95,000	100,000
Subtotal, Rural development insurance fund	760,000	615,700	860,000
Rural development loan fund	32,500	35,000	32,500
Rural development loan fund	32,500	35,000	32,500
Home repair grants	12,500	5,000	12,500
Rural housing for domestic farm labor	11,000	5,000	11,000
Mutual and self-help housing grants	8,750	0	8,750
Supervisory and technical assistance grants	.....	.....	2,500
Compensation for construction defects	500	0	500
Rural housing preservation grants	23,000	10,000	23,000
Rural rental assistance (voucher program)	0	189,928	0
State mediation grants	3,750	2,000	3,750
Water and waste disposal grants	300,000	225,000	350,000
Rural community fire protection grants	3,500	0	3,500
Rural development grants	20,750	20,000	20,750
Solid waste management grants	1,500	0	1,500
Emergency community water assistance grants	10,000	0	0
Subtotal, grants and payments	703,350	726,728	745,850
Total, loans, grants, and payments	8,631,031	6,770,778	9,069,531

[1] Does not reflect Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990, levels.

Mr. Chairman, I could go on and on about this bill. I am proud of my record here, if I may say so. Our approach has been to help every section of this country, as asked of us by our colleagues, from those areas. If there was a single dissenting vote in the 59 members on the committee, it was silent when we brought this bill out. So we bring Members a good bill, a sound bill. As I say again, we are going to have to produce if we will have anything to consume. If we do not believe we need to restore the old farm bill, which makes sense, if we are not willing to do that, we will have more and more of the same. We will have more and more bankruptcies and people moving to the cities.

I am glad I introduced the jobs bill, because it becomes more and more evident that it will be necessary.

I would also like to thank the gentleman from New Mexico, Mr. SKEEN, the ranking member on our subcommittee, for all his help and cooperation as we developed this bill over the last 5 months.

I would like to thank our vice chairman, the gentleman from Michigan, BOB TRAXLER, who also worked long and hard on the bill. Our other members of the subcommittee are MATTHEW F. MCHUGH, WILLIAM H. NATCHER, RICHARD J. DURBIN, MARCY KAPTUR, DAVID E. PRICE, NEAL SMITH, DAVID R. OBEY, JOHN T. MYERS, VIN WEBER, and BARBARA F. VUCANOVICH.

They have all worked long and hard on the bill.

The gentleman from Pennsylvania, our new full committee ranking minority member, JOE MCDADE, has been a pleasure to work with and has cooperated with us throughout the process.

Finally, Mr. Chairman, I would like to thank our staff who have assisted us so ably all year in the effort to bring this bill to the floor.

Mr. Chairman, I repeat again that on our full committee, 59 members, if there was any opponent to this bill that we reported out, there was silence from the 59 members. I am proud to have that support. I hope I will have other Members' support here on the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume and I rise in support of the bill.

Mr. Chairman, at the outset of today's deliberations, I want to compliment the chairman of our committee and subcommittee—the distinguished gentleman from Mississippi [Mr. WHITTEN]—and the other members of the subcommittee, and the staff for their hard work and untiring efforts to produce this bill.

This bill comes in at $52.6 billion in budget authority, which is $9.9 million below the President's budget request. However, because of the large mandated entitlement programs in the bill, such as the Food Stamp Program, only $12.4 billion of our total budget authority is in discretionary spending.

Given all of the House Appropriations Subcommittees' tight budget allocations this year, this bill, in many ways, represents our best efforts.

While I am sure the administration will express some reservations with this bill—and I am confident our differences will be worked out along the way—Members of this distinguished body do not need to hold or heed any reservations in supporting this bill.

In drafting this legislation, I thank the chairman and his staff for their efforts to accommodate as many Member requests as possible. In most cases, the committee was able to effectively address Member requests.

This bill provides important Federal support for our farmers, consumers, and agricultural researchers.

Briefly, I would like to stress some major highlights in this bill.

On the farmer's side, this bill provides funding for several rural economic development programs and continues to assist farmers in the development and enhancement of export markets.

On the research side, this bill includes $99 million for the President's National Research Initiative Competitive Grant Program, a proposed increase of $26 million over last year's funding level. Major research programs in the areas of water quality, air quality, the environment, and nonpoint source pollution are also funded in the bill.

On the consumer side, this bill provides $2.6 billion for the Women, Infants, and Children [WIC] Program, an increase of $250 million above last year's level.

I appreciate working with the chairman and Members of the House in developing this bill, and I look forward to working with our fellow colleagues and the administration in the weeks ahead in achieving a final version of this bill which all sides can proudly support.

Mr. WHITTEN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Chairman, I rise in support of this appropriations bill and urge my colleagues to support it. I appreciate and value the leadership of our chairman, Mr. WHITTEN, whose contributions to American agriculture span 50 years in Congress. I also appreciate the cooperation of our ranking Republican on the subcommittee [Mr. SKEEN]. It is a privilege to serve on this subcommittee where there is genuine bipartisan support for the important programs funded by this bill.

Each year this bill appropriates what is necessary to fund the operations of the Department of Agriculture. These programs are important to both farmers and consumers. Sustaining the producers, an increasingly shrinking portion of our population, is a critical goal of the bill.

However, more than half the resources in this legislation are devoted to feeding, nutrition, public health and safety, and other programs that are of direct benefit to consumers—programs that serve some of the most vulnerable people in our society: the children, the elderly, and the poor.

This bill funds the Food and Drug Administration, rural housing programs, water and sewer systems in rural communities, and vital research to assure our ability to meet our needs for fiber and safe, wholesome food.

Mr. Chairman, there are a wide array of essential programs in this bill, but I would like to take special note of the WIC Program, the Special Supplemental Food Program for Women, Infants and Children. As my colleagues know, this nutrition program is targeted at pregnant women with limited incomes and their children under age 6 who are at nutritional risk. Numerous independent studies have confirmed through the years that the supplemental food packages which are provided at modest cost are extraordinarily effective in reducing infant mortality rates, preventing mental retardation, and enhancing the health of vulnerable children. These studies have also demonstrated that for every dollar invested in WIC there is a savings to taxpayers of $3 in medical costs that would have otherwise been incurred in programs like Medicaid.

For this reason, the WIC Program has enjoyed unusually strong bipartisan support. Even during the last decade, when many domestic programs were being cut or eliminated, our committee not only protected WIC, but extended its reach to serve more women and children. In 1980, we served 2.2 million people. In this bill, we are recommending $2.6 billion which would serve approximately 5.1 million people.

Our recommendation calls for an increase of $250 million over fiscal year 1991. This will not only maintain current services, but provide an additional $150 million for expansion.

If the committee were not subject to significant budget constraints, I am confident that we would be recommending even larger appropriations for WIC. It is one of the most cost-effective programs we fund, and even with the increases of the last 10 years, over $1.2 billion, we are still reaching only 55 percent of the eligible population. I hope we can do better in the future.

Mr. Chairman, this is a bill that promotes the interests of American producers and consumers alike, while at the same time keeping faith with the reality of the budget limitations under which we must operate. I urge my colleagues to support it.

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Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Chairman, I thank my friend, the gentleman from New Mexico, for yielding this time to me.

Mr. Chairman, we are now taking up the penultimate appropriations bill, rural development and agriculture appropriations, the 12th of 13 bills to be considered on the House floor. We will get to the final bill, transportation appropriations, which has been unavoidably delayed, after the July 4 recess.

I think that we have done an excellent job in moving the bills through committee and the floor thus far. Except for the transportation bill, we are matching our 1988 pace, when we

passed all 13 appropriations bills through the House by the July 4 recess, and went on to have all the conference reports approved before the start of the 1989 fiscal year. You have to go back to 1977 to find another time when the committee moved so quickly. Now it is up to the Senate to continue the good work.

The rural development and agriculture appropriations bill is heavily weighted toward mandatory programs. Only $12.4 billion of the $52.6 billion total—less than one quarter of the bill—is discretionary spending. The rest primarily is made up of $22.2 billion for food stamps and $6.1 billion for child nutrition, $8.45 billion for Commodity Credit Corporation reimbursements for losses, $1.6 billion for the conservation reserve, and $222 million for the crop insurance fund.

In both mandatory and discretionary programs the bill falls within the 602(b) limits for budget authority, and just slips in at the 602(b) limits for outlays. Overall, the bill is $1.5 billion below the fiscal year 1991 level. The members of the Agriculture Subcommittee really stretched, pulled, twisted, and shoved to make everything fit within the limits, and as usual they did a commendable job accommodating the hundreds of requests from Members.

I want to make special note of the work that my good friend from New Mexico, the ranking Republican of the subcommittee, JOE SKEEN, did on this bill. In his first year as ranking Republican he has done an outstanding job working with Chairman WHITTEN, and keeping a keen eye out for the interests of the President and the minority, and I thank you for it, JOE.

And of course I want to thank the gentleman from Mississippi, Chairman JAMIE WHITTEN, for listening to all members and producing a bill that we can all support.

The bill does a number of very good things.

Once again we have allocated a hefty increase for the WIC Program, raising it by $250 million to a total of $2.6 billion. We have also increased funding for the Commodity Supplemental Food Program by $9.4 million over the 1991 appropriation in order to prevent any reduction in the caseload of elderly food recipients.

I am especially appreciative of the support from Chairman WHITTEN and members of the subcommittee for the provision of $350 million in the Farmers Home Administration section 502 housing guarantees. This proposal had the strong backing of the administration and was included in the budget request.

I introduced legislation in 1989 to extend the Farmers Home 502 Program to authorize loan guarantees for first-time low- and moderate-income rural Americans to buy or construct a modest single family residence. The bill was a response to the concerns I had been hearing in my own congressional district that rural Americans who were trying to become first-time homeowners were not adequately served by the existing housing programs.

The Housing Subcommittee held hearings on May 16, 1989. Testimony was heard from several of my constituents who told of their difficulty in securing housing loans. The committee, under the able leadership of Chairman GONZALEZ, and my friend from Ohio CHALMERS WYLIE, added my proposal to the comprehensive housing reauthorization legislation enacted last year.

I was pleased that the fiscal year 1991 agriculture appropriations bill provided $100 million in loan guarantees to demonstrate the program in 20 States. The program has been generating a great deal of positive interest by potential homebuyers, lending institutions, realtors and homebuilders. Fannie Mae will be announcing tomorrow that they will be providing the secondary market component for the program.

All of the elements to make this program a success are now in place. The $350 million provided in the bill before us today will allow the program to expand nationwide. I envision that this program will be as successful in rural America as the FHA and VA Loan Guarantee Program have been in urban and suburban areas.

The bill also takes care of the Soil Conservation Service by providing a much needed $78.7 million increase, and it continues to expand the financial resources for the Food and Drug Administration to meet its ever increasing responsibilities.

There were some difficult decisions to be made, and I know that some Members are disappointed because of what we did not do. The bill does not contain funding for a few of the new programs authorized by last year's farm bill.

Most notably, we have not funded the Rural Development Administration. While we have restored proposed cuts and even increased funding for a number of rural development programs within the Farmers Home Administration, there certainly has been some concern voiced in the subcommittee about setting up a new bureaucracy to run the same programs which Farmers Home has successfully administered for years. I understand we will have more discussion on this later from the gentleman from Oklahoma and the gentleman from Missouri.

Mr. Chairman, I think that this bill does a good job of setting our priorities for the agriculture and food assistance programs in a fiscally responsible manner. It is a bill that deserves support, and I urge Members to vote for it.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE], a member of the subcommittee.

Mr. PRICE. Mr. Chairman, I rise today in support of the Rural Development, Agriculture and related agencies appropriations bill.

This is my first year of service on the Appropriations Committee, and I have been fortunate to have the Agriculture Subcommittee as one of my two subcommittee assignments. I am fortunate not only because of the voice this has given me on matters of critical interest to North Carolina, but also because of the chance to work with the chairman of both the full committee and the subcommittee, JAMIE WHITTEN.

The chairman's unmatched familiarity of the agencies under his purview and his mastery of the subject matter before our subcommittee has been demonstrated over and over. I can count only one or two sessions where he was unable to preside personally, and the reason was always because of other committee business. So he has set a pace that a new Member like myself is at pains to keep up with. I am grateful to him for the many courtesies he extended to me during our hearings, and I salute him in bringing to the floor, for what I understand to be the 42d time, an important, evenhanded and well-written appropriations bill.

I must also pay my respects to the professional staff at the subcommittee, who have shepherded my staff and me through the hearings this year. Bob Foster, Tim Saunders, Carol Novack, and Toni Săvia do an outstanding job, and this bill mirrors their dedication and hard work.

Others have already pointed out the important jurisdiction of this subcommittee—ranging from important nutrition programs, such as food stamps, WIC, school lunch, to the consumer protection programs administered by the Food Safety and Inspection Service and the Food and Drug Administration, to the Agricultural Research Service, Agricultural Extension Service and other agencies who are taking agriculture's lessons to our constituents, to the housing and development programs of Farmers Home Administration.

Yet Chairman WHITTEN has rarely let us forget that farmers and agriculture are at the heart of these other programs that sometimes catch our attention more readily—that agriculture is our biggest dollar producer, comprises the biggest segment of our exports, remains our biggest employer and by every definition, is the mainstay of the rest of our economy. In retaining, over the years, his chairmanship of this subcommittee despite being a member of each of the 13 subcommittees, the chairman gives his personal emphasis to the importance of agriculture—an importance he reinforces to committee members, witnesses and agency officials every day. You cannot attend very many meetings of our subcommittee without hearing this lesson long

and loud, and it is one that we proclaim loud and long today.

I want to focus on several aspects of this bill today—the nutrition programs, the consumer protection programs overseen by the FDA, and one subject I know something about from my service on the Banking Committee—the rural housing programs. Let me start with rural housing.

Our committee has a long history of support for the rural housing, farm ownership, soil and water conservation, and rural business development programs overseen by the Farmers Home Administration. This support cannot be taken for granted; the President submitted a budget requesting cuts of more than $1 billion in direct loans and subsidized loan guarantees for low income home ownership. But the committee has worked effectively to protect these vital programs.

The administration also proposed to divert housing resources, currently targeted to low income rural citizens—particularly assistance for home ownership—to those with higher incomes. This misguided attempt to channel valuable resources into subsidized guaranteed loans to which most low-income communities would be unable to gain access, was recognized and these resources were redirected. Last year some 70,000 households received assistance through home ownership or rural rental housing programs, and we continue that level of assistance in this bill. It is obvious from these administration attempts to change the traditional mission of FmHA that maintaining the integrity of these programs has never required more vigilance on the part of our committee or the House.

The Food and Nutrition Service oversees a number of important programs: Food stamps, WIC, milk, school lunch, emergency food assistance and others. The committee has always been as generous as possible within its allocation and its other important mandates in funding these programs at the highest levels possible. This year is no exception.

For child nutrition programs, the committee adds $490 million to the fiscal year 1992 level—$2.5 million more than the President requested.

For WIC, one of the most cost effective programs administered by the Federal Government by virtually any standard, and an important program in fighting the high levels of infant mortality that affect many areas of the country, especially the Southeastern States: the committee increases the amount for WIC by $250 million over fiscal year 1991—$26.6 million over the President's budget request.

For food stamps, the committee provides an increase of $1.6 billion over the fiscal year 1991 level.

For the Emergency Food Assistance Program, the committee provides $23 million more than the President's budget request.

These programs were never more important than today, and they require our steadfast protection. It is our hope that these funds, especially for WIC, will leverage State efforts to expand participation and coverage. We must continue to make steady progress in attempting to cover 100 percent of our constituents who are entitled to coverage.

Finally, I turn to the Food and Drug Administration.

FDA may be the most visible, important and controversial agency in the Federal Government. That's no surprise. Their objective is simple: Consumer protection; and their jurisdiction covers what is estimated to be over 50 percent of the products in the American marketplace.

Just in the last few weeks, news stories have abounded about the actions of FDA and its new aggressive commissioner, Dr. Kessler. A simple reading of their mission will indicate FDA's heavy responsibilities: FDA sets food and product standards; evaluates the safety and efficacy of new drugs and medical devices; conducts research studies to detect health hazards; maintains surveillance over foods, drugs, medical devices and electronic products to ensure that they are safe, effective and honestly labeled; and takes the legal actions necessary to accomplish its mission.

We also know the controversies and criticisms that FDA has endured in the time it takes for approval of promising new drugs, and the level of effort needed to bring honesty and uniformity to food labels, and otherwise ensure that manufacturers stand by their product claims.

The committee has responded this year by using all its resourcefulness to give FDA the tools it needs to accomplish its mission. The committee provides $69.4 million more than fiscal year 1991—fully $188.8 million more than the President's budget request. This is the type of commitment FDA requires from us now and in the future to accomplish the long list of mandates that we have given it.

What we expect in return is action and improvement. Action on generic drug evaluation and enforcement—and improvement in the turnaround time for the approval of promising drugs, such as those for the treatment of AIDS and Alzheimer's disease.

Action in implementing the Nutrition and Labeling Education Act—and improvement in coordinating this responsibility with other Federal agencies who also have jurisdictions related to food labeling.

Action in educating American consumers about unsafe products—and improvement in enforcement of the laws Congress has passed through the years to protect American consumers.

I'm also pleased that the committee has recommended funding for some promising projects that are important to North Carolina and where North Carolina has been a leader. The North Carolina Biotechnology Center in Research Triangle Park has served as a national model for nurturing innovations in biotechnology and bringing them successfully to the marketplace. USDA reported that "the range and maturity of its programs and activities make the Center unique nationwide, and offer practical strategies to answer the needs and questions of biotechnology development." So I am pleased that $1.45 million is included in this bill to finish construction for a permanent Biotechnology Center.

In addition, the Bowman Gray School of Medicine associated with Wake Forest University in Winston-Salem, NC, has received a recommendation of $3.65 million from the committee for their proposed Center for the Study of Nutrition and Chronic Disease. It is hoped that these Federal dollars will leverage the school's other fundraising efforts to bring this program and facility to fruition, where it can study the relationships between nutrition and chronic disease, and seek and promote solutions in agriculture and agricultural products.

And the committee recommends sustained levels of funding for the important agricultural research conducted at one of the Nation's leading research institutions—North Carolina State University—for peanuts, soybeans, sweet potatoes, food fermentation, forestry, global warming, and other initiatives related to improvements in agriculture.

In short, I urge my colleagues to support this bill enthusiastically and to give Chairman WHITTEN the mandate he needs to take the bill to conference and protect the positions, projects and priorities of the House.

Mr. SKEEN. Mr. Chairman, I yield 6 minutes to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the Agriculture Committee.

Mr. DE LA GARZA. Mr. Chairman, I thank my distinguished colleague for yielding me this time.

Mr. Chairman, this is a statement I wish I did not have to make. This is a place I would rather not be at this time. I say it with some degree of sadness in my heart, because I am going to be speaking about procedure and usurpation of prerogatives of committees.

But first, for all my colleagues, I concur with what has been said about what this bill does in a positive way. For example, there is much criticism about how much we spend for farm programs which has led to countless editorials. But let's look at the budget. Here it is graphically.

The red is the total budget. The tiny little line at the bottom, 0.63 percent of the total budget, is what we spent for agricultural programs. So let no one

point the finger. We are the best fed people in the world, in the history of the world, for the least amount of disposable income per family. And this is what the Federal Government spends. So I want to start with that premise—to look at the positive side and commend all my colleagues who have worked on this endeavor.

Then let me say, as mentioned by the gentleman from New York [Mr. McHUGH], all the positive programs, the WIC and all the nutrition programs.

So that our colleagues can see, on the right, this is almost one-half, on the left, I guess as you see it, that is what we do for women and children. These are the domestic nutrition programs. There is still hunger in America, but not because we have not tried. We still have to do more.

So only this part here is commodity programs. I wanted to start from that premise—what we have done positively, what we have done together, the Agriculture Committee and my distinguished colleagues from the Appropriations Committee.

Now let me get to the point that I wish I did not have to make, but as chairman of the committee I have an obligation and I have a responsibility, and it must be said. There are many areas where all the Appropriations Committee, sometimes the subcommittees, legislate. In some, it is done probably positively, some with good intentions in their hearts, but sometimes it penalizes the authorizing committee.

And then we use the report language. For example, in this report, and this is legal, you cannot object to it, but there is an instruction basically having to do with the Farm Credit System. A Farm Credit System that works to provide funds for rural America and for farmers. The report says that the Committee on Appropriations "expects the Federal Intermediate Credit Bank of Jackson to submit a plan under which it will merge to form a farm credit bank for the fifth [farm credit] district."

This bypasses the regulator. This is a usurpation of power, my dear friends. Out there they may misinterpret this report as law, so it is my responsibility and my obligation as chairman of the authorizing committee to emphasize that this report language has no force of law and does not reflect the intent of Congress with regard to the statutory authorities of the Farm Credit Administration.

As chairman of the Agriculture Committee, I would urge the Farm Credit Administration to ignore this language and to implement the law as it has been approved by the Congress and signed by the President. That is one of the areas that we have concern about.

I say that if they are going to take the report as law, then what I say has the same impact in law.

Mr. Chairman, I rise, as I have in the past when the agricultural appropriations bill has been considered by this House, to reaffirm the fact that report language accompanying this bill is merely advisory in nature, does not have the force of law, and should not be interpreted to broaden, narrow, or otherwise affect the application of authorization statutes.

This year the report to accompany H.R. 2698 includes language indicating that the Committee on Appropriations expects the Farm Credit Administration, the arms-length, independent regulator for the Federal Farm Credit System, to submit to the Congress a plan for the consolidation of the 11 Federal farm credit banks. Unfortunately, the report language also states that one Farm Credit System institution, the Federal Intermediate Credit Bank of Jackson, should be given preferential treatment in this process by the Farm Credit Administration.

According to the report language, the Committee on Appropriations—

> Expects the Federal Intermediate Credit Bank of Jackson to submit a plan under which it will merge to form a Farm Credit Bank for the Fifth Farm Credit District, subject to stockholder votes. The Farm Credit Administration will then include this bank in its consolidation plan.

Mr. Chairman, this report language, if heeded by the regulator, would create a dangerous precedent in the regulation of financial institutions. It implies that the Federal Intermediate Credit Bank of Jackson should be able to dictate to its Federal regulator how and under what conditions it will merge to create a new farm credit bank. The language also suggests that a new farm credit bank be chartered, thus increasing the overhead costs that must be borne by Farm Credit System borrowers.

If this precedent were to be extended to other arms-length financial regulators it would allow individual banks, savings and loans, and other government-insured financial institutions to dictate to their regulators whether they should be allowed to merge with other institutions, or whether the parochial interests of individual committees of the Congress should be allowed to override the statutory requirement that these financial institutions be regulated in accordance with modern standards of safety and soundness.

In 1985, 1986, and 1987, the Congress approved legislation to provide for the consolidation of Farm Credit System institutions and to establish an independent, comprehensive, arms-length regulator for the Farm Credit System. The Department of the Treasury and the General Accounting Office agree with me that, on the whole, this modern regulatory system has worked well.

The report language I described earlier, if heeded by the regulator, would place the interests of one Farm Credit System institution above the interests of the rest of the System and the taxpayer. This is contrary to the concept of arms-length financial regulation. This is bad public policy. It is bad regulatory policy. And the precedent it sets, if allowed to stand, does not bode well for the regulation of the Nation's financial institutions.

It is especially frustrating for me as the chairman of the authorizing committee of jurisdiction to see this happen. I regret that I must emphasize that this report language has no force of law and does not reflect the intent of Congress with regard to the statutory authorities of the Farm Credit Administration. I would urge the Farm Credit Administration to ignore this language and to implement the law as it has been approved by the Congress and signed by the President.

With regard to the broader issue of the regulation of the Farm Credit System, section 13501 of the Omnibus Budget Reconciliation Act of 1990 requires the authorizing committees with jurisdiction over Government-sponsored enterprises to report legislation to ensure the financial soundness of Government-sponsored enterprises and to minimize the possibility that such enterprises might require future assistance from the Government. The Department of the Treasury, the General Accounting Office, the Congressional Budget Office, and the Farm Credit Administration have all submitted recommendations to the Committee on Agriculture in this regard. The Committee on Agriculture has held hearings on the matter. Other authorizing committees in the Hosue have done likewise.

The report language accompanying this bill attempts to circumvent this congressionally approved process and give one financial institution a preference in determining its fate in the recommendations made to Congress by its regulator. This attempt to place parochial concerns above sound financial regulation runs contrary to the mandate that the Farm Credit Administration regulate system institutions in accordance with law.

If the report language described above had been included in the bill we are considering today, it would have been subject to a point of order for legislating on an appropriations bill. Report language seeking to achieve these ends does not have the force of law, nor does it affect current authorities. If it did, it would be subject to the same point of order.

Mr. Chairman, I am concerned, very concerned, that ad hoc mandates such as this, not properly studied by the committees of jurisdiction, could achieve an opposite result than the one sought. In the instant case, an attempt to assist one financial institution could endanger the safety and soundness of the entire Farm Credit System. If simi-

lar dictates were applied to other Federal financial regulators, similar threats to the Nation's financial system could result. That is my concern.

I have no quarrel with the distinguished chairman of the committee on Appropriations, whom I respect and admire. I know that in his heart he is always trying to do what is best.

I would hope that as we continue to work in the future, the distinguished chairman of the Committee on Appropriations and members of the Committee on Appropriations know and understand that we are readily available, that we are interested in cooperating with them, that we are willing to work with them in good faith on matters of mutual concern, and that there is no problem that, together, we cannot resolve for the benefit of those whom we attempt to serve.

Then over in the conservation area, the Agriculture Committee passed, approved by the House, approved by the Senate, signed by the President, a wetlands program that we hope will be able to help rural America in conservation and all the areas that we are concerned with in the environment.

The legislation says that the law shall be ignored, that there should be a study made to better define the cost benefits. It is not appropriating funds. We know and we submit to the fact that the Appropriations Committee has the sole authority to appropriate or not to appropriate. This is not our problem.

The problem is that even though this is a mandated program, the Appropriations Committee may choose not to appropriate funds. But this is basically instructing an agency not to do something which was required in the basic law. That is not right.

Then we have the Rural Development Administration that was passed by the committee, approved by the House, approved by the Senate, signed by the President, the law of the land. This bill says that no funds shall be used to implement, period, because we do not like it.

□ 1730

Well, it has been approved by the House, it has been approved by the Senate, been signed by the President. If no funds had been authorized, fine. We subject ourselves to the jurisdiction of the distinguished Committee on Appropriations. That is not our problem. But it is when you say now, "Thou shalt not implement," no funds under this bill shall be used.

Mr. Chairman, I am talking about some very sensitive matters. But these are matters, my colleagues, that have to be addressed. Maybe the system is wrong, maybe there has been lack of communication, but not from our part. We tried to work with the distinguished chairman. On this issue, we discussed a possible compromise. But he added insult to injury. You will see later that he offered a compromise that is legislation on an appropriation bill, which is what we were objecting to.

So, my friends, we will have amendments later to the Rural Development Administration and to the wetlands issue. I say again, I say this with pain in my heart, that I have do do this, that I have to represent the interests of you, the Members, who rely on the authorizing committees to do what you think and what we collectively think is best for our Nation and for rural America.

The problems of the big cities, they begin in rural America.

What the distinguished chairman said about what is happening in rural America, that is true. I agree. But to thwart the law authorizing beyond not appropriating, I think is not right. I plead with my Members to support us on the amendments, to do things right and then all of us will be traveling in the same vehicle.

Mr. Chairman, I appreciate my distinguished colleagues for yielding me the time, both the gentleman from New Mexico and the distinguished chairman.

Mr. Chairman, in the Food, Agriculture and Conservation Act of 1990—the 1990 farm bill—Congress authorized funding for a targeted program to help communities facing health risks due to inadequate water or waste services.

I was pleased to play a key role in developing this program, and I was particularly proud that language was included at my urging to direct the Secretary of Agriculture to give preference to improving water and waste services for residents of colonias.

As some of my colleagues know, colonias are unincorporated subdivisions found in States along the United States-Mexico border. Living conditions in many of these colonias are quite distressing and it was our hope that Federal funding to improve basic services in these areas would be given a higher priority.

In the agriculture appropriations bill, I am pleased to see increased funding is provided to the overall Rural Water and Waste Program. I am also pleased that report language expresses the Appropriations Committee intent that Farmers Home Administration provide priority assistance to colonias.

However, I am concerned that language in the appropriations bill may be construed by the Department of Agriculture as a prohibition on grants and loans for hookups for eligible residents of areas that face severe health risks. Section 306–C of the Consolidated Farm and Rural Development Act specifically provides authority for USDA to make grants and loans to eligible applicants for hookups, and I trust the Department will provide this much-needed assistance.

I will continue to work with the Department of Agriculture on this issue and do everything I can to direct funding to the very real needs of the thousands of low-income people who live in the colonias along the border.

Mr. WHITTEN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I take this time so that I may address the chairman of the Committee on Agriculture.

May I say what we do about the farm credit system, they have done nothing to restore the intermediate credit bank for my section of Mississippi. They are in operation, but they have had no vote as to their own fate. The big thing is when they took the Farm Credit System out from under the supervision of the Congress, we had to bail them out with a $4 billion line of credit. I think our Committee on Appropriations has a whole lot of interest in following anything that costs us $4 billion. They have not spent it all as of yet, but we had to bail them out for $4 billion.

At the time when they took it out from under reporting to the Congress, I raised the point, and sure enough it proved true.

Then when we get to the other matter, I will discuss that later. May I say that I am sorry, but the legislative committee does not have the jurisdiction to appropriate. But let me point out here again that the money appropriated has to be used for the purpose for which it was appropriated. And the best evidence, as a lawyer, of what they intended to do is the report of the committee.

So, the bill plus the report is binding.

Now, we have a little difference with what our friends on the legislative committee have said, and goodness knows we believe in the legislative committees, but they are separate from appropriations.

So I want to work with my friend, and I appreicate his statement and friendship. But I do think I should say this at this time. We are asking the intermediate credit bank to bring up a plan that would give the same service to my State as they have in some other States.

On the other thing, we will deal with that when we get to it.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, this was not like the S&L issue. We did not appropriate a bailout. The money was raised by bonds in the private sector; it came from the banks. The banks will pay it back.

The only appropriated funds are some administrative funds, and also Mississippi is being served, and the matter is in court.

Mr. WHITTEN. Mississippi is not being served.

Mr. Chairman, may I say again I do not say this is the savings and loan; I

just say when you read how many folks committed suicide and that 300,000 farmers went broke, it is worse than the savings and loan if you look at the history of farming.

Mr. DE LA GARZA. I do not have any disagreement to that, but it was not a bailout from taxpayers' money. It was not a bailout from taxpayers' money.

Mr. WHITTEN. When you needed it, we provided the money, so we have an interest in it.

Mr. DE LA GARZA. It was not a bailout from taxpayers' money.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. I thank the gentleman for yielding.

Mr. Chairman, I congratulate the gentleman from New Mexico in his first full bill as ranking member of our subcommittee. He has done an outstanding job.

Mr. Chairman, I commend the chairman for the usual leadership that he provides us.

Mr. Chairman, I rise in support of the bill. The bill recommended by the committee totals $53.6 billion in budget authority, which is $9.9 billion below the budget request. Notwithstanding the fact that we have done our job in terms of the budget and reported the bill that meets all the targets that we were supposed to meet, it in fact exceeds them. There are very positive things in this bill, and I just want to mention them because the committee has been responsive to me and other Members of this body in trying to meet some of our requests.

We increased Agricultural Research Service funding by $36 million to $624 million. It is my view that if you look at the Federal Government's investment in research activity, whether it be NIH or NASA or anything else, over the last 10 to 20 years or maybe longer, you would be very hard pressed to find any place where the investment of the Federal Government in research has more directly proven out than our investment in agricultural research.

I am proud of the work that our committee has done in that regard. We increased the Extension Service budget by over $18 million to $417 million. This increase assists the Extension Service in providing these necessary services.

In my areas, as in most other rural areas, the Extension Service has gone through a tremendous transformation in recent years, particularly the years which we think of now and refer to as the farm crisis years. The Extension Service was an extensive social service network that reached out to troubled farm families and tried to deal with the problems of suicide, alcoholism, and emotional breakdown.

They now are involved in areas such as economic development and health care problems that afflict rural areas just as much as the rest of the country. I think that increase is very merited.

Through the Animal/Plant Health Inspection Service, I point out we have increased pseudorabies research by $1 million to over $7 million. This is a 10-year program, Mr. Chairman, which is very important, really of critical importance to the swine industry throughout this country. I am pleased that the committee appropriated this amount. It is minimal. We really are part of a program to eradicate pseudorabies at a savings of millions and potentially billions of dollars for the American swine industry. This is not a program where it pays in the long term to be short today.

I appreciate what the committee has done. We restored REA funding to a level $2.5 billion. Again, I appreciate that in my part of the country where a majority of my subscribers for electricity subscribe through the REA.

We maintain level funding for the Farmers Home Administration business and industry guaranteed loan program, which we have been able to utilize in my district as a very effective rural development tool.

Finally, there is language in the report which I am appreciative of to the chairman for including, which urges the Secretary to expedite disaster assistance declarations for a number of counties throughout the upper Midwest and elsewhere that are experiencing natural disasters, whether it be due to rainfall in my part of the country or the Mississippi Delta or perhaps due to drought or other problems on the west coast.

I believe before this Congress is over we my well be considering some disaster assistance bill to deal with some of those very serious problems. About a third of my district has suffered severe losses due to excessive rainfall. I appreciate the committee's concern about this problem as I appreciate the concern of the Committee on Agriculture, which has already begun to hold hearings on the program.

Mr. Chairman, I urge support of the bill.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA], chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I rise, as I have, to inform the House regarding how this bill fits with regard to the budget resolution and the budget agreement. This is the 12th of 13 annual appropriation bills to be considered by the House and falls within the limitations established by the agreement.

I want to commend the chairman of the committee because this represents the second time in 14 years that the House has passed this many appropriation bills before the July 4 recess.

□ 1740

Mr. Chairman, I think in large measure it was due to the ability to get a budget resolution adopted early and then move all the appropriations bills within the limits established by the agreement.

This bill provides $12.384 billion in total discretionary budget authority and $11.270 billion in total discretionary outlays, which are $116 million below the 602(b) subdivisions for budget authority and equal to the 602(b) subdivisions for outlays, respectively, for this subcommittee.

I want to commend Chairman WHITTEN and the ranking member of the subcommittee, Mr. SKEEN, for the work they have done in adhering to the limits set forth in the budget agreement and the 1992 budget resolution.

Mr. Chairman, I also rise for the purpose of discussing the funding level for the special supplemental food program for women, infants and children [WIC]. The WIC Program represents the best that government has to offer, it is effective and it significantly improves life outcomes for infants, children and mothers who need assistance.

Simply put WIC works. That's what five chief executive officers of major U.S. companies told us when they testified before the budget committee. They urged us to fully fund WIC by 1996. Their statement pointed out that this goal is within the power of the Congress and the executive branch and that it would represent an excellent investment in our Nation's children, its economy and its overall future.

The WIC success has been established in study after study. The national WIC evaluation released by the U.S. Department of Agriculture in 1986 found that WIC participation reduces late fetal deaths by 20 to 33 percent. A new study issued by the USDA in October 1990 found that WIC participation increases birthweight significantly, especially among premature infants.

The USDA study found that the WIC prenatal component has a positive cost-benefit ratio reflected in estimated Medicaid savings of $1.77 to $3.13 for each dollar invested in just the first 60 days of life. So WIC saves lives and saves money.

The House of Representatives approved a budget resolution for fiscal year 1992 which assumed a $350 million increase for the WIC Program as a first incremental step to raise WIC participation from its current approximately 55-percent participation rate to full funding by fiscal year 1996. The recommendation for full funding is also meant to show that when we know how to really make a difference, we should not restrict it to half measures.

The House appropriations bill for the Department of Agriculture, Rural Development, Food and Drug Administration and Related Agencies includes a $250 million increase for the WIC Program. While this is not quite at the level recommended by the CEO's and assumed in the budget resolution, it

still represents a great stride forward. We support the effort made by the Appropriations Committee and urge that in the future conference that the funding should at a minimum be the level proposed in this bill.

As chairman of the budget committee, I will continue to inform the House of the impact of all spending legislation. I have provided a "Dear Colleague" letter describing how each appropriation measure considered so far compared to the 602(b) subdivisions for that subcommittee. I will provide similar information about the conference agreements on the appropriations bills.

I look forward to working with the appropriations committee on its remaining bill and on the conference agreements with the Senate.

[Fact Sheet]

H.R. 2698, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102–119)

The House Appropriations Committee reported the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for 1992 on Thursday, June 20, 1991. This bill is scheduled for floor action on Thursday, June 27, 1991.

COMPARISON TO THE 602 (b) SUBDIVISION

The bill, as reported, provides $12,384 million in total discretionary budget authority, $116 million below the Appropriations subdivisions for this subcommittee. The estimated discretionary outlays in the bill equal subdivision totals. Amounts are provided in the domestic and the international categories.

The bill provides $10,983 million of domestic discretionary budget authority, $62 million less than the Appropriations subdivision for this subcommittee. The bill provides $10,040 million of domestic discretionary outlays, which is equal to the discretionary outlay subdivision for this subcommittee. A comparison of the bill to the spending allocations for this subcommittee follows:

COMPARISON TO DOMESTIC DISCRETIONARY SPENDING ALLOCATION

[In millions of dollars]

	Agriculture, rural development appropriations bill		Appropriations Committee 602(b) subdivision		Bill over(+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	10,983	10,040	11,045	10,040	−62	...
Mandatory [1]	37,888	29,486	37,888	29,486	...	...
Total [1]	48,871	39,526	48,933	39,526	−62	...

[1] Conforms to budget resolution estimates of existing law.

Note: BA—New budget authority; O—Estimated outlays.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATION

The bill, as reported, provides $1,401 million of international discretionary budget authority for P.L. 480 Food for Peace programs, $54 million below the Appropriations subdivision for this subcommittee. The bill provides outlays equal to the subdivision total for international discretionary outlays.

	Agriculture, rural development appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	1,401	1,230	1,455	1,230	−54	...

Note: BA—New budget authority; O—Estimated outlays.

The Appropriations Committee reported the Committee's subdivision of budget authority and outlays pursuant to Section 602(b) of the 1974 Budget Act as amended on May 29, 1991 in House Report 102–81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102–69, the conference report to accompany H. Con. Res. 121, the Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

The following are the major program highlights for the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for Fiscal Year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Agriculture programs:		
Commodity Credit Corporation (mandatory)	8,450	...
Agricultural Research Service	713	523
Extension Service	417	354
Animal and Plant Health Inspection Service	448	370
Cooperative State Research Service	475	214
Federal Crop Insurance Corporation (mandatory in part)	544	312
Food Safety and Inspection Service	474	431
Agricultural Stabilization and Conservation Service	719	719
Conservation and Rural Development programs:		
Rural Electrification Administration	79	32
New direct loans	(1,794)	
New loan guarantees	(234)	
Farm operation and ownership loans [ACIF]	482	413
New direct loans	(1,558)	
New loan guarantees	(3,110)	
Rural Housing (RHIF)	1,382	788
New direct loans	(1,879)	
New loan guarantees	(350)	
Rural Development Insurance Fund	174	56
New direct loans	(700)	
New loan guarantees	(160)	
Soil Conservation Service Conservation Operations	564	520
Watershed and Flood Prevention Operations	205	113
Conservation Reserve (mandatory)	1,643	1,643
Nutrition Programs:		
Food Stamp Program (mandatory)	21,150	19,168
Child Nutrition Programs (mandatory)	6,067	4,960
Supplemental Feeding Programs [WIC]	2,600	2,444
Nutrition Assistance for Puerto Rico (mandatory)	1,013	1,007
Food donations for selected groups	265	216
Temporary Emergency Food Assistance Program	170	150
Other Programs:		
P.L. 480, Food for Peace	1,401	1,065
New direct loans	(514)	
Food and Drug Administration	762	625
Payments to the FCS Financial Assistance Corporation	113	110
Commodity Futures Trading Commission	47	41

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, this is my first year on the Appropriations Committee and it is an honor to have been assigned a seat on the Agriculture Subcommittee. It is a privilege to serve with the very distinguished chairman of the subcommittee and full committee, the gentleman from Mississippi [Mr. WHITTEN] and the ranking member, the gentleman from New Mexico [Mr. SKEEN]. I appreciate the courtesy and respect which they have shown me during our subcommittee hearings. Their help and support has been invaluable.

Mr. Chairman, this bill is a good bill and a fair one. I am pleased with the funding levels for both the Agricultural Research Service and the Cooperative State Research Service. Both provide funding for important research projects such as water quality, climate change, low-water tolerance landscaping and research in biochemistry and biology. The bill also provides $263 million for payments under the Smith-Lever Act which governs cooperative agricultural extension work and $26 million for payments to land-grant colleges. Also provided in the bill is $475,000 for rangeland research.

I am also pleased with the provisions relating to the Rural Electrification Administration.

To those of us who represent rural areas, REA is a very important program. It assists rural organizations in obtaining the financing required to provide electric and telephone service in rural areas. These essential services help improve the quality of life of those who live and work in rural areas.

Finally, Mr. Chairman, the committee has made the WIC Program one of its priorities. This special supplemental food program for women, infants, and children provides critical nutrition and health benefits to low-income pregnant women and young children. These benefits reduce infant mortality, avert premature births and help our needy children reach their full potential.

Mr. Chairman, a lot of hard work, on both sides, has gone into this bill and I urge my colleagues to support the bill.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I thank the gentleman from Mississippi [Mr. WHITTEN] for bringing H.R. 2698 to the floor. I want to very quickly make a point about the large reductions in farm price supports that have taken place over the last several years, and I respectfully ask that, in particular, Members of this House who are not from rural areas of our country listen to what I believe is a very important point.

Reducing the budget is becoming a way of life for the Congress, but farm price support programs cost very little and they have taken a disproportionate reduction in funding over the last several years. In fact, in 1986 total farm price supports accounted for $26 billion of our Federal budget. In 1990, total farm price supports were just over $6 billion—that is a 77 percent cut in farm price supports in only 5 years.

Farm programs have taken a large hit during these years of budget reductions, but these programs have continued to be successful in helping American agriculture provide consumers—not just rural Americans, but all Amer-

icans—a safe and abundant supply of food and fiber at an affordable price.

We are the best fed at the lowest cost Nation in the world. All of us should be proud of our Nation's agriculture programs and our Nation's agriculture industry in this regard.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, today I rise in strong support of the Agriculture, Rural Development and Related Agencies appropriations bill for fiscal year 1992. I would also like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking member, Mr. SKEEN, for their hard work and diligence in preparing such a balanced package within a highly constrained budget.

This legislation represents what has been a long and deliberative process which meets many of today's agricultural needs, but yet reflects much needed fiscal responsibility. This legislation represents many difficult budget decisions that continue to prove that agriculture is willing to pull its fair share of the budget reduction load.

Additionally, I am also pleased to note a particular item within this appropriations measure that continues to benefit agricultural procedures across the Nation. For several years now, research on the soybean cyst nematode problem has been conducted in my district at the Delta Area Agricultural Research Center in Portageville, MO. This facility is ideally suited to conducting this research, given its extensive work in the past on the problem and the fact that many farmers in the country continue to face a serious cyst nematode problem.

By including this research as a part of the appropriations package, I believe we will be saving a number of farmers from financial ruin in the long run. As many as 25 million acres of farmland in the United States are contaminated with the cyst nematode, including all major soybean-producing counties in Missouri and several adjoining States. It has been estimated that in 1989 the soybean nematode cost our Nation's farmers over $600 million in reduced yields. But because of the work being conducted on this problem, the Federal Government will easily save many times the $333,000 we will spend on soybean cyst nematode research next year.

Additionally, this measure restores funding for the Rural Electrification Administration to meet the increasing needs of our Nation's rural electric systems. In the past 10 years, insured REA loan funds have declined substantially despite continued inflation. Now, through restored funding levels, rural electric insured loans can better meet growing rural development demands.

Likewise, there are many other fine projects and research efforts contained in this bill along with needed funding for the supplemental food program for women, infants, and children and continued funding for other vital domestic food and nutrition programs. I urge my colleagues to show their support for these valuable endeavors by giving favorable approval to this appropriations measure.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman from Mississippi [Mr. WHITTEN], the dean of our delegation, for yielding this time to me, and I thank him for a remarkable job on the Appropriations Subcommittee on Rural Development, Agriculture and Related Agencies.

Mr. Chairman, a lot of positive comments have already been made regarding this bill, the fact that it falls under the budget limits, the fact that it helps out the WIC Program, the REA, and the gentleman from Minnesota [Mr. WEBER] talked about pseudorabies, which is also important to Mississippi. I just want to take a small bit of time to talk about a couple of other positive things that are beneficial to the environmentally sensitive Members of this body.

□ 1750

No. 1, I have consistently encouraged my colleagues to join me in the use of soybean ink for printing. Increasing the use of soybean ink benefits both our farmers and our environment. I commend the committee for providing $500,000 for research on soybean-based ink. The committee in its report cites the environmental benefits from using a readily degradable ink and the low-rub characteristics of soybean ink as reasons for this essential research.

Also included in the bill is an increase in the appropriation to 1890 land-grant colleges, specifically Tuskegee University in Alabama. The appropriation is almost $3 million above last year's appropriation. So I am pleased that the committee recognizes the unique mission carried out by these institutions and the quality of the programs and research that they are engaged in.

Lastly, I would also like to thank the chairman of the committee for his continued support of the Yazoo Basin Flood Control project. The gentleman is well aware of and well knows the need for this project to be completed, and I am grateful for the appropriation of the Soil Conservation Service's portion of the Yazoo Basin project, inasmuch as early this month we had about 2 million acres of land in the Mississippi Delta under water.

So, Mr. Chairman, once again I rise in strong support of this bill and urge my colleagues to do the same.

The CHAIRMAN. The Chair advises that the gentleman from New Mexico [Mr. SKEEN] has 10 minutes remaining and the gentleman from Mississippi [Mr. WHITTEN] has 4 minutes remaining.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I rise in strong support of the bill as it deals with child nutrition, with school lunches, WIC, and so forth.

Mr. Chairman, I rise in support of H.R. 2698, a bill providing appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies for fiscal year 1992.

First of all, I want to once again commend and thank Chairman WHITTEN and the subcommittee's ranking minority member, Mr. SKEEN, for their continued strong support of Federal nutrition programs for our Nation's children and elderly.

I was very pleased with the bill's recommended funding level for the child nutrition account, which would provide an 8.8 percent increase over the account's current fiscal year operating level.

I was also gratified to find that the Appropriations Committee was responsive to the concerns I had shared with it regarding the Food and Nutrition Service's proposed coordinated review effort rule. As I indicated when I appeared before the Subcommittee on Rural Development and Agriculture 6 weeks ago, I believe that the audit and review system the proposed rule would establish, initially apply to school-based child nutrition programs, and subsequently extend to other program areas such as the Child and Adult Care Program, not only fails to be costeffective but is outside the intent of both section 110 and title II of Public Law 101–147, the child nutrition and WIC amendments of 1989.

Consequently, I appreciated finding that the bill's committee report directs USDA to subject the proposed audit and review system to a comprehensive examination and assessment. In particular, I was pleased that USDA was instructed to consider recommendations State food service authorities may make to further improve the audit and review system. I look forward to reviewing the findings which USDA will extract from this task, which I understand are to be shared with the appropriate committees of the Congress by no later than the end of March 1992.

The committee should also be congratulated on its steadfast support of the WIC Program and its recommended fiscal year 1992 funding level, which calls for a 11-percent increase over the current fiscal year's funding level.

In closing, Mr. Chairman, I would like to extend my thanks to the entire Appropriations Committee, which has continued to demonstrate its strong commitment to the nutrition programs that are so important to our Nation's children.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I think that much of this legislation is very important and

needed by the Agriculture Committee and by this country, but like all legislation around here, there appears to be a lot of pork. I am well aware that one man's worthwhile project is another man's pork, so I approach this with a great deal of trepidation.

I was contemplating proposing some amendments to try to cut out some of this pork, but you cannot get at them because this is in report language in large part, so if you cut out something, you have got to cut out a specific amount of money, which may or may not get at the problem. But since I am not going to specifically be able to get at some of this pork, I would like to just mention for the edification of my colleagues some of the things that are in this legislation in report language.

There is $94,000 for asparagus yield decline; $200,000 for locoweed research; $240,000 for a mechanical tomato harvester; $300,000 for a new center for research on plant genetics at the University of Toledo; $230,000 for tourism in New Mexico; some amount between $250,000 and $1 million for various projects for the Toledo Farmers Market, whatever that is; and then we have specific funds that are in report language for rice, a research center in Arkansas, $223,000.

Then there is the Northern Regional Research Center in Illinois, $365 million; a National Park Research Facility in Iowa, $1 million; a Regional Poultry Research Center in Michigan, $500,000; a National Center for Natural Products in Mississippi, $5.175 million; a National Center for Warm Water Aquaculture in Mississippi, $1.2 million; and a demonstration greenhouse project in Ohio, whatever that is, for $375,000.

Mr. Chairman, we are facing a $350 to $400 billion deficit this year. I submit to my colleagues on the Subcommittee on Agriculture of the Appropriations Committee that they have done a fine job, and I would just like to say in closing that although they do a great deal of positive things on the committee, I still believe there is a great deal of pork in this legislation, and I hope in the future they will do their dead level best to eliminate it because of this huge deficit facing the country.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the chairman of the committee.

Mr. WHITTEN. Mr. Chairman, this is a big country, and all we have behind our debt of $3.6 trillion is our country. I make no apologies for having these bills here. I have said kiddingly several times that it looks like we are going to have to give our local business, a foreign address to get money for them. I make no apology for looking after our own country.

Mr. SKEEN. Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I appreciate the work of the chairman of this committee.

Mr. Chairman, on balance this is a very fine bill, but I am concerned in looking through this proposal, because I see two soybean items. My colleague, the gentleman from Mississippi [Mr. ESPY], mentioned them. Soybean-based ink was one of them, and the other one was soybean research. This is $525,000 for soybean composition research and research on improved southern soybean production.

Last year in the farm bill the Congress passed a soybean promotion research program that will fund up to $60 million out of checkoffs from soybean producers. The goal was that virtually all soybean research in the country would be done out of that voluntary checkoff. I see these two programs now in this bill, and it concerns me that we may have the left hand not knowing what the right hand is doing. We see research programs here and research programs in the checkoff program, and what it means to me is that maybe all the research programs here do not have a method to their madness, or maybe they do. But all of them do not have an organizational effort to make sure that the research projects fit or that there is a mesh to them.

As chairman of the Soybean Subcommittee, I want to see as many soybeans sold in this country as possible. I just want to make sure that the research is being done sensibly. In the farm bill that we passed, we provided a great deal of greater emphasis on competitive grants and awards based on peer review. That was the heart of our research title in that farm bill, and in looking at these two projects and a few others, it appears there may be some projects in this bill that do not have peer review of any established process to them.

Mr. Chairman, I just hope that the committee that deals with this during the next couple of years looks at the broader picture and makes sure we are not overfunding some research projects as well.

Mr. SKEEN. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of H.R. 2698, the Agriculture Appropriations bill for fiscal 1992. I would particularly like to bring to the attention of my colleagues the fact that the committee, under the able leadership of Chairman WHITTEN, included in this bill an important appropriation of $175,000 which will be of tremendous help in fighting the spread of Lyme disease. This funding, for deer tick population ecology work being conducted at New York Medical College in Valhalla, NY, offers important hope that we will be able to reverse the dramatic increase in Lyme disease.

While over the years the Congress has supported the important work of the Centers for Disease Control and the National Institutes of Health on Lyme disease, today we take an innovative step to help prevent Lyme disease by attacking the ticks which carry this painful, often devastating disease. By working through the Agriculture Department to slow the dramatic growth in populations of Lyme disease-carrying deer ticks, this research will take advantage of the extensive expertise of the Department and of the research at New York Medical College. It literally has the potential, in a very cost-effective way, to stop Lyme disease in its tracks.

I want to personally thank Mr. WHITTEN, both in his capacities as chairman of the full Appropriations Committee and the Agriculture Subcommittee, Mr. SKEEN, ranking member on the subcommittee, and my other good friends on the Agriculture Appropriations Subcommittee for their cooperation and foresight in including these funds in the bill. My good friend and colleague from New York, Mr. MCHUGH, had a particular understanding of the impact of Lyme disease because of the extent of the problem in our own State; he was immensely helpful.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I rise in strong support of the bill, and wish to congratulate you, the ranking minority member, Mr. SKEEN, the other members of the subcommittee, and your outstanding staff for their performance in writing this complex and important bill.

Many Members of Congress, particularly those of us from rural areas, depend on this legislation to fund important programs and development efforts in our districts. Chairman WHITTEN, to whom I have looked for guidance and support since I came to Congress 22 years ago, must indulge many of our requests for funding every year in this bill.

He is a patient man—and a fair man—who makes every effort to honor all reasonable requests.

If ever there was a Member's Member, it is the gentleman from Mississippi, and we should take great pride in his leadership and distinguished service to Congress and the Nation for almost half a century.

Since I came to the House of Representatives in 1969, my goals have focused on efforts to harness the vast potential and resources of rural America. This legislation is among the preeminent vehicles for that purpose.

Through this bill, rural areas are provided assistance in building infrastruc-

ture and stimulating business development. Innovative technologies to promote new markets for farm products receive encouragement and support through the funding we will approve, are about to approve.

Today, we will enable American farmers to put food on dinner tables throughout the world. We will make sure that American children have nourishing lunches at school and that poor women and their babies have adequate food to eat and milk to drink. But we will do much more.

This is our plan for nurturing and husbanding the resources of our vast, rich country—for conserving, protecting and dedicating them to human needs and national purpose—and for ensuring that they endure for those who come after us.

Much of my congressional district is covered by the dark, rich soil of the Mississippi River Delta which bursts forth each year with a great bounty of food and produce to feed and clothe us and provide goods to trade with other countries.

The prolific abundance of the delta land belies the crushing poverty which characterizes the daily life of many of its residents. The final report of the Federally chartered Mississippi River Delta Development Commission issued a call to action—an agenda for mobilizing the human and material resources of the delta to lift it out of the endless cycles of poverty and misery. This bill begins to address some of the questions raised by the Commission report.

The committee has provided a $500,000 rural development grant to the city of Cotton Plant, AR, to support the emergence in the delta of aquaculture—the fastest growing sector of American agriculture. There has been some criticism of Federal support of this emerging industry here in the House in recent days. Those who have this view may benefit from the following facts about aquaculture.

First, a study by Mississippi State University concluded that 220 jobs—or Federal taxpayers—are created for every 10 million pounds of catfish produced in aquaculture.

Second, warmwater aquaculture generated more than 790 million pounds in production in 1988 at a farm gate value of $600 million.

Third, current projections indicate that production will rise to 2.2 billion pounds by the year 2000 creating 16,500 new jobs and taxpayers.

Fourth, projected increases in production will require expanded processing capacity in the delta region to support the industry.

Mr. Chairman, in a colloquy with me last year during consideration of the Agriculture, Rural Development and related agencies appropriations bill for fiscal year 1991, you agreed that careful consideration should be afforded proposals to provide aquaculture farmers with processing facilities.

This funding is yet another indication of the committee's recognition of the growing importance of aquaculture in American agriculture—and I am grateful for your support.

It has been suggested in this body that projects such as this one are pork barrel. I am here to tell you that fish is not pork—and that this funding is good public policy.

I have no doubt that it is right for the Federal Government to provide assistance to aquaculture farmers which will: Create more jobs for Americans; increase tax revenues to the Federal Treasury; and, reduce our imports of foreign fisheries products and thereby improve our balance of trade.

It is vital that this industry, which is centered in the delta have the Federal support which is crucial to its survival. This funding is an important and needed step in that process.

The Delta Commission also emphasized in its report the need to establish centers for alternative crop production and marketing to diversify and invigorate the delta economy. This bill provides a $350,000 grant to demonstrate this concept.

The funds will be used to establish a regional farmers' market in eastern Arkansas to assist in the marketing of fresh produce which offers a higher return than traditional row crops. This project will provide small farmers with technical and managerial assistance and market access which is important to their survival.

Mr. Chairman, I am pleased that the committee has continued funding for a number of other important programs.

The Riceland Mosquito Management Program funded through the Cooperative State Research Service has made excellent progress in identifying no methods to control one of the most persistent and difficult pests in our environment. Some people who live in Arkansas rice country believe that the recent conflict in the Persian Gulf would have been even shorter than it was if we could have managed to turn the wrath of Delta mosquitoes against the enemy.

This project enables scientists in Arkansas and several other States to continue their research to develop environmentally acceptable methods of mosquito control.

The committee has, once again, recognized the continued need to identify solutions to one of the most persistent and intractable problems facing the Amercian farmer—declining water tables.

The 26-county east Arkansas water conservation project, which will receive continued funding of $452,000, has confronted the challenge of the accelerated depletion of underground aquifers in the delta region of eastern Arkansas. This is a pervasive problem in other areas of the Nation such as the Great Plains region of the Midwest.

The information acquired in this study will be important to developing use and conservation methods which will assure further generations of adequate water.

This legislation supports many important research projects. Of special importance to my congressional district, which produces more rice than any State, is additional funding for the continued planning and design of a rice germplasm center to be located in Stuttgart, AR. This facility will perform important research on one of the Nation's premier export crops.

The broad sweep of this bill demonstrates the committee's continued attention to many other activities in need of support. Floodplain management, pest control, food inspection services, and special research activities are among the many other worthy and valuable pursuits to which the committee has devoted its energy and support.

Mr. Chairman, the committee and you have served this House and the Nation well by bringing such a well crafted and comprehensive bill to the floor. I have no doubt that we will pass this legislation by an overwhelming vote today.

I urge passage of the bill.

The CHAIRMAN. All time of the gentleman from Mississippi [Mr. WHITTEN] has expired.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I rise in support of H.R. 2698, the bill providing appropriations for Agriculture, rural development, and related agencies for fiscal 1992. This bill is a very tight one, with total spending under the amount sought by the President, while readjusting specific spending recommendations to reflect the many concerns we heard during our hearings.

I want to again compliment our distinguished chairman, Mr. WHITTEN of Mississippi, for skillfully leading us through another budgetary cycle in a fashion that is mindful of the need of American agriculture within severe spending limitations. I also want to compliment our new ranking minority member, Mr. SKEEN of New Mexico, for his positive and substantial contributions to this bill.

Mr. Chairman, people all too often think that food will magically appear on their table and that farmers will always survive. That is a tremendously unfortunate and unfair view. We have the best and most plentiful food supply in the world because of our farmers, and if we fail to pay attention to their needs, every single consumer will ultimately pay the price.

The bill before us does not create any new programs. Rather it funds the many activities of the Department of Agriculture. I am very pleased with some of the increases and regret that in many cases more could not be done. We were able to address some critical needs because many of our colleagues and our citizens took the time to let us know of their needs.

I want to take some time today to mention a number of specific items covered within this

bill which I believe merit special mention. These matters range from agricultural research to providing food assistance to needy individuals regardless of age.

We have many Federal agencies that conduct reseach, and it is vital, particularly in times of tight budgets, that those research projects be as coordinated as possible with other efforts. Agricultural research projects need to be and are coordinated across USDA's agencies, and are increasingly coordinated with those of other agencies.

Two projects in particular within the Agriculture Research Service are for coordination with efforts outside of USDA. In providing funding for water quality and quantity research—nearly $45 million for fiscal 1992—we expect that ARS will work in cooperation with the new Environmental Protection Agency's Great Lakes Research vessel—the *Lake Guardian.* We need to preserve our largest source of fresh water, and the water quality work being done by USDA will play a major contribution toward this effort when work is done on nonpoint source pollution control and water use matters. It is expected that the Department should be in a position to approve the placement of an ARS soil scientist within Michigan to work in cooperation with this project.

As part of the Department's participation in the global climate change initiative, we have provided funds for USDA to join with the Consortium for Earth Science Information Network to assess the Department's integration of data with that of other agencies working with CIESIN, most importantly NASA. Nine hundred thousand dollars is provided for this effort.

We deal with the problems faced by a number of specific commodities. For example, we direct the Department to maintain 2 scientist years devoted to dry bean research work in Michigan, including the redirection of those funds that may be necessary to provide for this effort.

There is also a very critical need for rehabilitating the Regional Poultry Laboratory in East Lansing, MI. This has been a project sought by ARS for some time. I am happy that we could add $500,000 to the bill to help begin the planning for the rehabilitation work that is so important to effective and modern poultry research.

We continue a number of specific research efforts already underway, including food toxicology research, dwarf bunt research, and wheat quality research. All of these programs are important to the various producers and have been funded only after a careful review of many competing demands.

Within the Cooperative State Research Service we have provided a modest 4-percent increase in formula research funds which help to form the base of research at our land grant universities. We supplement these funds with special research grants which address targeted research needs, I know that many like to criticize these research projects, and they do a disservice with their misunderstanding. Each of these research grants have been brought to us by producers or their representatives. The research needs are critical for a targeted group who are highly dependent on specialty crops for their income. These producers are taxpayers deserving of their nation's attention. Their needs are important.

Some suggest that these projects are not worthy because they were not selected by a competitive review process. That just is not true. I can tell you that every single university that writes the research proposal before actually receiving these funds goes through its own process of review to make sure that the research is the best possible work. Perhaps the real issue is that those who oppose these projects oppose them because they did not get to make the decisions. That is one of the consequences and benefits of a democratic society—no one has to agree with every decision, nor is unanimity required before action is taken.

There are a number of special research grants in Michigan that are in this bill. I am proud of each and every one of them. Each program has been thoughtfully reviewed by skilled researchers before coming to us. They have stated their goals and their needs, and we have attempted to meet those needs—and rarely do we provide any requestor with the full amount that they seek. We are terminating two projects that were underway because the work has reached a conclusion. The programs were important and handled in a responsible fashion, and their discontinuance is being handled in the same way.

I am happy to report that certain projects are receiving increases. We are increasing funding for the subirrigation research project to $600,000 from $263,000 within CSRS, while providing $900,000, up from $375,000, within the Soil Conservation Service. This project is a national model for subirrigation work designed to more efficiently use water resources while safeguarding water quality by reducing farm land runoff and discharges into ground water supplies.

We are increasing funding for animal waste disposal research from $37,000 to $150,000. This project has been described to me by the researchers at Michigan State University as one of the most critical needs of animal agriculture, and one which certainly has major environmental impacts regarding the handing and disposal of animal waste.

We continue a number of specific special grants at last year's levels, including bean and beet research, apple quality, stone fruit decline, wood utilization, and celery fusarium. Each of these projects was proposed by the farmers who benefit from them and designed by very competent research scientists.

We provide a significant increase in the competitive grant program—from $73 to $99 million—providing the final element in a well-rounded research program. These grants are awarded by peer review and fully funded when awarded. I remain concerned, however, that the rate of growth in this program is at a point where it will soon overshadow the foundation of our cooperative research programs—the formula funds which are provided to research institutions to use in meeting critical State and regional needs. The balance in our research programs is becoming increasingly delicate, and I urge all concerned parties to pay close attention to this balance in the years to come if they truly want to maintain a viable research program.

We are providing $15.7 million to complete funding for the construction of a National Food Toxicology Center at Michigan State University. That institution has more than met a 50 percent match within this project. This facility has the promise of becoming the premiere national institution for food toxicology research, and a true jewel in our food safety research efforts.

While we attempt to take steps to secure our food supply for the future, another important element of this bill is to provide meaningful food assistance to those who need it today. This portion of the bill, funding food stamps, the various school feeding programs, the Commodity Supplemental Food Program, the WIC Program, and others, comprises the majority of funding in this bill. Nearly 40 percent of the bill's total funding goes to the Food Stamp Program alone.

I want to point to certain elements of this title of the bill that deserve special mention. First, we provide an increase of $5,915,000 over the President's budget request for the Commodity Supplemental Food Program. This increase is provided for two reasons. First, it is to at least maintain the current caseload levels for both the mothers, infants, and children, and elderly components of the program. The President's budget request predicted that the funding he sought would reduce elderly participation by 24,000. Hearings revealed that the only way to achieve this reduction was to either remove people from the program's roles, or to deny services to those on waiting lists when others ended their participation in the program. Either course was felt to be totally unacceptable by our subcommittee.

The second reason for the increase is to leave open the hope of program expansion. There are major caseload increase requests from current operators, and there are others around the Nation who hope to start CSFP programs. To the extent that the increase is not needed to maintain caseloads, then it is available for program expansion. It is available to expand the program for mothers, infants, children, and the elderly. It can expand programs jointly, or it can expand participation in either component of the program by program site. However, to the extent that there are expansion dollars available, we expect to see increases in both program groups, especially in light of provisions in the farm bill which call for the allowance of elderly-only locations.

I also urge the Department to pay close attention to report directives regarding consideration of budgetary consequences of changing methods of assigning caseload to States. It can be difficult to assign merely a block to a State and allow it to split out various components of eligible participants for the program. The elderly program costs less than the mother, infants, and children program. It is not a person per person trade-off, so it is necessary to be very careful before going too far in this direction.

I am still hopeful, though, that the Department will begin to pay closer attention to the needs of program operators on a site by site basis, rather than on a statewide basis. Program operators in one area should not be affected by the operations of a program in another part of their State, and failure to recognize unit differences creates unnecessary problems.

Mr. Chairman, within the report for the Women, Infants, and Children Program, we call upon the Department to do an evaluation of allowing cereals containing raisins to be part of the WIC approved food package, so long as the cereal meets the existing 6 grams of sugar per ounce standard notwithstanding the sugar occurring naturally in fruit. The current regulations exclude raisin-containing cereals just because the natural sugar in raisins pushes the cereal over the prescribed limit. We do not attempt to change the current sugar standard, which is a separate issue. Rather, we suggest that the Department simply allow people to obtain what the Department recommends that they eat by getting it one package instead of two.

This standard is one which fails to meet common sense. When one reviews the literature given to WIC participants, raisins are often suggested as a healthy snack food. Some materials suggest the addition of fruits, including raisins, to cereals as a way to diversify a breakfast. Mr. Chairman, how in the world can USDA call raisins a healthy food and recommend its consumption, but then prohibit them from a food product?

I am told that nutritionists have objected to raisins for children under age 3 because the raisins can cause choking in a small child. No one is suggesting that we give raisin cereals to infants, nor is anyone advocating anything that would hurt small children. But there are others eligible for the program—including pregnant women—who would benefit from this food. We do not exclude infant formula because it can have harmful effects on others in the program for whom it is not intended. I have had some nutritionists tell me that many pregnant women in the WIC Program are teenagers who try to hide the fact that they are pregnant by undereating. That is most injurious to the baby. These nutritionists believe that adding raisins to cereal will make it more likely that the young mother will eat some gain product. It will ensure some source of iron with the raisins. It will also create a greater likelihood that milk will be consumed because more people are willing to take milk as part of a cereal breakfast than drinking it alone. Anything that can be done to increase cereal consumption by pregnant women should be considered in this positive vein.

Others have objected to raisins because they believe they contribute to dental cavities in small children. That old argument about sugar and dental decay, and sticky foods being the worst has never successfully answered the simplest and most practical response: Encourage young people to brush their teeth. Good dental hygiene is essential and cures may ills, whether they be from one kind of a food or another.

I am also perplexed with the double standard used by USDA in its various feeding programs. USDA has provided raisins in the past in the Commodity Supplemental Food Program—a program which serves a similar target audience. And more significantly, USDA has no standard for cereals consumed in the school breakfast program. I am told that raisin-containing cereals are among the most popular in the school breakfast program. Obviously the value of raisins in cereals have been discovered by many.

It is true that our report calls for an evaluation of the inclusion of raisin containing cereals. I know that many are pointing to the overall reevaluation of the WIC food package, and expect that this issue can be addressed at that time. I believe it is only proper to expect that this issue be fully and fairly reviewed, that innuendo be responded to with fact, and that those concerned with the program look at a person's entire diet, and not try to impose some scientifically unjustifiable limit on one specific food product.

Mr. Chairman, this is a good bill. It is a sensible bill, I encourage all of our colleagues to vote "yes" on its passage.

Mrs. MINK. Mr. Chairman, today I rise in support of the Agriculture appropriations bill. I commend the committee for the inclusion of a provision to prohibit the Department of Agriculture from imposing a $2 agriculture inspection user fee on all persons who travel between Hawaii and the continental United States.

This fee is nothing more than an unfair tax imposed on the people of Hawaii. The tax has no statutory basis and, in fact, goes against congressional intent.

The Department of Agriculture proposed the fee in its regulations of a provision in the Food, Agriculture, Conservation and Trade Act of 1990 as amended by the Omnibus Budget Reconciliation Act of 1990. However, this provision which authorizes the Department of Agriculture to collect user fees on international travel, does not include travel from Hawaii. The Congress has clearly stated that it is intended that the fee only apply to international travel.

The Congress further clarified this fact in the conference report of the Dire Supplemental Appropriation Act of 1991, yet the Department chose to once again ignore congressional intent.

Mr. Chairman, we cannot allow the Department to continue to violate the actions of this Congress. And I commend Mr. WHITTEN and the committee for the inclusion of this provision in legislative language. It is important to the people of my State, but even more, it is important to the integrity of this Congress.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 2699, the bill providing appropriations in fiscal year 1992 for the Department of Agriculture and related agencies. This is a good and fair bill, and I urge my colleagues to support it.

Mr. Chairman, I would like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking minority member, Mr. SKEEN, as well as their able and very fine staffs, for putting together such a balanced package. In particular, I would like to thank them for their continuing sensitivity to the somewhat unique problems of agriculture in California.

Specifically, the bill includes $2.321 million to complete construction of the National Grape Importation Facility to be located in Davis, CA.

The immediate construction of this facility is crucial to the continued international competitiveness of the U.S. wine industry because of the critical shortage of grape quarantine facilities. The lack of quarantine facilities puts the U.S. industry at a severe disadvantage to foreign producers which have access to the latest variety releases.

The facility will provide grape quarantine services for commercial grape growers and researchers throughout the United States and will develop and implement faster methods for grape disease detection.

Imported grape stocks, on which the United States depends heavily for new wine grape varieties, must be quarantined and inspected for disease prior to being released for general use. The facility will help accelerate the inspection process and the introduction of new varieties of wine grapes.

Quicker inspection services will help the U.S. wine industry become more diverse and internationally competitive with major wine producing countries in Europe.

The bill also provides $441,000 for design and planning work on a new Alternative Pest Management Research Facility. Increasingly, California and American growers are being called upon to reduce their use of chemicals in agricultural production. But the loss of major pesticide in the absence of alternative pest control technologies and management systems could have severe economic impacts on U.S. agriculture and result in higher food prices, increased imports, and reduced exports of our agricultural products. Thus, it is imperative that we expend and accelerate research to control exotic pests, like the Medfly, the Mexican fruit fly and the Africanized honey bee, and develop viable alternative pest control technologies and management systems.

I would also like to commend the committee for its continued support of the Special Supplemental Food Program for Women, Infants, and Children, or WIC. Over the last decade, the committee has consistently found more resources than requested by the administration for this critical program.

WIC is our first line of defense against infant mortality, low birth weight, malnutrition and other health problems associated with inadequate nutrition among American children. Studies have shown that for every dollar spent on WIC, $3 to $4 are saved in future health care costs.

In providing a funding increase, the committee has demonstrated its commitment to adequately funding WIC so that the largest number of nutritionally at-risk women, infants and children may continue to participate in this cost-effective and important program.

Finally, I would like to thank the chairman of the subcommittee and the ranking minority member for their support for efforts to encourage the Department of Agriculture to review the food packaging requirements for the WIC Food Program. In particular, the committee has expressed concern that current WIC guidelines prohibit all cereals that contain more than 6 grams of sucrose and other sugars, including those that occur naturally, per ounce of dry cereal from eligibility under the WIC Program.

These guidelines prohibit cereals that contain raisins from being eligible for purchase under the WIC Program even though raisins alone have been recommended by the Department to be included as part of a healthy diet and even though many of these cereals—without the naturally occurring sucrose from the fruit—would meet the 6-gram standard. The committee is aware of the evaluation of the food packaging guidelines that is currently un-

derway by the Department, and has appropriately indicated its expectation that this sucrose requirement will be reviewed.

Mr. Chairman, again, this is a good and balanced bill, and I urge my colleagues to vote for the measure.

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 2698, fiscal year 1992 appropriations for Rural Development, Agriculture, and Related Agencies. Within the bill's total of $52.6 billion there is necessary funding for many programs which are extremely important to my State of West Virginia.

Housing is certainly a prominent concern in rural districts like my own. The Appropriations Committee's recommendation to continue funding for most rural housing loan and grant programs at the current fiscal year levels is a clear response to the continued housing problems in rural America. This recommendation stands in sharp contrast to the Bush administration's budget request, which was 32 percent less than the committee's proposal. H.R. 2698 appropriates $2.5 billion for the rural housing insurance fund. This is over $600 million more than the administration requested. Of this, $1.22 billion is an allocation for low-income housing loans.

The committee has also recognized the importance of rural development programs to this country. This measure appropriates $635 million for direct and guaranteed loans to help fund the construction of water and sewer systems in rural areas during fiscal year 1992. This is 49 percent more than the administration's request. The bill also appropriates $350 million for rural water and sewer system grants, 56 percent more than the President asked for. Water and waste disposal system improvements are essential elements for increasing the quality of life in rural America. These provisions are of particular interest to my district and I strongly support them.

Other funding of note to West Virginia is the $417 million for extension services. This appropriation will fund programs that are of vital interest to our land-grant colleges and universities.

The Soil Conservation Service watershed and flood prevention operations are also at a level higher than the President requested. Within this appropriation the committee has provided $30 million for the emergency watershed protection program. This program is of significant importance to my district because of a landslide problem along Fourpole Creek, near Huntington, WV. I thank the committee for their interest in this problem and hope with their help it can be assuaged.

Another agency of considerable significance to rural America is the Rural Electrification Administration. ERA assists rural electric and telephone organizations in securing requisite funding for the delivery of electric and telephone service to nonurban areas. The fiscal year 1992 agriculture appropriation sets aside $2.5 billion for REA loan authority. This is $1.1 billion more than the administration requested.

In addition to housing and development programs, food programs are extremely important to my district. This bill provides for a total of $22.2 billion for the Food Stamp Program; this is $1.6 billion more than last year's appropriation.

Also, a program which I feel strongly about, the Special Supplemental Food Program for Women, Infants, and Children [WIC] is provided $2.6 billion in fiscal year 1992, $27 million more than was requested by the administration. The committee recognizes the importance of targeting participation in this program to those who are at greatest nutritional risk and urges the Department of Agriculture to work with the States to this end. The Emergency Food Assistance Program [TEFAP] is funded at the same amounts as the current fiscal year to purchase commodities and to help the States store and distribute this food.

Mr. Chairman, while I sincerely wish we had more money to offer these vital programs I have highlighted, I urge the passage of H.R. 2698, and send a message to the White House that we will not forget the continued struggles of the backbone of our Nation, rural America.

Mr. MOODY. Mr. Chairman, I rise in support of H.R. 2698.

The agriculture appropriations for fiscal year 1992 will, at least for 1 year, correct a disturbing trend that has been occurring for over 10 years.

This bill includes restoration of the 25-percent cut in the Rural Electrification Association's insured loan levels which resulted from last year's Budget Reconciliation Act [OBRA].

This bill restores direct loan funding to the level that existed before OBRA 1990. However, it must be understood that this only incrementally offsets the numerous decreases in funding that have occurred over the past decade. The restored level of funding will still be below the level that existed 10 years ago.

The rural economies of my State, Wisconsin, and all States, rely heavily on the low-cost, REA-insured loans to provide low-cost electric power. The depletion of this loan fund has put an extreme strain on many electric cooperatives.

The electric cooperatives must incur higher costs in serving rural areas, and as a result, must typically charge higher rates than urban-oriented utilities. Therefore, the cooperatives need-low cost, REA-insured loans in order to provide low-cost electric power.

Most people do not realize the importance of the partnership that exists between rural and urban economies. Currently in Wisconsin, the economy of the entire State is being threatened because our dairy farmers are not receiving a fair price for milk. It is in the best interests of everyone for our Government to enact policies that ensure the stability of rural economies.

The country's agriculture industry, and other rural industries, cannot survive without fair costs for electrical power. Increasing REA's loan authority to levels seen in previous years is a desirable step toward providing rural areas with low-cost electric power.

Mr. HALL of Ohio. Mr. Chairman, I commend my colleague, the distinguished gentleman from Mississippi for his leadership in crafting of the bill before us today. At a time when we are forced to restrain spending, at a time when a declining pot of Federal funds is pitting social programs one against the other, he has managed to bring to us a bill that recognizes the critical need for investing in programs that provide basic nourishment for impoverished infants and children. I applaud Chairman WHITTEN's diligent efforts and particularly bring to your attention the bill's provision for expanding the WIC Program. Over the past month, 84 Members have joined me in sponsoring the Freedom From Want Act, which calls for a 5-year funding plan for achieving full participation in WIC. The bill before us today includes a $250 million increase in program spending next year—this is an important first step.

Given the current budgetary challenge, it is imperative that we build partnerships between the Federal Government and the private sector that bring more food to the tables of hungry people. Gleaning, the collection of unharvested food from farmers' fields, gives us this opportunity. I authored the gleaning clearinghouse provision in last year's farm bill and I am pleased to note that the report accompanying H.R. 2698 contains language expressing the committee's intent that the Department of Agriculture provide technical assistance to State and local agencies involved in gleaning projects. I appreciate the committee's support of this effort.

□ 1800

Mr. SKEEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $2,282,000: *Provided*, That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided*, That the Secretary may transfer salaries and expenses funds sufficient to finance a total of not to exceed 50 staff years between agencies of the Department of Agriculture to meet workload requirements.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the entire 5 minutes, but I did want to take the well as we discuss agriculture appropriations, and, understanding that this is not the place for us to determine agricultural policy, I did want to say that we do need some changes in agricultural policy, and we do need to complete the task of putting our Farm Program in order, even as we fund the programs today.

Mr. Chairman, I support the efforts of the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations, as well as the chairman of this subcommittee. I

think the gentleman has done a marvelous job, and over the years has been one of the stalwarts in trying to fight for family farmers and put together a program that works.

I do not want the opportunity to pass, however, as we talk about how much money goes into this program, to say that another element of it is how do we distribute the money, and to question what kind of policies can we develop that provide decent price supports for family-sized farmers.

I do not want people in this country to think that statements from the former Agriculture Secretary and others—statements that say everything is just fine in the Farm Belt, that things are better out in farm country, that prices are all right, that farmers are doing fine—I do not want that to remain unchallenged, because things are not fine. We have got deep trouble, as least in my part of the country.

Mr. Chairman, we have, as I warned some years ago, now been left with a process in which we have low market price and lower support prices, and the farmers find increasing costs for their farm operations and less income with which to pay those costs.

Mr. Chairman, we must find some way of responding to that, or we will not have many family farmers left. It seems to me we must address it with a change in farm policy.

Mr. Chairman, I want to make another point, because I spoke to the chairman about this in the last couple of days. This deals with the question of barley deficiency payments of 1988 and 1989 and the repayments that farmers had to make as a result of the advanced deficiency payments.

Our barley producers were required to pay back some advanced deficiency payments. They were required to pay them back because the U.S. Department of Agriculture computed the payback and the deficiency payments, weighting the deficiency payments for barley with respect to feed grain and malting barley.

Mr. Chairman, malting barley commanded a much higher price, but the fact is 70 percent of the barley goes for feed grain. The use of high-priced malting barley in USDA's calculation denied farmers the support payment they were supposed to get. So our barley producers were forced to pay back a barley deficiency payment they should not have had to pay back.

We in the Congress last year forced the Department to recompute the deficiency payments, and they did. We granted them, but did not require them, to make it whole with the farmers. So they recomputed the deficiency payments and discovered that farmers in fact had to pay $62 million too much back to the Federal Government.

Mr. Chairman, another way of putting it is that $62 million the Federal Government now has that should be in the pockets of farmers, because they were overcharged, in effect, on this deficiency payback, because the formula was wrong and unfair for barley growers. But the U.S. Department of Agriculture says we are not going to send the money back to the barley producers.

Mr. Chairman, I will guarantee you this: If someone owes the Federal Government money, you can be darn sure somebody is going to try to collect it, and quick. But if the Federal Government collects too much and the Federal Government owes the producer money, you would expect an obligation for the Federal Government under that recomputation of that advanced deficiency payment for barley, that that $62 million would be paid back.

Mr. Chairman. I would ask the gentleman from Mississippi [Mr. WHITTEN] if we could look into that. I had intended to offer an amendment on this bill, but it would be scored in a manner that would not allow me to do that.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say I do not know what we can do. The gentleman from North Dakota [Mr. DORGAN] has talked to me about the situation, and I agreed we would look into it to see exactly what the situation is. I do not know what we can or cannot do, but we will try to find out what the facts are in an effort to determine what is possible.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, I appreciate that. The gentleman from Idaho [Mr. STALLINGS] and I, as well as others, have worked on it very hard for a long time. It is unfair to leave it this way, for the Federal Government to have $62 million that belongs to the barley producers.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would point out we tried to mandate the repayments, and the administration insisted that it remain as a discretionary item. Of course, we have ourselves in that mess because of that right now. The gentleman is right. These people should get their money back.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, I am saying in North Dakota, at least, we have a lot of barley producers that believe that money is owed to them. The calculation that we mandated determines the money is owed to them, but the money is here in Washington, somewhere in the Department of Agriculture, and is not going to go back under the current circumstances. I am saying that is unfair, it is wrong, and we have a requirement to set it right.

Mr. Chairman, finally let me say, once again, one of these days, very soon, I hope, we can come back here on the floor and talk about fundamental agriculture policy, because I am telling you it does not work. Two and one-half dollar wheat does not pay the bill. Our farmers in North Dakota are not making it. This agricultural policy leaves them with the worst of all possible worlds: Lower support prices and lower market prices.

Mr. Chairman, if we want a future without family farmers, let us just keep heading where we are heading. But some of us are not content with that around here, and we will be back. When we come back, we are going to be back to try to get a better farm bill, one that helps family farmers in this country's future.

The CHAIRMAN. The Clerk will read.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $543,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $6,149,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $596,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $50,808,000, of which $5,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided*, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $25,700,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of advisory committees of the Department of Agriculture which are included in this Act, $1,918,000: *Provided*, That no other funds appropriated to the Department of Agriculture

in this Act shall be available to the Department of Agriculture for support of activities of advisory committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $27,943,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officers, $25,014,000; and in addition, for payment of the USDA share of the National Communications System, $50,000; making a total of $25,064,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, $1,307,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,925,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $468,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $62,786,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $24,554,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $580,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $59,125,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $83,401,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $2,367,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $560,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $658,424,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the foregoing limitations shall not apply to the purchase of land or the construction of facilities as may be necessary for the relocation of the United States Horticultural Crops Research

Laboratory at Fresno to Parlier, California, and the relocation of the laboratories at Behoust, France and Rome, Italy to Montpelier, France, including the sale or exchange at fair market value of existing land and facilities at Fresno, California and Behoust, France; and the use of proceeds from the sale, which shall be deposited in a trust fund in the United States Treasury and which shall remain available until expended, for acquisition of real property and equipment, for construction of replacement facilities, and for relocation costs; and the Agricultural Research Service may lease such existing land and facilities from the purchasers until completion of the replacement facilities: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,500,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $49,473,000: *Provided*, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,785,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $18,533,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a-582-a7), as amended, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n); $27,400,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $58,299,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $99,000,000 for competitive research grants, including administrative expenses; $5,551,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $1,168,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $300,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; not to exceed $5,000,000 for higher education grants under section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152), including administrative expenses; $4,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $6,725,000 for sustainable agriculture research and education, as authorized by section 1621 of Public Law 101-624 (7 U.S.C. 5811), including administrative expenses; and $17,650,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $8,580,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $412,886,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $62,529,000.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $262,712,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $60,525,000; payments for the urban gardening program under section 3(d) of the Act, $3,557,000; payments for the pest management program under section 3(d) of the Act, $8,950,000; payments for the farm safety program under section 3(d) of the Act, $1,970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,580,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $1,031,000; payments for a ground water quality program under section 3(d) of the Act, $12,375,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $2,550,000; payments for youth-at-risk programs under section 3(d) of the Act, $10,000,000; payments for a food safety program under section 3(d) of the Act, $1,750,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 under section 3(d) of the Act, $2,765,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $25,755,000; in all, $407,978,000, of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $9,079,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $17,253,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $900,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service and Packers and Stockyards Administration, $550,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $426,903,000, of which $85,922,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account, and of which $5,000,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the ex-

tent necessary to meet emergency conditions: *Provided*, That $500,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That none of these funds shall be used to develop, establish, or operate any user fee program for agricultural quarantine and inspection to prevent the movement of exotic pests and diseases from Hawaii and Puerto Rico as authorized by 31 U.S.C. 9701.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $21,396,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $473,512,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $11,397,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $39,383,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $5,640,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $56,636,000; of which not less than $2,313,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $50,735,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the Agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,360,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

MISCELLANEOUS TRUST FUNDS

For expenses necessary to recapitalize Dairy Graders, $1,250,000, and to capitalize the Laboratory Accreditation Program, $400,000, making a total of $1,650,000, under the Agricultural Marketing Act of 1946 (7 U.S.C. 1623).

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $12,009,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $551,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, $720,705,000; of which $719,289,000 is hereby appropriated, and $573,000 is transferred from the Public Law 480 Program Account in this

Act and $589,000 is transferred from the Commodity Credit Corporation Program Account in this Act: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations: *Provided further*, That none of the funds appropriated or otherwise made available by this Act shall be used to establish or implement a wetlands reserve program as authorized by 16 U.S.C. 3837 et seq.

□ 1810

AMENDMENT OFFERED BY MR. NAGLE

Mr. NAGLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NAGLE: Page 28, beginning in line 23, strike ": *Provided*" and all that follows through line 2 on page 29.

Mr. WHITTEN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. NAGLE. Mr. Chaiman, I ask unanimous consent that the amendment, which is to title I, and the amendment, which is to title II, which is directly related to it, be considered en bloc so that we can get this out of the way at the same time.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. WHITTEN. Mr. Chairman, I reserved a point of order. I now object.

The CHAIRMAN. Objection is heard.

Mr. NAGLE. Mr. Chairman, I would ask Chairman WHITTEN to reconsider that objection, since I do not, when we are done, intend to offer the amendment. I intend to withdraw the amendment.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, if I may say so, I hate to make this objection here but, we are going to have to start using our land to produce so we can pay our debts and keep our farmers in business.

Mr. NAGLE. Mr. Chairman, reclaiming my time, I am sorry, but the gentleman is making this more difficult than it needs to be.

Mr. Chairman, I appreciate this opportunity to share some very deep concerns I have regarding the way in which the U.S. Department of Agriculture [USDA] has implemented the conservation provisions of the 1990 farm bill and the result that appears in the Agricultural appropriations bill.

When the 1990 farm bill passed last year, everyone clamored to take credit for this "most progressive environmental farm bill ever." For the first time, provisions to protect wetlands and water quality were added to the conservation program that have been a part of farm bills since the 1930's.

Mr. Chairman, Agriculture Committee intent with regard to conservation elements of the farm program has been completely ignored and, in the end, those who participate in the farm program will suffer.

There is a greater danger which lies at the very heart of what Congress intended to accomplish through the 1990 farm bill.

In the 1990 farm bill, farmers and conservationists very carefully constructed a new approach, based on incentives for farmers to take part in conservation practices, to preserve wetlands, and to integrate their farm program to avoid water pollution.

Mr. Chairman, the greatest danger—and the greatest failure of where the administration and this bill are taking the 1990 farm bill—is the message they are sending to those concerned about the environment.

The greatest danger lies in the message this administration and this bill is sending to those who made the historic decision last year to pursue an incentive approach to conservation and environmental protection.

Having watched good incentive based conservation programs being sandbagged, conservationists and farmers will decide that incentive programs will not be vigorously pursued. As a result, what we may face in the future will be—not voluntary, incentive based conservation programs, but—mandatory controls pushed at us by people who are legitimately concerned about protecting the environment by limiting soil erosion, water pollution, and the other degradations which happen when conservation programs are not funded.

I don't think any of us want to go down that road, Mr. Chairman, but that's where this administration and this bill are taking us with what they are doing to these programs.

My amendment will transfer appropriations from within the conservation title to the Wetlands Reserve Program and the Water Quality Reserve Program. It is my intention to fight for these programs so that the future of the great compromise and more importantly, the future of the farm program can be maintained.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. NAGLE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I appreciate the gentleman yielding. Let me simply say that I think that the thrust of the gentleman's amendment is along the lines of the agreement that was reached last year between environmental groups and agricultural groups. I think that there certainly was a balance in that. It was recognized that as far as the conservation reserve program is concerned, that we needed to shift the focus and begin to take into consideration issues of water quality. I think without question that that is a very important feature.

It also needs to be understood, of course, that we want to have the maximum impact, whether it be erosion of the land or whether it be water quality. And I think that the gentleman's approach is one that certainly reflects that.

I, too, join with the gentleman in his disappointment that the appropriations bill did not seem to take that into consideration. I think it is one in which we do definitely want to promote cooperation through voluntary means, through our family farmers and making certain that the environmental concern is met.

POINT OF ORDER

Mr. WHITTEN. Mr. Chairman, I insist on the point of order.

May I say that we operated under very strict limitations this year. We had everybody counting what we could do and this would have the effect of striking out a savings on which we had to count to stay within the budget ceilings. Our provision has the effect of saving $231.8 million in a mandatory program. It has been scored by CBO and by the Budget Committee as a proper savings to the discretionary totals of this bill.

Under Scorekeeping Rule No. 3 of the 1990 Reconciliation Act. If the provision is struck, it will have the effect of breaking the committee's 602(b) allocation and is, therefore, in violation of section 302(f).

We would be in violation of all of our allocation. The effect would be that this would set in motion another sequestration for everything to be cut.

Members will recall last week we had a cut of thirteen ten-thousandths of a percent, it cost thousands of dollars to implement. We faced it because the Office of Management and Budget said we were over some slight amount. CBO and the General Accounting Office differed with them, but nevertheless we had that. So I insist that if this provision should be changed, it would leave us in violation not only in this bill but the effect would be across the board.

The CHAIRMAN. The gentleman from Mississippi insists on his point of order.

Does the gentleman from Iowa [Mr. NAGLE] wish to argue in opposition to the point of order?

Mr. NAGLE. Mr. Chairman, I do.

The CHAIRMAN. Does the gentleman wish to withdraw the amendment?

Mr. NAGLE. Mr. Chairman, the gentleman does not wish to withdraw the amendment with the point of order pending. The gentleman wishes to argue the point of order.

The CHAIRMAN. The gentleman is recognized.

Mr. NAGLE. Mr. Chairman, this is very simple. What I did quite simply was take money that is already being spent and simply transfer it. That is all this does. It does not provide for new money. It does not take money over the cap. It takes existing money inside the bill, simply transfers it to two different programs that the committee in its wisdom and judgment chose not to fund. So it is not over the limit.

It is not an expenditure that is not already authorized. We are simply shifting money within the account.

Therefore, for that reason, the point of order of the distinguished gentleman from Mississippi is not well taken.

□ 1820

The CHAIRMAN. The Chair might remind the gentleman from Iowa that his unanimous-consent request that the amendments be considered en bloc was objected to by the gentleman from Mississippi, the distinguished chairman of the Committee on Appropriations, so the argument is only addressed to that language at the bottom of page 28 and at the top line of 29 which, in essence, strikes the limitation contained in the bill at page 28, line 23.

Mr. NAGLE. That is correct. It spends no money.

The CHAIRMAN. There is no balancing or offset as such within the bill, because the gentleman did not secure, when he sought unanimous consent, to consolidate the two amendments en bloc.

Mr. NAGLE. The gentleman sought it, but the gentleman was denied it.

The CHAIRMAN. The gentleman was denied that by an objection by the distinguished gentleman from Mississippi who had that right.

Mr. NAGLE. I am asking the Chair, and I think I have made my case, and I respectfully ask the Chair to make a ruling.

The CHAIRMAN. The Chair is prepared to rule unless the gentleman from Pennsylvania seeks recognition, and he can in his own right in opposition.

Mr. RIDGE. I do not seek recognition.

The CHAIRMAN. The Chair is prepared to rule then that the point of order of the gentleman from Mississippi is well taken, and the Chair sustains the point of order, because striking that language under the circumstances would be scored to violate the Budget Act.

The Clerk will read.

The Clerk read as follows:

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $322,870,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $221,500,000.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1992, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $9,000,000,000 in the President's fiscal year 1992 Budget Request (H. Doc. 102–3)), but not to exceed $8,450,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1990 and 1991 include $900,000,000 in connection with carrying out the Export Enhancement Program (EEP), $200,000,000 in connection with carrying out the Market Promotion Program (MPP), formerly the Targeted Export Assistance Program (TEA), $300,000,000 in connection with carrying out the Federal Crop Insurance Program, $445,773,000 in connection with domestic donations, $281,605,000 in connection with export donations, and $6,322,622,000 in connection with carrying out the commodity programs.

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1992, CCC shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation.

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the General Sales Manager, $9,103,000, of which $5,098,000 may be transferred from Commodity Credit Corporation funds, $2,731,000 may be transferred from the Commodity Credit Corporation Program Account in this Act and $1,274,000 may be transferred from the Public Law 480 Program Account in this Act. Of these funds, up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95–501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—CONSERVATION PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $563,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft,

$564,129,000, of which not less than $5,713,000 is for snow survey and water forecasting and not less than $8,064,000 is for operation and establishment of the plant materials centers: *Provided*, That of the foregoing amounts not less than $411,800,000 is for personnel compensation and benefits: *Provided further*, That except for $2,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further*, That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $13,251,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $9,545,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $205,238,000 (of which $30,091,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $30,000,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $32,516,000: *Provided*, That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $25,271,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $197,935,000, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 42, after line 4, insert the following:

AGRICULTURAL WATER QUALITY INCENTIVE PROGRAM

For necessary expenses to carry into effect the program authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838, et seq.), $3,000,000.

Mr. JONTZ. Mr. Chairman, I ask unanimous consent to offer my two amendments en bloc. They are amendments to the same paragraph.

Mr. WHITTEN. Mr. Chairman, I raise a point of order and object to the en bloc.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Indiana [Mr. JONTZ] for 5 minutes in support of the amendment.

Mr. JONTZ. Mr. Chairman, I have a pair of amendments which I will be offering separately, because of the objection of the chairman.

The first amendment would cut $3.5 million from the appropriation for the ACP program. The bill before us would increase funds for ACP by $7 million, so I would be cutting that appropriation in half. I would then seek to, on my second amendment, take that $3.5 million and offer that to fund the agricultural water-quality incentive program which is a very important program to address water-quality issues that are facing agriculture.

The CHAIRMAN. The gentleman from Indiana will withhold.

The amendment that the Clerk has at the desk is not the amendment the gentleman from Indiana is presently addressing.

I wonder if we can have that.

Mr. JONTZ. We will see that the Clerk gets the amendments.

The CHAIRMAN. Does the gentleman seek unanimous consent to withdraw the amendment pending at the desk?

Mr. JONTZ. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 39, line 18, strike "$197,935,000" and insert "$194,435,000".

Mr. JONTZ. Mr. Chairman, I ask unanimous consent at this point that both of my amendments be offered en bloc.

Mr. WHITTEN. Mr. Chairman, I raise a point of order against it.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Indiana [Mr. JONTZ] for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DE LA GARZA. Mr. Chairman, there was no objection. A point of order was raised by the distinguished gentleman from Mississippi. He did not object to the amendments en bloc.

The CHAIRMAN. The Chair understood the gentleman objected to the unanimous-consent request and so ordered.

Mr. JONTZ. Mr. Chairman, the amendment I offered is one of a pair of amendments that seeks to take $3.5 million that is in this bill for the ACP Program and use it, instead, to fund the Water Quality Incentive Program.

Mr. Chairman, the bill that the distinguished chairman, the gentleman from Mississippi [Mr. WHITTEN], brought to us provides for an increase in the ACP Program of $7 million. I am suggesting that we take half of that money and use it, instead, to provide for the Water Quality Incentive Program which is a very important part of the 1990 farm bill, to address the environmental problems which we face on the farm in this country.

Mr. Chairman, when we wrote the 1990 farm bill, we tried, rather than to impose new regulations on farmers to meet water quality goals, to use a carrot instead of a stick, and we put in the legislation the Water Quality Incentive Program which provides for payments to farmers of up to $3,500 for various management practices which would meet improved water quality goals in areas where there is a water quality program.

I would suggest that this is a very important program, because it is targeted to those farms in those areas where ground water is at risk. If we do not fund the Water Quality Incentive Program, and there is no money in the bill before us for the Water Quality Incentive Program, I think we will run the risk of seeing new regulatory requirements imposed on producers in this country which are not necessary if we can fund incentives for producers to meet water-quality improvement goals.

There is no question that producers want to improve the job they are doing in meeting water quality improvement goals. There is no question that the Water Quality Incentive Program will help them to do it.

The program targets 3 to 5 million acres which is, I think, a very good goal. Obviously, with $3.5 million, we would just be funding the very beginnings of this program, but it is better to fund $3.5 million than nothing for the Water Quality Incentive Program, and, again, Mr. Chairman, this money would come from cutting in half the increase which Chairman WHITTEN has put in this legislation for the ACP Program.

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I would not argue against an increase in the ACP Program, but I would argue if we can take half of the $7 million which are proposed for an increase in the ACP Program and put them in the Water Quality Improvement Program we can do both, provide for the increase in the ACP Program and also provide for the Water Quality Incentive Program, at least to get it started.

We made this promise to the farmers of this Nation when we passed the farm bill last year, that we were going to provide incentives for them to improve the water quality on their farms, and we would see to it that those farmers, at their own initiative by participating in this voluntary program, could bring improvements in water quality so it would not be necessary for Members to come back at a future time and to enact regulatory requirements could be burdensome, and which could prevent farmers from making a fair profit.

I ask the support of the House for this amendment to strike this $3.5 million out of the ACP Program. We would still be spending $194 million on the program, a $3.5 million cut. It would still be an increase over this last year's funding, so it would be possible for Members to, at least begin, to fund a Water Quality Incentive Program.

Last year the Water Quality Incentive Program was supported by environmental groups and supported by wildlife groups. The Water Quality Incentive Program was supported by producers' groups who want to meet water quality goals on a voluntary basis, with the carrot instead of the stick.

The farm producers of this country came to Members and said, "You help us to meet these goals and we will get the job done." Mr. Chairman, we can do that, at least getting started, with the $3.5 million that will be provided by cutting the increase in the ACP Program from $7 million to $3.5 million.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of this amendment. Mr. Chairman, I take this time to just remind the House and my colleagues that the 1990 Farm Act, with all its deficiencies and all of the problems, we had to come up with a consensus piece of legislation. The result was still the most progressive, environmental legislation that we have had from the Committee on Agriculture in the history of the Committee on Agriculture.

This is a modest attempt to try and bring some sense of balance to what we are doing. Many times American agriculture is blamed for contributing to poor water quality, for pollution, and all of the other matters related to the environment. We have been working and are continuing to work to address these concerns. But again, respectfully, our legislative intent is thwarted, and this is a very modest attempt to try and bring some additional assistance.

There is no need to study it. We know we have to have better quality of water. There is no need to study. We know we have to clean up the air. We know we have to protect the wetlands. We know all this.

This is a very modest, very simple attempt by the gentleman from Indiana, who has dedicated much time to this effort. It is an environmentally sound amendment. It is a fiscally frugal amendment. It is a very meager at-

tempt to continue our progressive attitude that has finally come to agriculture and to the Committee on Agriculture.

I ask Members to support this amendment, because it is very frugal, and yet we try and continue the pace that we have set for ourselves to clean up the environment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

I rise in support of the amendment. The issue of agriculture lands and water quality is a major issue throughout the country. It is a very important issue in the State of California.

We are having consultations now. There is a general discussion of taking lands out of production, if we cannot deal with the issue of water quality on those lands.

I think that this effort by the Jontz amendment will have a tremendous pay-off to agriculture. If we do not start addressing these problems right away, many of the alternatives are much more difficult and expensive for the farming community. I rise in support of the amendment and join in the remarks of the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I plead with my colleagues that this is not trying to undo the Committee on Appropriations. This is just trying, in a very frugal manner, to bring into place what we have legislated. We have studied it. We know we are running out of water. We know that the air in many areas is polluted. We know we need good quality water. We know that we need conservation.

This I ask my colleagues, to support the gentleman from Indiana, because it is a very minor, but yet very progressive step in where we hope to head in the future for rural America and for agriculture.

Mr. Chairman, the Agriculture Committees in both the House and Senate worked long and hard to construct a farm bill in 1990 that would set new direction for American agriculture as it prepares to enter the 21st century.

Existing programs were improved and new programs established as a foundation for strong, stable, and environmentally sound agricultural programs.

Unfortunately, the Appropriations Committee has seen fit in this bill to undo much of what we on the Committee on Agriculture, believe are important and much-needed initiatives to aid producers and all of American agriculture.

One of the cornerstones of the 1990 farm bill is the improvements that were made in agricultural conservation. Building on the accomplishments of the 1985 farm bill, the 1990 farm bill established new programs to complement the highly successful Conservation Reserve Program already in place.

These were the Wetlands Reserve Program—to provide long-term protection for farmed wetlands—and the Water Quality Improvement Program—to provide incentives to producers to improve farming practices to reduce any negative impacts they may have on water quality.

Mr. Chairman, these three programs—the Conservation Reserve Program, the Wetlands Reserve Program, and the Water Quality Improvement Program—are like the three legs of a stool.

These three programs are the crucial framework for the important conservation efforts that the Department of Agriculture has been charged to implement. Unfortunately, this appropriations bill literally "cut our legs out from under us."

Specifically, the fiscal 1992 Agricultural appropriations bill includes a prohibition against the use of funds to establish a Wetlands Reserve Program. Instead, the Appropriations Committee provides the Agricultural Stabilization and Conservation Service with funds to "better define the costs, benefits, and impacts" of the reserve program.

I should note that the administration, which worked closely with the House and Senate Agriculture Committees in developing the conservation measures in the farm bill, requested $124 million for this program in fiscal year 1992.

It is important for the Members to understand, that the Wetland Reserve is a voluntary easement program to provide long-term conservation easements for the protection of farmed wetlands. Until this time, farmed wetlands were being enrolled in the CRP which affords them only limited protections for the 10-year term of the contract.

In establishing the new Wetland Reserve, Congress directed the Secretary to limit the enrollment of these wetlands into the CRP. Now ironically, should H.R. 2698 remain unchanged, there will be no program in place to provide for long-term easements to protect farmed wetlands.

Of equal significance is the Water Quality Incentive Program which is designed to provide financial incentives and technical assistance to producers to aid them in correcting water quality problems associated with their farming operation. This, too, is a voluntary program designed to help agricultural producers help themselves.

H.R. 2698 provides no funding for the water quality program. As a result, farmers will be forced to address their water quality problems in another manner or seek to enroll their lands in CRP to deal with non-point source pollution problems.

This is the wrong approach for dealing with water quality problems. As stated in the conference report on the 1990 farm bill, "[I]t is more efficient and cost-effective to alter, where possible, cropping management activities to achieve conservation goals than it is to remove environmentally sensitive lands from production and compensate the farmer for the lost economic activity."

Mr. Chairman, the provisions of H.R. 2698 eliminate two important tools for the agricultural producer to be able to farm in an environmentally sound and cost-effective way.

Rather than preparing American agriculture to move into the 21st century, this bill instead prohibits progress and promotes stagnation.

Working with the conservation community and farmers, the Agriculture Committees made great strides toward addressing environmental concerns facing American agriculture. If these farm bill programs are not implemented and the farmer is not given more tools for dealing with wetland and water quality concerns through voluntary, incentive programs, I fear what the alternative may be.

I ask my colleagues to help promote more environmentally sound farming and oppose the status quo.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word. We have a situation on this committee, where we are operating under all sorts of counts and all sorts of limitations, but from the presentation made here this amendment seems to make sense. But at this time, we have received no notice, no recommendation from the Department. We do not know what will be carried out.

We are trying to live within the limits, and trying to live with our friends. I have no objection in going ahead with this amendment. The authorization act was signed on November 28.

Without any information, we have to do the best we can, but I have no objection.

Mr. JONTZ. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Indiana.

Mr. JONTZ. Mr. Chairman, I thank the chairman for his accommodation. I will say that this, as one member of the Committee on Agriculture and I think that others would agree, we will do everything we can to work with the Department of Agriculture to see that the regulations are properly promulgated, to see that the work is done within USDA to make this program successful.

I suggest to the gentleman that starting with $3.5 million is a modest start.

Mr. WHITTEN. If the gentleman will continue to yield, I am relying on that, but, under present conditions, to appropriate money is difficult, however, we will go along.

Mr. NAGLE. Mr. Chairman, I move to strike the requisite number of words. I think the gentleman from Indiana is obviously doing what I tried to do, I think very successfully, but people do not realize when we speak of rural America and we think of Indiana, we think we are out there and pollution is not a problem.

However, I have towns in my district, and towns in the State of Iowa where the water supply from the community, the modern water tower, modern well, the best equipment we have out there, and people cannot drink the water because of the nitrates running off the farmland into the streams, into the rivers, and down into the aqua reservoir itself.

We have a situation in towns in our State where incredible as it may sound,

citizens can turn the faucet on to wash their clothes but they have to buy their water from the grocery store, and that is if there is an abundant supply.

It is a serious problem that will only get worse. We know there are some things we can do to help correct that. That is the whole purpose of the origins of this legislation, which was to say to farmers, do not throw that tank with the chemicals into the cart. This is a sinkhole. Do not put excessive nitrogen on the crops. Watch the run off in the livestock areas. Farmers are under tremendous pressure as the chairman of the committee is aware, because we have frozen their target price support. Farming is expected to drop 15 percent this year. At the same time, we are saying we take that land out of production.

Obviously, they are not very inclined to do that, although the conservationists are concerned. We try to put incentive in there. We said that we will actually help pay those farmers to protect the water and see that it does not pollute, that the nitrates do not run into the streams and the drinking water. We will pay those farmers.

It is a very modest program. They lose money because they take the land out of production, but we gain because they get the income back, or at least a portion of it back. That is at the heart of this. When we turn and see the Committee on Appropriations come through with absolutely not one dime for this, it was disappointing. I am glad to hear the colloquy and exchange that has taken place here, because this is an important step, and moves in the correct direction.

Mr. JONTZ. Mr. Chairman, will the gentleman yield?

Mr. NAGLE. I yield to the gentleman from Indiana.

Mr. JONTZ. Mr. Chairman, I appreciate the gentleman's comments and his support for the amendment. The statement on the amendment by the chairman of the Committee on Appropriations, I think is an indication on the part of that committee that they understand the problems are very real problems that need to be dealt with.

This amendment will be a modest start toward progress in that regard.

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Mr. NAGLE. Mr. Chairman, I appreciate the gentleman's comments.

Mr. Chairman, if I can reclaim my time, I congratulate the committee for doing just that, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 42, after line 4, insert the following:

AGRICULTURAL WATER QUALITY INCENTIVE PROGRAM

For necessary expenses to carry into effect the program authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.), $3,500,000.

Mr. JONTZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Chairman, I understand this is a companion amendment, and we have no objection to it.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the amendment by the gentleman from Indiana [Mr. JONTZ]. I regret disagreeing with the distinguished chairman of the Appropriations Committee. However, I believe additional funding for the Wetlands Reserve Program, as proposed by the gentleman from Indiana, makes good sense.

The gentleman's amendment would include important funding for the new Wetlands Protection Program enacted as part of the 1990 farm bill. The program would allow individuals to enroll farmed and converted wetlands into long-term or permanent easements.

This would be one very positive and constructive way to increase protection of our Nation's wetlands without resorting to heavy-handed regulations. The whole approach recognizes that voluntary measures that respect private property rights offer a sensible way to protect our critical natural resources. It's one way that doesn't involve the controversial permitting program run by the environmental protection agency and the corps of engineeers.

I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so to ask the distinguished chairman of the Appropriations Committee, as far as I know there is only one more amendment pending, if the gentleman would in order to accommodate our colleagues and the membership be kind enough to move that the bill be considered as read in order that we might expedite the process, since there is only one more amendment to my knowledge left.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, the staff advises me that there is one other amendment, so when we get through with the one other amendment, I will be glad to do that.

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $18,620,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $14,783,000, to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831–3845), $1,642,760,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $572,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the Rural Housing Insurance Fund, as follows: $1,626,451,000 for loans to section 502 borrowers, as determined by the Secretary, of which $350,000,000 shall be for unsubsidized guaranteed loans; $11,330,000 for section 504 housing repair loans; $16,300,000 for section 514 farm labor housing; $573,900,000 for section 515 rental housing; $600,000 for site loans; and $284,000,000 for credit sales of acquired property.

For an amount, for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans, as follows: low-income housing section 502 loans, $324,896,000, of which $12,360,000 shall be for guaranteed loans; section 504 housing repair loans, $5,280,000; section 514 farm labor housing, $9,536,000; section 515 rental housing, $268,585,000; and credit sales of acquired property, $40,612,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $425,173,000.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so again, if I might have the attention of my distinguished chairman, so that the bill be considered as read as printed in the RECORD.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that the remainder of titles III, IV, and V, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order to any of these sections of the bill?

The text of the remainder of titles III, IV, and V is as follows:

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, $308,100,000: *Provided*, That of this amount not more than $11,800,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That of this amount not less than $128,158,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,214,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That $174,728,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further*, That agreements entered into or renewed during fiscal year 1992 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1988, 1989, 1990, and 1991 may also be extended beyond five years to fully utilize amounts obligated.

SELF-HELP HOUSING LAND DEVELOPMENT FUND PROGRAM ACCOUNT

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $555,500,000, of which $509,000,000 shall be for guaranteed loans; operating loans, $3,500,000,000, of which $2,600,000,000 shall be for guaranteed loans; $7,000,000 for water development, use, and conservation loans, of which $1,500,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for credit sales of acquired property, $250,000,000.

For an amount, for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans, as follows: Farm ownership loans, $33,359,000, of which $15,270,000 shall be for guaranteed loans; operating loans, $220,200,000, of which $31,200,000 shall be for guaranteed loans; $2,615,000 for water development, use, and conservation loans, of which $30,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $32,100,000 to meet the needs resulting from natural disasters; for watershed, flood and resource conservation loans, $2,162,000; and for credit sales of acquired property, $117,500,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $230,179,000.

During fiscal year 1992 none of the funds in this Act may be used to make loans in excess of the foregoing amounts, except to the extent provided in advance in an Appropriations Act.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,750,000.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661–664, as amended, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $635,000,000, of which $35,000,000 shall be for guaranteed loans; community facility loans, $125,000,000, of which $25,000,000 shall be for guaranteed loans; and guaranteed industrial development loans, $100,000,000.

For an amount, for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans, as follows: water and sewer facility loans, $96,840,000, of which $840,000 shall be for guaranteed loans; community facility loans, $14,325,000, of which $325,000 shall be for guaranteed loans; and guaranteed industrial development loans, $7,920,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $54,906,000.

RURAL DEVELOPMENT LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $22,050,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $32,500,000.

In addition, for administrative expenses necessary to carry out the direct loan programs, $689,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $350,000,000, to remain available until expended, pursuant to section 306(d) of the above Act: *Provided*, That these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,750,000.

SUPERVISORY AND TECHNICAL ASSISTANCE GRANTS

For grants pursuant to sections 509(g)(6) and 525 of the Housing Act of 1949, $2,500,000, to remain available until expended.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing

and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $23,000,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310B(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $20,750,000: *Provided*, That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance and training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further*, That, effective for fiscal year 1991 and thereafter, grants made pursuant to this appropriation shall not be subject to any dollar limitation unless such limitation is set forth in law.

SOLID WASTE MANAGEMENT GRANTS

For grants for pollution abatement and control projects authorized under section 310B(b) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act, $1,500,000: *Provided*, That such assistance shall include regional technical assistance for improvement of solid waste management.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III-A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $748,584,000; of which $37,637,000 is hereby appropriated, $425,173,000 shall be derived by transfer from the Rural Housing Insurance Fund Program Account and merged with this account, $230,179,000 shall be derived by transfer from the Agricultural Credit Insurance Fund Program Account and merged with this account, $54,906,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account and merged with this account, and $689,000 shall be derived by transfer from the Rural Development Loans Program Account and merged with this account: *Provided*, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $3,670,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1992 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further*, That loans may be modified in an amount not to exceed $493,700,000: *Provided further*, That as a condition of approval of insured electric loans during fiscal 1992, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further*, That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), as follows: cost of direct loans, $229,967,000, cost of loans guaranteed pursuant to section 306, $6,531,000 and cost of the other loan guarantees, $105,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,163,000.

During fiscal year 1992 none of the funds in this Act may be used to make loans in excess of the foregoing amounts, except to the extent provided in advance in an Appropriations Act.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1992 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $11,331,000.

In addition, for administrative expenses necessary to carry out the loan programs, $8,632,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,264,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

For necessary expenses to carry into effect the programs authorized in sections 2331-2335 of Public Law 101-624, $5,000,000, to remain available until expended.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $5,000,000, to remain available until expended.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans, $1,700,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $256,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1992, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $37,795,000; of which $29,163,000 shall be derived by transfer from the Rural Electrification and Telephone Loans Program Account and $8,632,000 shall be derived by transfer from the Rural Telephone Bank Program Account: *Provided*, That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further*, That not less than $500,000 of this appropriation shall be expended to provide community and economic development technical assistance to rural electric and telephone systems by Rural Electrification Administration employees who are located within REA and assigned to REA's Rural Development Coordinator and who may not be reassigned or relocated to the Rural Information Center or other agency or office.

TITLE IV—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $542,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789), $6,067,386,000, to remain available through September 30, 1993, of which $1,392,294,000 is hereby appropriated and $4,675,092,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further*, That up to $4,083,000 shall be available for independent verification of school food service claims: *Provided further*, That $1,143,000 shall be available to operate the Food Service Management Institute.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $23,011,000, to remain available through September 30, 1993. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,600,000,000, to remain available through September 30, 1993.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $91,284,000: *Provided*, That funds provided herein shall remain available through September 30, 1993: *Provided further*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2029), $22,162,975,000; of which $1,500,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That funds provided herein shall remain available through September 30, 1992, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further*, That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further*, That $1,013,000,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028; of which $10,825,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $233,437,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $32,000,000.

THE EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided*, That, in accordance with section 202 of Public Law 98–92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Emergency Food Assistance Act of 1983, as amended, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $101,617,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, and nutrition monitoring, $11,255,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $125,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $110,023,000: *Provided*, That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AMERI FLORA '92 EXPOSITION

To enable the Secretary to meet any extra expenses of participating in the planning, organizing and carrying out of the Ameri Flora '92 Exposition, the first international horticulture and environment exposition to be held in the United States, $500,000 as authorized by section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended.

PUBLIC LAW 480 PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $513,800,000 for Public Law 480 title I credit, including Food for Progress credit; (2) $57,000,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $696,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $254,959,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 10 per centum of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct

credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $389,979,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $1,979,000.

PUBLIC LAW 480 DEBT RESTRUCTURING

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of modifying direct loans authorized by title I and title VI of the Agricultural Trade Development and Assistance Act of 1954, as amended by section 1512 of Public Law 101-624, there is hereby appropriated not to exceed $668,000.

COMMODITY CREDIT CORPORATION

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING DEMOCRACIES EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its Export Guarantee Program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging democracies, as authorized by section 1542 of (Public Law 101-624).

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, or guaranteed loans authorized by the Agricultural Trade Act of 1978, as amended, $155,524,000.

In addition, for administrative expenses to carry out CCC's Export Guarantee Program, GSM 102 and GSM 103, $3,320,000.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $7,392,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further*, That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further*, That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,062,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $725,962,000, of which $188,858,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the sums provided herein, not to exceed $2,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $10,350,000: *Provided*, That the Food and Drug Administration may accept donated land in Montgomery and/or Prince George's Counties, Maryland.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, again I would like to address myself to our distinguished colleague, the chairman of the Appropriations Committee.

I have an amendment that is on page 85. The next amendment is on page 86. Therefore, if it will be open to amendment at any point, we could facilitate the completion of this legislation, Mr. Chairman, in order to accommodate all our colleagues who have made plans otherwise.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that the bill through section 738, page 85, line 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The text of the bill through section 738, page 85, line 10 is as follows:

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1992, as authorized, $112,606,000: *Provided*, That not to exceed $2,175,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further*, That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple

year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $47,300,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $40,290,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be available for administrative expenses as authorized under 12 U.S.C. 2249, of which not to exceed $1,500 shall be available for official reception and representation expenses.

TITLE VII—GENERAL PROVISIONS

SEC. 701. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 702. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1992 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 442 passenger motor vehicles, of which 439 shall be for replacement only, and for the hire of such vehicles.

SEC. 703. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901–5902).

SEC. 704. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 705. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 706. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 707. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 708. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $5,000,000 for the contingency fund to meet emergency conditions, Integrated Systems Acquisition Project, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities, and up to $10,000,000 of funds made available for construction at the Beltsville Agricultural Research Center; Cooperative State Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $3,500,000 for higher education graduate fellowships grants under section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152); $8,580,000 for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University; and buildings and facilities, Food and Drug Administration.

SEC. 709. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 710. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 711. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 712. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 713. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 714. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 715. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 716. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 717. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 718. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 719. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1991 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 720. In fiscal year 1992, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 721. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 722. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 723. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 724. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,259; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 725. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 726. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 727. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease

space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 728. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 729. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 730. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1992 shall be first offered to the borrowers for prepayment.

SEC. 731. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 732. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 733. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 734. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total direct costs under each award.

SEC. 735. None of the funds in this Act may be used to establish any new office, organization or center for which funds have not been provided in advance in Appropriations Acts, except the Department may carry out planning activities.

SEC. 736. Funds available to the Animal and Plant Health Inspection Service (APHIS) under this and subsequent appropriations shall be available for contracting with individuals for services to be performed outside of the United States, as determined by APHIS to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law administered by the Office of Personnel Management.

SEC. 737. Notwithstanding any other provision of law, any appropriations or funds available to the agencies of the Department of Agriculture may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Department of Agriculture position and that are necessary to comply with State laws, regulations, and requirements.

SEC. 738. Funds provided in this Act may be used for incidental expenses such as transportation, uniforms, lodging, and subsistence for volunteers serving under the authority of 7 U.S.C. 2272, when such volunteers are engaged in the work of the U.S. Department of Agriculture; and for promotional items of nominal value relating to the U.S. Department of Agriculture Volunteer Programs.

The CHAIRMAN. Are there any points of order to that portion of the bill?

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Strike section 739 (page 85, lines 11 through 13) and renumber the succeeding sections accordingly.

Mr. DE LA GARZA. Mr. Chairman, I repeat, we have explained this amendment during general debate, and it is very simple.

There is in fact a prohibition in the bill that provides, and I will read it, it is very simple:

SEC. 739. None of the funds appropriated or otherwise made available by this Act shall be used to carry out sections 2301–2303 of Public Law 101–624.

Mr. Chairman, I concede the part which says "None of the funds appropriated." That is a prerogative of the Appropriations Committee. We have no problem with that. If the committee in its wisdom decides not to appropriate, we concede that point. That is not the problem.

The problem here is "or otherwise made available by this Act". This in effect negates the law passed by this House, passed by the Senate and signed by the President.

It says that none of the funds shall be used to implement.

What if the Secretary can find funds?

The argument is that he can only use them in areas appropriated. But what if? That, Mr. Chairman, is what the issue is all about. Either we have legislative committees that authorize, or we do not. Either we have an Appropriations Committee that appropriates, that oversees, and I respectfully have to admit that they do a good job or we do not. This is why it is so very difficult for me. This is why I say this very sincerely; it is deeply felt by me. I say it with some degree of pain in my heart, but I have the responsibility, because we acted. The Committee on Agriculture acted. The House acted. The Senate committee acted. The Senated acted. The President signed it. We are ready to go.

I am not going to discuss the issue. The issue really becomes immaterial at this point.

The fact is that this says sections 2301 through 2303 of Public Law 101–624 shall not come to pass.

You know, we discussed abortion earlier. This provision of the bill would abort this important program.

It says that the Rural Development Administration shall not be. No matter why.

□ 1850

Now, to the credit of the distinguished chairman, and I appreciate it very much, and we spoke about it, he offered some compromise language. The compromise language again would have been legislating on an appropriation bill and subject to a point of order.

So I ask my colleagues in the House to support us in this measure because it has nothing to do with the gentleman from Mississippi, has nothing to do with the members of the Committee on Agriculture or the Committee on Appropriations.

It has to do with procedure, what is right and what is wrong. It is not a budget implication. This is a very frugal amendment to try to do something policywise. Policywise.

The House Committee on Agriculture makes the policy. Right or wrong, whether you agree or disagree, we are the ones charged under the rules to make policy. Section 739 of the bill will negate that policy under the guise of a restriction on an appropriation bill.

And I ask, not for me, not against the chairman, but I ask my colleagues to support the House Agriculture Committee, its integrity, its authority and its justified right to legislate and not be negated except in an appropriate and rightful manner.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, involved in this is the action of the Farmers Home Administration. One of the preceding administrator's said he was appointed for the purpose of collecting money. He refused to make a production loan unless the applicant could show that he could repay it in one year plus pay everything else he already owed.

We have had others who have not used the Commodity Credit Corporation, and in this instance here may I say that language, I agree, is surplusage.

I have in my hand the statement of administration policy from the Office of Management and Budget which I placed in the RECORD earlier which points out there is no money in this bill for Rural Development Administration.

So I have no objection to the amendment, because there is no money in this bill for the purpose of this amendment.

I expect to follow this up with a letter to the Secretary of Agriculture asking him to send up language so that we can restore rural development, and I want to emphasize restoration.

As a result of the farm policies we have had, every little town and community in the country is drying up. We have given away all of our domestic markets to our foreign competitors. We refuse to use the Commodity Credit Corporation to regain and retain our normal world markets.

I am going to ask the present Secretary of Agriculture, and I anticipate his cooperation, to send us a bill where we can strengthen the rural development work of the Farmers Home Administration, the agency that was created for this purpose. Page 84 of our report, which I had also entered into the RECORD, shows what this is about. I am accepting the amendment, because our language was surplusage, but I am going to follow up with a letter to the Secretary asking him to cooperate with us in strengthening Farmers Home.

Mr. Chairman, I have no objection to the amendment.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I take this time only to show my appreciation to the distinguished gentleman from Mississippi. I appreciate his wisdom, his Solomon-type wisdom. We will work with him. I will join with him in sending a letter that we implement this rural development agency because I agree with everything he said. We have had people who tried to thwart his wishes and our wishes, both of our committees.

The gentleman quoted correctly former heads of the Farmers Home Administration. So this is to assure him that we will work with him and we will work together.

Mr. WHITTEN. Mr. Chairman, will the gentleman from Oklahoma yield?

Mr. ENGLISH. I yield to the chairman of the committee.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman from Texas's statements. Mr. Chairman, may I say if there is anything that needs people working together, it is agriculture, and for the purpose of developing the country, it is better that we work together.

Mr. ENGLISH. Mr. Chairman, section 735 does not apply to the establishment of the Rural Development Administration.

The Food, Agriculture, Conservation, and Trade Act of 1990 [FACTA 1990] was signed into law November 28, 1990.

Section 2302 of FACTA 1990 amends the Consolidated Farm and Rural Development Act by adding the following new section 364(a):

SEC. 364. RURAL DEVELOPMENT ADMINISTRATION.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary.

The Consolidated Farm and Rural Development Act is further amended by adding other new sections and amending other such existing sections of the Act as of November 28, 1990. Other provisions in title 18 (criminal code), title 42 (Public Health and Welfare), title 5 (Government Organization and Employees) and title 7 (Agriculture) of the United States Code are also amended as of November 28, 1990 by inserting the words "Rural Development Administration" relating to the establishment of the Rural Development Administration on that date.

Mr. Chairman, the very bill, H.R. 2698, we consider here today carries the words "Rural Development" in its title and the amendment in FACTA 1990 in creating a Rural Development Administration gives life to what the Appropriations Committee itself did in changing the title of its subcommittee and its agriculture appropriation bills.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

Mr. SKEEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to at this time say that this side accepts the amendment also. I do want to thank the distinguished chairman of the full Committee on Agriculture for lending a great deal of distinction and credit to the Republican side by speaking from our side of the aisle.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WHITTEN. Mr. Chairman, I would like to again thank my colleague, the gentleman from New Mexico, the members of the subcommittee and the others who worked so hard on this bill. We had over 1,000 requests from Members we had to consider. We had to move things out of the bill and into the report to stay within the ceilings.

But I say to the gentleman from New Mexico, "JOE, you did a marvelous job." I want to thank the gentleman and our colleagues for the splendid help we have had all the way through.

May I say that I have pointed out for many, many years that agriculture is bigger than our three biggest industries—auto, steel, and housing combined. It is a producer of wealth. We are going to have to restore the purchasing power of agriculture or else the country will go down. I am afraid that is in sight unless we do something to restore agriculture. But I say to the gentleman from New Mexico again, "Thank you, JOE."

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the chairman for yielding.

Mr. Chairman, I thank the gentleman from Mississippi for his very kind words. It has been a real pleasure working with the gentleman from Mississippi. I am a great student of the Whitten manner. I can even help interpret, in some cases.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as cosponsor of this amendment, I am delighted that the gentleman from Mississippi, Chairman WHITTEN, has accepted it.

Mr. Chairman, I want to make three points. One, we are not asking for a new bureaucracy. The Rural Development Administration, No. 2, is not asking for any new money. It simply transfers functions from the Farmers Home Administration to this new agency to focus on rural development in this country, utilizing those resources.

With the adoption of this amendment, we will remove all limitations on implementing the Rural Development Administration, something that this House voted 360 to 45 a year ago.

Mr. Chairman, I rise in strong support of the de la Garza-Coleman-English-Smith amendment to H.R. 2698 that will remove language prohibiting implementation of the Rural Development Administration which this Congress established in the 1990 farm bill.

This amendment is critical to the future of Federal rural development policy for small-town America and it is necessary if the will of this House—reflected in last year's overwhelming 360 to 45 vote on the Rural Development Act—is to prevail.

Mr. Chairman, because I represent one of the most diverse agricultural areas in this country, I have been a strong supporter of Federal policies aimed at insuring farmers and producers a fair return on their labor while providing our Nation a steady supply of food and fiber. But it has become very clear to me that however well our traditional commodity programs may work, their benefits often do not go much beyond the farm gate. It is clear that we must take off the blinders and find new approaches to stabilizing and strengthening the Nation's rural communities.

There is no conflict between traditional agriculture programs and rural economic development policies that will promote off-farm income for farm families. That the two must go hand in hand was recently underscored when

the Farmers Home Administration noted that the majority of the loans it now approves can cash flow only with off-farm income. Yes, we must continue to work for expanded markets for agricultural products. Yes, we must fight hard to make sure our producers are competing on a level playing field with the rest of the world. But we must also recognize that a key to the survival of our rural communities is economic diversification.

The Rural Development Administration which the Congress overwhelmingly supported in last year's farm bill is an essential first step toward a focused Federal policy to promote that critical economic diversity and development.

The RDA your vote can save today is the result of many public hearings, months of intensive work by Members and staff, and close consultation with the administration. I ask my colleagues to remember that:

RDA creates no new bureaucracy.

RDA will not require the expenditure of any new funds. We are merely shifting the current economic development programs from the Farmers Home Administration.

RDA will give USDA a single agency responsible for rural development strategy and coordinate rural development programs.

RDA will lead to greater expertise in rural development issues and to more effective, efficient program delivery.

There will be no negative impact on FmHA programs; indeed, we believe that by allowing it to focus on its traditional lending programs and allowing RDA to focus on rural development programs that both will be more effective and more efficient.

On March 22, 1990, this House voted 360 to 45 to create the Rural Development Administration for all the reasons I have mentioned. This House knew then—as I believe it knows now—that we must find new and creative ways to address the problems of rural America. The overwhelming will of the Congress of the United States must not be thwarted by the last-minute insertion of 25 words in H.R. 2698.

I am proud to stand with Chairman DE LA GARZA to urge the Members of this House to help us once more as we work to give new hope to America's rural communities and the millions of our fellow citizens who call them home.

Mr. Chairman, after so many years of hard work we are so close. I ask my colleagues to support this amendment which will make the Rural Development Administration a reality at last.

With the adoption of this amendment all limitations have been removed from the implementation of the Rural Development Administration.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise with my colleagues on the Agriculture Committee and to urge a yes vote on the amendment to strike section 739 from the 1992 agriculture and rural development appropriations bill. Section 739 would prohibit the Secretary of Agriculture from establishing a Rural Development Administration within the U.S. Department of Agriculture.

Certainly, I would have preferred that it not come to this. As ranking Republican authorizing subcommittee, the Conservation, Credit and Rural Development Subcommittee, I would have preferred that the Appropriations Committee work with us.

Yesterday, I spoke on the floor against another effort to bypass an authorizing committee during debate on the Interior appropriation. The reversal of statutes duly passed by this Congress and signed into law by the President by the Appropriations Committee is becoming increasingly commonplace.

Mr. Chairman, in this instance the Appropriations Committee has done this without holding a single hearing on the issue of establishing a Rural Development Administration. We canot take these actions lightly.

I support the de la Garza-Coleman-English-Smith amendment because the matter in question is sound legislation, fully considered by the Congress and supported by USDA.

The provision in question—establishing the Rural Development Administration—was originally contained in H.R. 3581, the Rural Economic Development Act of 1989 that passed the House on March 22, 1990, by a vote of 360 to 45. The bill ultimately became a part of the 1990 farm bill and was signed by the President.

This is not frivolous legislation. It does not provide any new, direct lending or grant programs to rural communities that is not already available. But it does give direction and focus for rural development efforts that we, the authorizing committee, believe are urgently needed.

Now, the House, which has agreed to a Rural Development Administration twice in the last 12 months should be able to agree to it one more time. I urge adoption of the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I ask for a vote on the amendment.

Mr. PERKINS. Mr. Chairman, I rise in strong opposition to the amendment offered by the distinguished gentlemen from Texas, Missouri, Oklahoma, and Oregon. In my opinion the Appropriations Committee made exactly the right decision in blocking the establishment of the Rural Development Administration.

Right now, rural development programs are administered quite well by the Farmers Home Administration. I believe that Farmers Home's water and sewer grants program, which would become the RDA's principal responsibility, currently does a very good job with the money that it has. In my State, Farmers Home's Bob Litton runs an excellent program which has greatly contributed to the economic development of the Commonwealth of Kentucky—especially in my eastern Kentucky district. Bob has done an amazing job with slim resources. Dividing the FmHA into two separate bureaucracies would increase the total overhead costs of Federal rural development programs. The end result is that even less money would be available for grants.

All of the pieces of the rural development puzzle are interdependent. Coordination among Federal rural development programs—from building affordable houses to laying affordable water and sewer lines—is essential if each scarce dollar is to have the greatest possible impact. Transferring some rural development programs out of Farmers Home would make this coordination much more difficult, if not impossible.

If the Farmers Home Administration "ain't broke"—and it isn't—then why go through all this effort to fix it? The last thing that this Congress needs to do is to take an effective agency, create a new bureaucracy, and transfer some of the first agency's programs to the second one. At best, it is a difficult exercise in standing still; at worst, we will have screwed up our rural development efforts in the name of reform.

Once again, Mr. Chairman, I would like to state my opposition to this amendment. I urge all my colleagues to vote with Chairman WHITTEN and the Appropriations Committee by voting "no" on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

□ 1900

Mr. RIDGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, before we conclude discussion of this very important measure, I would like to remind my colleagues that when President Bush sent his budget to the Hill, he requested $80 million in budget authority and $124 million in budget outlays for the wetlands conservation research program. In my view, the Appropriation Committee's move to eliminate funding for wetlands protection could not have come at a more inappropriate time.

During debate on the 1990 farm bill, I introduced the Permanent Wetlands Agricultural Reserve Act—(H.R. 4247—which was designed to protect 2.5 million acres of wetlands. In seeking a workable compromise, I was satisfied we did the best we could when we voted to protect 1 million acres of valuable wetlands. Now today, without the support of the administration, farmers, or wetlands conservationists or reformers, the Appropriation Committee has proposed to arbitrarily gut this valuable program.

Mr. Chairman, wetlands conservation and regulatory reform is rapidly becoming one of the leading environmental issues of the 102d Congress. The Comprehensive Wetlands Conservation and Management Act of 1991—H.R. 1330—a bill which I helped author and now vigorously support, currently has 148 cosponsors. While supporters of our legislation know the time has come for regulatory reform, we are also fighting for new resources to protect our Na-

tion's wetlands. This is no time to step back. We can protect wetlands and respect private property rights. America's farmers are willing to work with us to protect environmentally sensitive land. The USDA's wetlands conservation reserve is a rational, effective, and necessary conservation tool.

I would urge the Appropriations Committee to keep faith with the earlier commitment of the authorizing committee to protect 1 million acres of wetlands by restoring full funding for this wetlands reserve program in conference.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 739. None of the funds appropriated or otherwise made available by this Act shall be used to carry out sections 2301-2303 of Public Law 101-624.

SEC. 740. The Secretary shall complete the sales of Farmers Home Administration inventory farms, in accordance with the law and regulations in effect before November 28, 1990, in situations in which a County Committee, acting pursuant to section 335 of the Consolidated Farm and Rural Development Act, had made its initial selection of a buyer before November 28, 1990. Such sales shall be completed as soon as the selection decision is administratively final and all terms and conditions have been agreed to. In carrying out sales of inventory property, priority shall be given to the former owner and members of the immediate family.

SEC. 741. None of the funds appropriateed or otherwise made available for this Act shall be used to exclude from coverage under section 2244 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) any crop of valencia oranges that, regardless of harvest year, was destroyed or damaged by freeze or related condition in 1990 and is otherwise covered by that section.

AMENDMENT OFFERED BY MR. GRANDY

Mr. GRANDY. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. GRANDY: Insert before the short title (page 86, after line 8) the following new section:

SEC. 742. None of the funds appropriated or otherwise made available in this Act may be used in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to—

(1) deny an agricultural producer (who insured a primary crop that the producer was prevented from planting due to damaging weather or related causes but who planted a generally accepted secondary crop, such as soybeans or grain sorghum, in lieu of that primary crop) crop insurance coverage to the same extent as if the producer originally insured that secondary crop instead of the primary crop; and

(2) deny crop insurance coverage for 1991 crops of soybeans planted by a land-based air seeding method using a fertilizer boom and applying appropriate amounts of seed and herbicide or planted by broadcasting.

Mr. GRANDY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. WHITTEN. Mr. Chairman. I reserve the point of order against the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] is recognized for 5 minutes in support of his amendment.

Mr. GRANDY. Mr. Chairman, I know the hour is late and this will be the last amendment, however I will just ask the Members' attention to this, which may sound like a parochial amendment, Mr. Chairman, but I can tell this Committee that my State of Iowa, as with many other States in this Nation, for the last 4 years has been through 2 years of drought and 1 year of the wettest weather we have ever experienced, and what that has produced is an adverse weather condition, Mr. Chairman, that has not only inconvenienced and in some cases decimated farmers, but it has caught them in an untenable position with the risk management tools that they thought they had and yet discovered, to their chagrin, they do not. Basically farmers in my area have bought crop insurance only to find that, due to weather conditions and technical provisions in the insurance contract, they are being denied coverage under those contracts for the crops they have been forced to plant.

Now I am attempting to work with the Federal Crop Insurance Commission on this to take the simple, no-cost, administrative actions outlined in this amendment that they have so far refused to do, and, Mr. Chairman, this amendment is in two sections.

The first section is as follows: I ask that, if a farmer who intended to plant corn, or cotton, or another primary crop, was prevented from doing so due to adverse weather, that he be allowed to substitute a secondary crop and receive coverage. Unfortunately, due to crop insurance rules, he is prevented from doing so because the acres are attached, or the insurance, I should say, is attached, to specific acres. The farmer has been told by the crop insurance agent that he cannot get coverage, and consequently he must go bare.

I will say at this point we have been told by CBO and USDA that this will result in no added costs, and FCIC will not have a greater number of contracts than it contracted to have at the signup deadline of April 15. The bottom line here, Mr. Chairman, is no net cost to the Treasury, and we are allowing a farmer to make a prudent substitution under the available risk management tools.

The second provision, Mr. Chairman, would allow farmers with wet fields that are trying to get in, and in this case and in the case of Iowa plant soybeans where their corn was, to use a technique of allowing them to use land-based alternative means. In this case they would probably be allowed to take a large bulk fertilizer truck with balloon tires and broadcast; that is to say, spray, their seed into the field. They are presently precluded from doing that because of a crop insurance rule that requires beans to be planted in rows.

Now I beg the indulgence of the Committee. This is a technical amendment, but very important to those farmers that are trying to save what possible crop they might be able to get. This amendment would allow those aerators, or air-based, or land-based, air-seeding provisions to be covered under crop insurance. Again there would be no net cost according to USDA and CBO, and the bottom line here, Mr. Chairman, is these are reasonable administrative actions.

Now I understand that the chairman of the Committee on Appropriations will reserve a point of order because he will claim that this is legislation on an appropriations bill, and I have no doubt that this will be sustained. But I hope that the chairman and other members of his committee and members of the Committee on Agriculture will continue to work to make a crop insurance program that works for producers when they need it because right now we not only have in this country and under present ag policy a crop insurance program that does not work when farmers need it, we do not have a disaster program that responds when farmers need it, and I would only ask that these two provisions be made in order because we need to be more responsive to farmers' needs, and a more desirable and manageable risk management tool has to be made for our producers.

Just let me say in the time that remains, Mr. Chairman, that I want to stress that there is no net cost. We are merely allowing producers to transfer coverage from one crop to another. In most cases their yield will be less. It is their last card to play in the time that remains, and I want to stress that in my part of the country we are talking about a matter of days, if farmers are to get their crop in the field. If they are not allowed to make these changes either in this appropriations bill or administratively, we will probably lose more farmers than we need to. That will entail probably more disaster aid somewhere down the line.

I will only ask this Committee to seriously consider this amendment as a way to take preemptive action and perhaps save taxpayers' money.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Mississippi [Mr. WHITTEN] wish to be heard on his point of order?

Mr. WHITTEN. I reserved my point of order, and I understood there was an agreement.

Mr. GRANDY. Mr. Chairman, I cannot hear the gentleman from Mississippi [Mr. WHITTEN]. Did he say something about an agreement?

Mr. WHITTEN. Does the gentleman from Iowa [Mr. GRANDY] withdraw the amendment? I understood that was what was in order.

Mr. GRANDY. I am willing to withdraw the amendment, Mr. Chairman, with the understanding that this is a problem that needs the attention of the committee of the gentleman from Mississippi [Mr. WHITTEN] and the Committee on Agriculture.

Mr. WHITTEN. I hope the gentleman from Iowa [Mr. GRANDY] will withdraw the amendment. Mr. Chairman, I believe it is subject to a point of order, and I think the Chair would so rule, but, if the gentleman will withdraw it, I would like to make this statement.

What the gentleman from Iowa [Mr. GRANDY] presents is a true picture of much of our country. We have called, as a committee, on the President to send up recommendations on 28 disasters that he has declared. The delta section of my State, is under water and faces a similar situation as you describe. We have many situations like that around the United States. But your amendment is legislation, as it stands now. I have asked the White House to send us a recommendation on disasters so that we can deal with the supplemental so we can make this in order.

I would appreciate the gentleman withdrawing his amendment.

Mr. GRANDY. Mr. Chairman, I appreciate the concern of the gentleman from Mississipi [Mr. WHITTEN] and his attention to this. Iowa is not normally considered a delta State, Mr. Chairman, but under the rainfall we have had we probably qualify.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Iowa [Mr. GRANDY] is withdrawn.

Are there further amendments to the bill?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992".

□ 1910

Mr. WOLPE. Mr. Chairman, I rise in support of H.R. 2698, providing for agriculture, rural development, FDA, and related appropriations for fiscal year 1992. I am particularly pleased that this legislation contains $2.6 billion for the Supplemental Food Program for Women, Infants, and Children [WIC]. It is well known that the WIC Program is one of the most successful programs we have ever experienced. As the committee report states "benefits to participants of WIC are well documented, including fewer premature births, fewer late fetal deaths, better dietary benefits for the most nutritionally at risk, more regular medical care, better cognitive performance in children, and savings in Medicaid costs for newborns and their mothers." The value and benefits of this program cannot be denied. Recognizing this, Congress has increased its funding and expanded the program's authority each year. This year alone the WIC Program received $250 million more than we appropriated for fiscal year 1991.

Mr. Chairman, I will be the first to admit that I am not a nutritionist and I try not to get involved in issues about which I have limited knowledge. But, I would like to draw the attention of my colleagues to one element of the USDA rules governing the operations of the WIC Program that, at least on the surface, appear to produce a rather incongruous result. I refer to that regulation that makes certain nutritious cereals containing fruit ineligible to be included in the WIC Program, even though the same cereals would qualify without the fruit and the fruit would qualify without the cereal.

I call your attention to the committee report accompanying the agriculture appropriations bill. On page 114, the report states:

The Committee is aware of the WIC food package requirement which prohibits cereal from being included as an eligible purchase if it contains more than six grams of sucrose and other sugars, including those that occur naturally, per ounce of dry cereal. Cereals which contain raisins are excluded from the WIC food package because of this requirement, even though raisins alone have been recommended by the department to be included as a healthy dietary choice. The Committee is also aware that the entire WIC food package is currently under review. As part of this review, the Committee expects the Department to include an evaluation of cereals excluded from the food package because of naturally occurring sugar in fruit.

Mr. Chairman, I am pleased that the USDA is undertaking a comprehensive review of the WIC food package. Several nutrition studies that have been brought to my attention emphasize the importance of fruit as one of the most essential elements in a balanced nutritious diet. For example, the Dietary Guidelines Advisory Committee, established jointly by the U.S. Departments of Agriculture and Health and Human Services recommends that "adults eat daily at least * * * two servings of fruits" and that children should be encouraged to develop a similar practice. The Surgeon General's report on nutrition and health also recommends that among other foods, such as vegetables, whole grain products and cereals, people should "emphasize intake of fruits." Still another Federal Government document, entitled "Dietary Guidelines for Americans," recommends choosing a diet with plenty of vegetables, fruit, and grain products and suggests that adults and children should eat "two servings of fruit daily."

More recently, the Institute of Medicine issued a comprehensive report entitled, "Improving America's Diet and Health—From Recommendation to Action." In this report, the Institute of Medicine urges Congress to take an active role in the implementation of dietary recommendations. The report goes on to suggest that USDA regulations concerning family nutrition programs should be brought into compliance with dietary recommendations. In fact, it explicitly urges that fruit be included in the WIC food packages whenever possible.

Mr. Chairman, I leave it to the experts. If, in fact, upon review it were determined that this change in food packages were appropriate, I am told that one of the side benefits would be to realize a 30-percent savings.

I thank my colleagues on the committee for raising this issue in their report. I look forward to the results of the USDA's review so that these questions may be addressed by Congress.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of a provision of H.R. 2698, the appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year 1992. This provision, contained in the appropriations to the Department of Agriculture for Extension Service, provides $647,000 for agricultural development in the American Pacific. This program is designed to further the agricultural development of the U.S. territories in the Pacific basin in an efficient manner through the coordination of research and resources.

Mr. Chairman, the agricultural development in the American Pacific project is of considerable interest to the U.S. territories in the Pacific basin, which consist of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Freely Associated States of Micronesia as well as the State of Hawaii. During its first 3 years, this project has laid the groundwork for long-term, cooperative working relationships among the land grant institutions of the Pacific. At the present time, these land grant institutions are far from reaching the ultimate goal of raising their capabilities to a level where they require no special consideration.

The agricultural development in the American Pacific project is based on the premise that the region provides vital economic and strategic advantages to the United States; therefore, stability and growth of the economies in the region necessarily involve a planned and sustainable agriculture. I believe the land grant system plays a major role in assuring that the above occurs.

Mr. Chairman, I would like to take this opportunity to express my sincere appreciation to House Appropriations Committee Chairman, JAMIE WHITTEN of Mississippi, Representative MARCY KAPTUR of Ohio, and other distinguished Members of the Subcommittee on Rural Development, Agriculture and Related Agencies, whose support of the agricultural development in the American Pacific project has made a major difference in how the land grant system in the Pacific region has been able to respond to the critical agricultural and environmental issues.

Finally, Mr. Chairman, I would like to urge my colleagues to support H.R. 2698, without reducing funding for this worthwhile program.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs.

UNSOELD) having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2698) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them in gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 48, not voting 16, as follows:

[Roll No. 201]

YEAS—368

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—48

Archer
Armey
Beilenson
Broomfield
Bunning
Burton
Campbell (CA)
Cox (CA)
Crane
Cunningham
Dannemeyer
Dornan (CA)
Dreier
Duncan
Fawell
Gallegly
Gekas
Goss
Hancock
Hansen
Hefley
Henry
Hunter
Jacobs
Johnson (TX)
Kyl
Lagomarsino
Luken
McCollum
Moorhead
Packard
Pallone
Pease
Petri
Rohrabacher
Roth
Roukema
Russo
Santorum
Schroeder
Sensenbrenner
Shaw
Shays
Stump
Walker
Weldon
Zeliff
Zimmer

NOT VOTING—16

Aspin
Clay
Collins (MI)
Ford (TN)
Gray
Hayes (LA)
Hopkins
Jones (GA)
Lloyd
Mrazek
Rhodes
Smith (FL)
Solomon
Sundquist
Towns
Traxler

Mrs. ROUKEMA changed her vote from "yea" to "nay".

Mr. ALLARD changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Madam Speaker, I take this time in order to ascertain the schedule for the week after the recess.

I yield to the gentleman from Missouri [Mr. GEPHARDT] to explain to Members the schedule that we may have coming back from the recess.

Mr. GEPHARDT. Madam Speaker, I thank the gentleman for yielding.

Obviously, today's business is finished, expeditiously, and there will not be votes on tomorrow or the next day. Of course, we are out for the week of the Fourth of July for a district work period.

On Monday, July 8, the House will not be in session. On Tuesday, July 9, the House will meet at noon to consider suspensions. Recorded votes will be postponed until Wednesday, July 10.

Wednesday, July 10, the House will meet at noon to consider three different proposals on the most-favored-nation status for China.

On Thursday, July 11, the House will again meet at noon to take up a number of different bills out of the Committee on Science, Space, and Technology.

On Friday, July 12, the House will meet at 10 but there will not be legislative business.

Mr. WALKER. I thank the gentleman. Just to reemphasize a couple of points that the gentleman has made, because there are somewhat different times than would be normal, if I understood the gentleman correctly, the House will meet at noon on Wednesday. That would be the first day we would have votes that week?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. And Members could expect possible votes on suspensions some time after noon that day; is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. And there would be then votes on the MFN bill that day?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. And then on Thursday, we would also meet at noon instead of the typical hour of 10 o'clock, and we would have votes that day on the bills of the Committee on Science, Space, and Technology, two, possibly three, bills; is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. I thank the gentleman.

Mr. GEPHARDT. I thank the gentleman.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE FROM JUNE 27, 1991, TO JULY 9, 1991, AND FOR AN ADJOURNMENT OF THE SENATE FROM JUNE 28, JUNE 29, JUNE 30, JULY 1, OR JULY 2, 1991, TO JULY 8, 1991

Mr. GEPHARDT. Madam Speaker, I offer a concurrent resolution (H. Con. Res. 175) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. (Mrs. UNSOELD). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 175

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 27, 1991, it stand adjourned until noon on Tuesday, July 9, 1991, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, June 28, 1991, Saturday, June 29, 1991, Sunday, June 30, 1991, Monday July 1, 1991, or Tuesday, July 2, 1991, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until noon, or until such time as may be specified by the Majority Leader or his designee in the motion to adjourn or recess, on Monday, July 8, 1991, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. GEPHARDT (during the reading). Madam Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 9, 1991, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 10, 1991

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 10, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1940

NATIONAL CHILDREN'S DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 183) to designate the second Sunday in October of 1991 as National Children's Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mrs. UNSOELD). Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I yield to the gentleman from Massachusetts [Mr. KENNEDY], who is the chief sponsor of House Joint Resolution 183 to designate the second Sunday in October of 1991 as National Children's Day.

Mr. KENNEDY. Madam Speaker, first of all let me thank the chairman of the Census and Population Subcommittee, TOM SAWYER, and the ranking minority member of the subcommittee, TOM RIDGE, for bringing this resolution to the floor today.

October 13, 1991 will mark our third observance of National Children's Day. Children's Day is a time to honor our kids, celebrate their many triumphs, listen to their hopes and concerns, and reflect for a moment on the world they are living in and the world we are leaving them.

Each year in America, we honor our mothers and fathers with special days that let them know how important their role is in this Nation and in each individual family. Children in America do not get this kind of recognition. By establishing a Children's Day, we will set aside one day a year, in the tradition of Mother's Day and Father's Day, which we place the same degree of honor on our children. During this day all children will be held up on a pedestal because of their contributions to their family and their community and because, we as a nation, truly recognize that they are our greatest natural resource. This is a day for families to spend time together. It is a day for communities and cities and States to recognize the accomplishments of children. It is also a time for us to take a closer look at how children are living in America.

Working with our Nation's Governors, we will bring young people to Washington from around the country who have participated in a variety of programs that have helped them make a difference in their lives or in the lives of others. These exceptional young people will spend a week here in Washington this October and tell their story in testimony before the Select Committee on Children, Youth and Family, in meetings at the White House and in conversations with their elected representatives in the House and the Senate. And if it's anything like the previous years, we'll learn from these kids. In the previous years, we've heard from a young girl from West Virginia who was fundraising for the homeless, a teenage boy from Boston who was volunteering his time helping the elderly and reading to preschoolers through the JFK Library Corps, and a teen mother from Alabama who graduated from high school with honors and is serving as a role model for others.

As much as I enjoy what takes place here in Washington, the real goal of National Children's Day is to have some sort of activity in every community in the country. We will be working with the 50 Governors, national school groups and national organizations like the Child Welfare League of America, the 4-H Clubs, Girl Scouts and parent-teacher organizations in hopes that every city and town will find their own way to honor their young people. This year, we are particularly fortunate to have singer and actress, Diana Ross as

the national spokesperson for 1991 National Children's Day to help us with our efforts.

The year 1991 will prove to be exciting for National Children's Day and I hope that we have the support and participation of each Member of Congress for the activities here in Washington and back in our home States. I urge my colleagues to vote for House Joint Resolution 183.

Madam Speaker, I want to again thank the distinguished gentleman from the great State of Indiana and my good friend from the State of Ohio for their help and support, and I appreciate the efforts they have made on behalf of National Children's Day.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 183

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1991 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Services be discharged from further consideration of the joint resolution (H.J. Res. 182) to authorize and request the President to proclaim the month of November 1991 and thereafter as "National American Indian Heritage Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I yield to the gentleman from American Samoa [Mr. FALEOMAVAEGA], who is the chief sponsor of House Joint Resolution 182 designating the month of November 1991 and the month of November 1992 each as National American Indian Heritage Month.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today to support House Joint Resolution 182, a bill I introduced to designate the month of November as a time to honor American Indians of the past and present. National American Indian Heritage Month is a recognitions to the foundation and development of America.

The bill would not be on the floor of the House today without the support of the chairman and ranking minority Members in the committee and subcommittee with jurisdiction. Chairman WILLIAM CLAY and THOMAS SAWYER and Congressman BEN GILMAN, and TOM RIDGE deserve our sincere thank you's for their continued support in honoring American Indians each year. The leadership of the Interior Committee is placing a new emphasis on issues relating to American Indians, and Chairman GEORGE MILLER and the ranking minority member, Congressman DON YOUNG, also deserve special recognition and appreciation.

I also want to thank my staff for their work in getting this bill ready for floor consideration. Miss Erlene Lesa, a junior at Brigham Young University, who worked as a summer interim out of my Washington office, has been invaluable in her thorough preparation and work in compiling lists of cosponsors. Ms. Lesa's draft of the special order I gave last night was excellent and the best I have seen from someone of her age. From my permanent staff, Ms. Merina Sunia deserves recognition for her continued administrative support, and my legislative director, Martin Yerick, for his coordination of this legislation.

Madam Speaker, House Joint Resolution 182 will not make up for the hardships suffered by the American Indians of the past or placate the Indians of the present and it does not presume to do so. As a nation, we have come to the point from which we must look past the accusations and do something more than merely acknowledge the atrocities endured by the American Indians. I believe that it is time to pay homage to a great and noble people who have contributed so much to the foundation and perpetuation of our country.

Madam Speaker, at its inception this country relied on the kindness of the native Americans to survive. We have all heard the history lesson about the assistance that the Indians gave the first Pilgrims. Once again I would like to remind my colleagues of the generous nature of the Indians in sharing their knowledge of fishing, hunting, and agriculture with the Pilgrims.

The Pilgrims celebrated and gave thanks with the Indians at the first Thanksgiving dinner. They celebrated the harvest together. Should it be so difficult for us to honor them?

Madam Speaker, the American Indians helped in America's victorious bid for freedom from Great Britain in the Revolutionary War. They used their knowledge of the terrain to help formulate tactical maneuvers and strategies. They led troops through the woodlands and forests; they brought food and medicine to the troops at Valley Forge; they taught the art of ambush that gave the American armies an extra element of surprise. The assistance of the Indians undoubtedly kept the war from being more tragic than has been recorded.

Many of the principles that this Nation is founded upon were used by the great Indian confederacies: Separation of powers, balance of powers, and government by representation were all incorporated in the Indian governments hundreds of years ago. The right to free speech and to peaceably assemble were held dear by the Indians. The Indians of the Iroquois confederacy recognized the wisdom in establishing unity and amity between five nations. They realized that strength and security came with such a union.

Madam Speaker, it is time that we give the native Americans credit for their democratic ideas. It is time that we honor them the way we honor the great thinkers of the enlightenment. It is time to credit them for having ideas parallel to the philosophies of John Locke and John Stuart Mill. Let us give them some measure of the homage we pay to the European and Greek philosophers who are hailed as the fathers of democracy.

It is time to recognize the American Indian contribution to defending these

great principles of freedom and democracy. The native Americans have answered the call to serve in defense of this Nation in countless numbers. Many of their young men have died to keep our flag flying. That flag has covered the caskets of many of our native sons who died to protect the land that once belonged to their forefathers. They died to defend the rights and freedoms that they held so dear in the hope that one day those rights and freedoms would be extended, without hesitation, to them.

Madam Speaker, I believe that now is the time to honor Indian heroes like Jack Montgomery and Ernest Childers, who were awarded the Congressional Medal of Honor in Europe. It is time to honor Ira Hayes, who helped raise the flag at Iwo Jima, and Clarence Tinker, who died in the Pacific. It is time that our children learn of these American Indian heroes. It is time that they learn of the American Indian writers like Tony Hillerman, Louis Elrich, and Vine Deloria, Jr. It is time to honor their performers like dancer Maria Tallchief and actors Burt Reynolds, Bob Barker, Wayne Newton, James Garner, Jay Silverheels, and Will Rogers. It is time to honor athletes like Jim Thorpe, Sonny Sixkiller, and Billy Mills. It is time to recognize the achievements of political leaders like Charles Curtis, Larry Echohawk, and our own friend and colleague BEN NIGHTHORSE CAMPBELL.

Madam Speaker, by recognizing and honoring these native American role models we can provide the Indian youth of today with the inspiration that they need to rise out of the poverty that surrounds them. We can provide the American Indian youth with the sense of identity that they so desperately need. We can take the first step toward making this country one where our Indian brothers and sisters can feel accepted. We can create a society that is not constantly at odds with all that the Indians hold dear. It is time for us to take that step.

Through House Joint Resolution 182, a month will be set aside in each of the next 2 years specifically for the purpose of honoring not only the American Indian heroes but the American Indian people. We will be setting aside a time to show gratitude for all that we have received from them.

Madam Speaker, we can learn much from the humility of the native Americans. We would do well to emulate their reverence for life and their reverence for the Earth. Give them the chance to live in harmony with nature as they desire. Give them the chance to hope for a better future for their children. Give them the chance to save their great and noble culture that has been threatened for so many years. Give them the chance to live, secure in the knowledge that they have the same opportunities available to them that other Americans do. We can take a step in this direction by designating a time to recognize their achievements. We can help them to hold on to their sense of pride in what they are.

The American Indian underrepresentation in institutions of higher education needs to be corrected. Their 43 percent high school graduation rate needs to change. Their 45 percent poverty rate and 35 percent unemployment rate need to be improved. We need to support and fund the tribally operated community colleges that exist now and create a university designed specifically to meet the needs of the native American youth. The American Indian plight in education is an issue that we can no longer afford to ignore.

As we approach the 500th anniversary of the arrival of Columbus in the New World, let us take this time to reflect upon our relationship with the native Americans. Let us set aside November as National American Indian Heritage Month. This year at Thanksgiving, we should do more than give thanks for all that we have. We should also give thanks to the forefathers of the American Indians for their assistance in making this country possible. We should give thanks to the native Americans for their significant part in the legacy that has become America.

Madam Speaker, we cannot let this legacy die. With our assistance the Indian Nation can once again flourish and continue to add to the richness of cultural diversity that America is so proud of.

□ 1950

Madam Speaker, I would be remiss if I did not express my deepest appreciation and gratitude to the 230 Members of this great institution who cosponsored this joint resolution. Indeed, without their support, this legislation could not have been considered today for final passage.

Madam Speaker, I also would like to thank the staff of the subcommittee of the gentleman from Ohio [Mr. SAWYER], who has been so patient and diligent in seeing this bill does not run into any obstacle while under consideration by the House.

Madam Speaker, at this point I will submit for the RECORD a commentary written by a young senior at Annandale High School. The name of the senior is Erin Coward. It involves some of the research that Erin did concerning the American Indians. I thought it would be most provocative and certainly most interesting reading for my colleagues.

The article is as follows:

THE ADVANCEMENTS OF THE AMERICAN INDIANS

(By Ms. Erin Coward, Senior, Annandale High School)

Is it any wonder that the American Indian has more problems in today's society than any other minority? Unlike the blacks, the Jews, and the Hispanics, the Indians have no homeland. Their homeland has been seized and turned backward by a foreign race—a race first determined to destroy the Indian culture, belief, and the very Indian way of life. Yet through determination and insurrection, many Indian cultures have regained not only their tribal lands, but also their Indian ethos.

In an effort to cloak the Indian problem, the U.S. Government set up several reservations throughout the United States, mostly in the west. The problem was not alleviated. There are presently 285 federal and state reservations in the US covering 50 million acres.[1] Of the 1,400,000 American Indians in America, one-half live on reservations.[2] The first was established in 1758 by the people of the New Jersey Colony.

Unfortunately, these reservations did nothing to help the Indian plight. Punitive laws were imposed on the already dying Indian culture in an effort to extinguish the Indian way of life forever. Even today the major problems faced by the reservation Indians are (a) lack of a well-developed economy, (b) poor living conditions with substandard and inadequate housing, (c) nonownership of their lands and lack of freedom of self-government, and (d) schools which lack the tools and the culturally aware teachers who can help Indian children deal with the white society of today.

Through the hard work of the Indians and a newly concerned U.S. Government, reservations have been allowed to grow and to change for the better. The Indians working and living on the reservation have become a separate and industrious nation, using natural resources on which to base their economy. Most Indians on today's reservations have good farming and jewelry making skills.[3] Wood processing and native crafts encourage tourism. The money collected from these visitors may go to an individual person, such as a restaurant owner or jewelry maker, or to the budget to help keep up the Reservation.

Recently, the U.S. Government has also helped to improve the Indian's housing problems. During the 1960's the Bureau of Indian Affairs (BIA), the US Department of Housing and Urban Development (HUD), and the US Department of Health, Education, and Welfare (HEW) worked to help build low cost housing and to improve the living conditions on the reservation.[4] Mutual-help programs to help to meet the low-income needs of the Indians who desire home ownership.

The ownership of the reservation varies in different states. Some tribes have given full and complete ownership to the state they are in. Many tribes own their own reservations, but the Federal Government has a large influence over them. The government at first had the jurisdiction over crimes on the reservation due to the 1885 Major Crimes Act. This allowed the government to punish Indians for any crime committed.

EDUCATION

Education for Indian children has suffered both on and off the reservation. In racially mixed schools, the major problem is the cultural gap. Indian children hold a different set of standards and methods of reasoning from conventional Anglo ways of life. Indian parents teach their offspring to be passive, and to be true to one's own personal beliefs. Most Indian children are taught understanding through peace, thus they do not have the competitive skills necessary to succeed in the white/Indian mixed schools. Many teachers in mixed schools have had no cultural training and do not understand the Indian

way of learning. It is difficult, if not impossible for them to bridge the gap between the cultures.

The most recent advancements for Indian education have been in the mid to late '70's. In 1975 the Indian Self-Determination and Education Assistance Act facilitated the control of education programs by tribal groups. In 1978, the Indian Education Act pushed a large change in the Bureau's operation of both Bureau-operated and contact schools. This act resulted in formula funding for all Bureau-funded schools, decision making for the Indian school boards, and direct funding to the schools.

The latest great change occurred directly through the struggle of the Indians and their determined teachers. On a Yakima reservation in Washington State, disaster struck what had proven to be a beneficial educational program. In 1980, the Head Start program (a pre-school program which prepares deprived children for first grade) on the reservation came close to termination. Martha Yallup, the tribes Head Start programmer, and Sister Kathleen Ross, the academic vice president of Fort Wright College, refused to let their dream die. The two determined women fought to keep the program going—they succeeded in a matter of years. The school is now a strong success.[5]

The BIA has been a major funding source of education programs for Indian children three to four years old. The Bureau provides funding for supplemental educational programs. These programs include remedial tutoring, home and school coordinators, cultural enrichment, and pre-school programs. The Bureau also grants scholarships to worthy Indian students. Tribal Controlled Community Colleges are funded by the BIA if they pass the Bureau's criteria. Reservations on the Central Plains are given financial aid under a contract with the State to public schools.[6] Many students have problems in learning a second language, and in working and succeeding in a world so different from the one they are used to. To help conquer the problem, the Bureau has funded many Head Start programs for preschoolers to ease the transition from reservation life to the public school classroom. Students needing additional assistance or guidance enroll in a Bureau funded boarding school. Funds to aid needy public schools are funded by the BIA.

Other programs addressing the education problems of the Indians have been sporadically introduced. In 1919, a "civilization fund" was passed by Congress which appropriated $10,000 annually to provide elementary education. All funds provided were channeled through religious and minor groups. The first Indian boarding school system was established in 1860 by the Federal Government. The Manpower Development and Training Act of 1962 established institutions which offered help in vocational training, guidance, and financial assistance. Congressional Acts of 1896, 1897, and 1917, stopped the funds of the Federal government.[7]

ECONOMIC DEVELOPMENT

Economic Development for the Indian race has been a long, hard struggle. Only in the past 30 years has new ground been reached in improving this poorest minority in America. The major problem is that Indians reared in a total Indian environment often face employment problems caused by the juxtaposition of alien cultures.[8] As with education, many Indians find competing in a white society a losing battle. The Indians, taught different rules at home, are forced to play by white society's rules. The unemployment rate of the Indians stretches far beyond that of other minorities. Most reservations lack a developed physical infrastructure including utilities, transportation and other public services. They also lack the regulatory, adjudicatory, and enforcement mechanisms needed to interact successfully with the white society.[9]

Fortunately, there has been much development upon the reservation. Tribes use natural resources such as timber, minerals, fishing, and energy help to spur the economic growth. Indian tribes and the nation together stand to gain from development and management of vast coal, oil, and uranium resources on the reservations. These resources can become foundations for economic development.

The BIA has repeatedly made extended efforts to alleviate Indian unemployment, through expanded programs in adult vocational education, industrial development on or near the reservations, and increased use of Indian labor. This labor includes road maintenance and instruction, repair and maintenance of buildings, and construction of buildings and utilities—all of which provided the Indians valuable construction training. Projects launched under the 1963 Accelerated Public Works Program on nearly 100 reservations provide useful work for thousands of tribal members and contribute importantly to the protection and development of timber stands and other physical resources. Together with Federal agencies, the Bureau has launched programs to step-up the pace on the economic development process on 39 Indian reservations and has waged a concentrated effort to stimulate economic and social change for the Indians. Programs for the disadvantaged, under the Economic Opportunity Act of 1964, have provided the Indians an opportunity to participate in and control their own programs.

GOVERNMENT POLICIES

Government Policies toward the Indians have improved immensely over the years. From the policies of the English colonies to the Red Power movement, the government has striven to improve the Indian problems. In 1755, the British developed an Indian policy designed to (1) protect the Indians from opportunistic traders and speculators; (2) negotiate boundary lines by treaties; (3) enlist the Indians to the side of the British in the French and Indian War; (4) exercise as much control as possible over the fur trade. These policies were primarily for the benefit of the British government, not for the protection of the Indian. The outbreak of hostilities between America and Britain caused a strenuous effort for Indian alliances by both the American and British governments. America tried to gain the much needed Indian friendship with treaties, but most tribes still supported the British. In 1775, the Continental congress named a Committee on Indian Affairs. The Indian Commissioners were given the authority to "Preserve peace and friendship with the Indians and prevent their taking part in the present commotions." During the Revolutionary War, Indian commissioners acted as diplomatic agents, trying to gain Indian allegiance.

The new American government also gave Indians mention in the Constitution. Article I, Section 8, states that the government has the power "To regulate commerce with foreign nations, and among several states, and with the Indian tribes."[10] This allowed the Indian nations to remain as separate powers, but open for treaties with the U.S. The government required treaties with Indian nations, to assist in control over public land. The 1968 Indian Bill of Rights provides that Indian tribes exercising powers of self-government shall be subject to many of the same limitations and restraints which are imposed on Federal, State and local governments by the U.S. Constitution.[11]

The Federal Government has exercised power over the Indians for almost 200 years. This power is divided into three sources. First, the Constitution grants to the President and to Congress what have been construed as broad powers of authority over Indian affairs. Second, the federal courts have applied a theory of guardianship and wardship to the federal government's jurisdiction over Indian affairs. Finally, Federal authority is inherent in the Federal government's ownership of the land which Indian tribes occupy. Treaty agreements obligate the Federal government to provide social, medical, and educational services to many Indian tribes. Federal obligation also covers (1) protection of Indian trust property, (2) protection of the Indian right to self government, and (3) provision of those social, medical, and educational services for survival and advancement of Indian tribes.[12]

AMERICAN INDIANS TODAY

The Indian people themselves have made a quantum leap from the misconception of the dumb savage portrayed in the Old Westerns. Since the 1924 American Indian Citizenship Act, Native Americans now hold federal and state offices, have the power to vote, serve in the Armed Forces, and have the right to own their own land.

Indians have the same rights as other American citizens to hold government office—many Indian men and women have held elective and appointive posts for years. Persons with Indian backgrounds were elected to Congress more than 60 years ago, and a number have served in state legislatures. Others have and presently are serving in elected or appointed positions in state judiciary systems, as well as in county and city government positions. Ben Rerfes, a Sioux Indian from South Dakota, served five terms in the House of Representatives, and Charles Curtis, a Kaw Indian, served as Vice President from 1929 to 1933.[13]

The Indian right to vote came slowly through each state. The voting right is on the same basis as the other American citizens of the respective state. Arizona gave the Indians the right to vote in 1948, after a long struggle and Constitutional battle. A 1953 Utah state law was only recently overturned, giving Indians the right to vote in national and state elections.

Indians follow the same laws and requirements for military services as all other citizens. In World War I more than 8,000 Indians served in the Army and Navy; 6,000 by voluntary enlistment. In World War II 25,000 Indian men and women served in the armed forces. They fought in Europe and Asia, winning a total of 71 Air Medals, 51 Silver Stars, 47 Bronze Stars, 34 Distinguished Flying Cross awards, and two Congressional Medals of Honor. The Navajo Marines used the native Navajo language as a battlefield radio communication code, unbreakable by the Japanese. Over 41,500 Indian people served in Vietnam.

Contrary to belief, Indians are not wards of the Federal Government, nor are special or automatic payments awarded persons of Indian descent. The federal government acts as a trustee of Indian property, not as a guardian. The Secretary of the Interior is required, by law, to protect the interest of minors and incompetents, but this does not confer a guardian-ward relationship. Indian tribes receive compensation for damage, for

losses which result form treaty violations, for encroachment on Indian lands, and for other wrongs. If the Indians are "treated differently" or have "special rights", these rights are based upon treaties and agreements between the United States and the Indians. The Indians have often paid a heavy price through the commission of lands to the governments for the rights they retained. These rights are part of the Indians heritage which they are entitled to keep in the same way that other peoples are entitled to keep lands or their goods which they inherit from ancestors.

Like all cultures and races, the American Indians have fought to keep all they practice and believe in. Although many of today's young Indians have developed Anglo ways, the Indian tribes have refused to give up their way of life.

In spite of the many advancements, this is still a dying culture. The American Indian problem is far from over. They are still the poorest minority in the United States. Only 43 percent of American Indians are graduating from high school. Fourty-five percent live in poverty. The unemployment rate on most reservations is greater than 80 percent. While some reservations are prospering through the hard work of determined people, most consist of dirty little hovels with little or no sanitation.

As long as America pretends that the Indians are a race not deserving of our respect, their way of life will be in serious danger. These people need more help then a just a movie about one tribe, or colorful pamphlets. These people need the chance to build again, and help to defend their very existence. With the help of America, this noble race can again prosper.

FOOTNOTES

[1] "The American Indian," *World Book Encyclopedia*, 1989, VIII, pp. 180-187

[2] "The American Indian," *World Book Encyclopedia*, 1989, VIII, pp. 180-187

[3] "The American Indian," *World Book Encyclopedia*, 1989, VIII, pp. 180-187

[4] U.S. Department of the Interior-Bureau of Indian Affairs, *Housing Program for Indians*, November 1979

[5] Ryan, Michael, "Don't Tell Us It Can't Be Done", *Parade Magazine*, 31 March 1991, pp. 18-19

[6] The Continental Congress named a Committee on Indian Affairs. This Committee separated the Indians into different regions of the United States.

[7] U.S. Department of the Interior-Bureau of Indian Affairs, *American Indian and Alaskan Education*, June 1987

[8] U.S. Department of the Interior-Bureau of Indian Affairs, *American Indian and Alaskan Education*, June 1987

[9] U.S. Department of the Interior-Bureau of Indian Affairs, *American Indian and Alaskan Education*, June 1987

[10] The United States Constitution

[11] Public Law 90-284; 25 U.S.C. et. seq.

[12] U.S. Department of the Interior-Bureau of Indian Affairs, *United States Commission on Civil Rights*, March 1973.

[13] Ross Swimmer, *The American Indian Today*, Bureau of Indian Affairs, Department of the Interior, 1987.

Madam Speaker, I also insert at this point an article that appeared in the June 24, 1991, issue of Newsweek magazine. I commend the authors of the article and submit it at this point.

COLUMBUS, STAY HOME!

The executive director of the Christopher Columbus Quincentenary Jubilee Commission is picking his words carefully. "We don't call it a celebration," says James Kuhn. "We call it a commemoration." Of what? "Specifically the 500th anniversary of the voyages to the New World," he explains. Oh, Columbus' great discovery? No, says Kuhn, "I refer to it as an 'encounter.' I may have even said discovery in the past but now I refer to it as an encounter."

With friends like these, Christopher Columbus is in for a bad year.

It didn't start out that way. The drums were in place for traditional ruffles and flourishes: replicas of the cockleshell caravels, museum exhibits, two Hollywood movies, a tide of academic books and articles. But somehow the hoopla curdled. Kuhn's Quincentenary Commission, funded partially by Congress, is trying to regroup after the resignation of its chairman and an investigation of its finances. Groups ranging from the National Council of Churches to the American Indian Movement have denounced the festivities. Museums that thought they had booked crowd-pleasing attractions now find themselves mired in controversy. When Atlanta's SciTrek museum opened an exhibit of a scale-model Niña last month, pickets paraded outside until officials agreed to add panels on the life and times of Native Americans. In Washington, the National Endowment for the Humanities took a look at a proposed television documentary, found scripts that painted the historic voyage and its aftermath as a genocidal campaign and canceled the federal funding.

In books and speeches, Columbus himself comes in for almost nothing but abuse. He is called a rapist and plunderer, a slave trader, a mass murderer comparable to Adolf Hitler and Pol Pot. Ecologist and historian Kirkpatrick Sale set the tone in his recent book on Columbus, "The Conquest of Paradise," denouncing the admiral for every sin but littering: lovelessness, avarice, duplicity, paranoia, ferocity and cruelty. Sale even accuses Columbus of being a "wretched mariner," heedless of his ships and reckless in challenging ill winds.

The problem is that Columbus did all those things—and more. "He was one of the most complicated personalities in the annals of history," says University of Georgia geographer Louis DeVorsey, author of an upcoming guide to "Age of Discovery" research at the Library of Congress. In one bold stroke, Columbus changed the world, irrevocably linking the Old and the New. His were the quintessential voyages across uncharted waters, adventures that carried the imagination of Western man to the moon and beyond. The conquistadors followed in his wake; their journeys were the proximate cause of tragedy, most particularly the end of Aztec and Inca civilizations—millions died as their immune systems were overmatched by the diseases Europeans brought with them. The Spaniards didn't set out to wipe out the natives. Indeed their deaths were inconvenient, leading to another horror: the importing of African slaves to the Western Hemisphere.

Complicating matters further is that the attempt to assess Columbus and his proper place—shall we mourn, celebrate or both?—comes in the midst of an acrimonious debate in American intellectual life. This controversy pits those anxious to prove the evils of Eurocentric thinking and actions against those who treat all attacks on Western tradition as a threat to civilization itself. In the shorthand of the times, this is another example of the skirmishing called political correctness.

Discussion about Columbus has never been untroubled. He was a prickly character at best, enigmatic and often evasive; he spent his last years in failure and disgrace, ill and at least half mad. Within 50 years of his death, the revisionist friar Bartolome' de las Casas was writing eloquently of the atrocities committed under Columbus and his successors as governors. Indians were tortured and killed, hunted in the hills, fed to the white men's dogs. Millions died, mostly from smallpox, diphtheria and whooping cough. It was a cruel time.

But that's the point: even if Columbus set all that evil in motion, he can't be called the sole or even the chief villain. Latin American historian Dauril Alden of the University of Washington says that Columbus "was a product of his times." He was beastly to the Indians and beastly to his sailors. When he caught his men stealing gold, he ordered the amputation of their noses or ears. Moderns can look back at such behavior with revulsion; but applying a moral code that wasn't then in place doesn't help explain Columbus or put his actions in any sort of context. "Every generation," Alden says, "rethinks its historical past through a prism that reflects its own concerns. But I object to overloading Columbus with responsibility for everything that happened. He was interested in discovery, in wealth and prestige. He wasn't interested in genocide."

But context isn't everything; the Indians did die in appalling numbers. "He represents the worst of his era," says leading revisionist Jack Weatherford of Macalester College. "We should honor those who rise above their times." Some Native American groups have organized their own events. The newly formed 1992 Alliance has declared "The Year of the Indigenous People" beginning next January. More than 200 groups are planning native commemorations. In New York City, the Native American Council will hold a weeklong festival and sponsor an hour of silence on Oct. 12 to emphasize the environmental damage caused by Columbus's heirs. (Ecology was another cause unknown in Columbus's time.) These groups would also like to reverse the axiom that losers don't get to write history. Among other things, they're proposing model curricula, public service spots and consulting services that will carefully balance all public displays. "We don't want window dressing," says 1992 Alliance coordinator Suzan Harjo. "We want our views made prominent,"

As long as a variety of views can be expressed, the debate over Columbus and his legacy may pay pedagogical dividends. Remember, this is a nation where the average eighth grader can't name the century in which the Civil War took place or find Mexico on a map with either hand. Any enhanced appreciation of the multiple layers of history is a bonus. Indiana University professor Helen Nadfer, a past chair of the American Historical Association's Columbus committee, thinks that a good brawl will help her cause. "No cameras or reporters come when I give a lecture, but if somebody is protesting they do," she says. "The more statements, the more open discussion, the better."

In the end, we are left with the kind of question that might enliven a parlor game: is mankind better off because the Europeans settled the Americas or would things have been better if they had never come? It's 1992 and the Aztecs stand astride the hemisphere, handsome, proud and committed to their nasty habit of human sacrifice. In Europe, mature democracies might anguish over whether they should export their ideology to an indigenous people who obey totalitarian chiefs. Or maybe things would have worked out differently. It's been 500 years. Time enough to remember, as Princeton anthropologist Jorge Koor de Alva says, that

"we're descended from both sides, the conqueror and the conquered. This should be a time of great reflection." There is pride and sorrow enough for all.

Mr. MILLER of California. Mr. Speaker, I rise today to support the designation of November as "National Indian Heritage Month." This resolution would make November 1991 and 1992 months in which America would pause to reflect on the positive contributions of the original inhabitants of the United States.

From the time of the first contact with Europeans, the wisdom and accomplishments of American Indians have changed the world for the better. In agriculture, medicine, ecology, architecture, and government, Indian innovations contributed to the betterment of civilization. Such staples of the American diet as corn and beans were initially cultivated and harvested by tribes. Medicines including quinine were used by Indians before the coming of the Europeans. Significantly, the Iroquois Confederacy served as a model for our Federal system of government.

Such American heroes as Will Rogers and Jim Thorpe were of Indian descent and our heritage is enriched by other Indian people ranging from Black Elk, a philosopher, to Charles Bender, a baseball Hall of Fame pitcher, to Louis Ballard, a composer, to Charles Curtis, Vice President of the United States. There are so many tribes and individual Indian people who have contributed so much to this country, we certainly need to take at least a month each year to pay tribute to their contributions.

Mr. Speaker, in this body, we sometimes dwell on what is wrong in Indian country. We look at high rates of unemployment, disease, and social problems. There are problems which we must solve. However, a month in which we pay tribute to American Indians allows us to concentrate on what we have learned from these people, what they have contributed, and what is worth preserving. For those of us who deal in Indian affairs, enlightening the American people on the positive contributions of native Americans is of paramount concern. In November, we will point to what is right in Indian country and acknowledge the debt America owes to its Indian people.

It is my fondest hope that in November, Americans will consider the land under their feet, think about the Indian people who lived and died where there are now cities, and take into consideration the culture and wisdom of these great tribes. I hope that Americans will realize that these people are still here, preserving a way of life which this country once sought to destroy and should now be committed to protecting.

Mr. Speaker, I support this resolution and thank the gentleman from American Samoa for his hard work on this legislation.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 182

Whereas American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indians have made an essential and unique contribution to our Nation, not the least of which is contribution of most of the land which now comprises these United States.

Whereas American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn, squash, peppers, beans, and sweet potatoes, all of which have become mainstays of the American diet;

Whereas the people of the United States should be reminded of the assistance given to the early European visitors to North America by the ancestors of today's American Indians, including knowledge and training provided to the pilgrims in how to plant, fertilize, and cultivate corn, beans, squash, and tobacco; how and where to fish and hunt; how and where to tap maple syrup; and the location of the best routes west;

Whereas the people and Government of the United States should be reminded of the assistance given to this country's Founding Fathers by the ancestors of today's American Indians including the support the original inhabitants provided to George Washington and his troops during the winter of 1777–1778, which they spent in Valley Forge;

Whereas the people and Government of the United States should be reminded that certain concepts such as freedom of speech, the separation of powers in government, and the balance of power within government, all of which were found in the political systems of various American Indian nations, influenced the formulation of the Government of the United States of America;

Whereas the people and Government of the United States should be reminded of the advanced medicines used by American Indians prior to the arrival of Europeans, many of which are still in use today, including quinine for the cure of many ailments; hemlock and pine leaves as a source of Vitamin C to cure scurvy; coca leaves to reduce hunger, drowsiness, and thirst; curare, from the vine Chondodendron, as a fast-acting poison for arrow tips (now used as a muscle relaxant and for treating tetanus); and ipecac, from the root of Cephalailis ipecacuanha, to treat dysentery.

Whereas the people and Government of the United States should be reminded of the many words in the English language still in use today, including hickory, moose, racoon, caucus, tamarack, caribou, maize, canoe, chocolate, chili, pecan, coyote, hurricane, and possibly the expression O.K. (from the Choctaw "okeh");

Whereas the people and Government of the United States should be reminded of prominent American Indian performers, artisans and scholars, including Will Rogers, Jr., actor; Buffy Sainte-Marie, musician; Louis Ballard, composer; Black Elk, philosopher; and Vine Deloria, Jr., author.

Whereas the people and Government of the United States should be reminded of the benefits of conservation and reverence for the Earth and life practiced by American Indians for centuries and yet still disregarded many of us living today;

Whereas the Members of the Senate and House of Representatives believe that a resolution and proclamation of the nature requested in this resolution can encourage self-esteem, pride and self-awareness to young American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with today's American Indians; and

Whereas the month of November concluded the traditional harvest season of the American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That beginning in 1991 and thereafter, the month of November is designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAWYER

Mr. SAWYER. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SAWYER:

Strike all after the resolving clause and insert the following:

That the month of November 1991, and the month of November 1992, are each designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Mr. SAWYER (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SAWYER].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. SAWYER

Mr. SAWYER. Madam Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. SAWYER:

Strike the preamble and insert the following:

Whereas American Indians were the original inhabitants of the lands that now constitute the United States;

Whereas American Indians have made an essential and unique contribution to our Nation, not the least of which is contribution of most of the land which now comprises the United States;

Whereas American Indians have made essential contributions to the world, including

prehistoric cultivation and harvesting of corn, squash, peppers, beans, and sweet potatoes, all of which have become mainstays of the American diet;

Whereas assistance was given to the early European visitors to North America by the ancestors of today's American Indians, including knowledge and training provided to the pilgrims in how to plant, fertilize, and cultivate corn, beans, squash, and tobacco, how and where to fish and hunt, how and where to tap maple syrup, and the location of the best routes west;

Whereas assistance given to this country's Founding Fathers by the ancestors of today's American Indians, including the support which the original inhabitants provided to George Washington and his troops during the winter of 1777–1778 in Valley Forge, and since that time American Indians have provided scouts and military service members to the United States for every major war in which the United States has fought;

Whereas certain concepts such as freedom of speech, and the separation of powers in government, both of which were found in the political systems of various American Indian nations, influenced the formation of the United States Government;

Whereas many of the advanced medicines used by American Indians prior to the arrival of Europeans are still in use today, including quinine for the cure of many ailments, hemlock and pine leaves as a source of vitamin C to cure scurvy, coca leaves to reduce hunger, drowsiness, and thirst, curare used as a fast-acting poison for arrow tips (now used as a muscle relaxant and for treating tetanus), and ipecac to treat dysentery;

Whereas many American Indian words are still in use today in the English language, including hickory, moose, racoon, caucus, tamarack, caribous, maize, canoe, chocolate, chili, pecan, coyote, hurricane, and possibly the expression O.K. (from the Choctaw "okeh");

Whereas the names of many States were derived from American Indian words, including Alabama, Alaska, Arkansas, Arizona, Connecticut, Idaho, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah, Wisconsin, and Wyoming;

Whereas there are many contributions by prominent American Indian performers, artisans and athletes, including Will Rogers, Jr., actor, Louis Ballard, composer, Charles A. "Chief" Bender, baseball Hall of Fame pitcher, Jim Thorpe, Olympic gold medalist in the decathlon and pentathlon and voted the greatest male athlete of the 1st half of the 20th century;

Whereas there are many American Indian scholars whose intellectual and philosophical contributions are deserving of national recognition, incuding Sealth, renowned chief and orator after whom the city of Seattle is named, Sequoyah, transcriber of the Cherokee language, Ella C. Deloria, anthropologist, linguist and novelist, Black Elk, philosopher, and D'Arcy McNichols, historian and anthropologist;

Whereas there were many Indians whose diverse contributions throughout history are also worthy of commendation, including Charles Curtis, 31st Vice President of the United States, Tecumseh, for his political, organizational abilities and his abilities as a military strategist, the Navaho code talkers of World War II, Whose use of their native tongue and secret code words were never broken by enemy forces, Chief Joseph, as a orator and spokesman for Indian people, Sacajawea, guide and interpreter of the Lewis and Clark expedition, and Ely S. Parker, Civil War officer, military secretary to General Ulysses S. Grant, and the first Indian to be Commissioner of Indian Affairs;

Whereas the benefits of conservation and reverence for the earth and life practiced by American Indians for centuries are still important precepts in their traditional culture;

Whereas Congress believes that this joint resolution will encourage self-esteem, pride, and self-awareness in young American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with today's American Indians; and

Whereas the month of November concluded the traditional harvest season of the American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Mr. SAWYER (during the reading). Madam Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Ohio [Mr. SAWYER].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Madam Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint Resolution designating the month of November 1991, and the month of November 1992, each as 'National American Indian Heritage Month'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL FOREST SYSTEM MONTH

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 159) to designate the month of June 1991, as "National Forest System Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation.

Mr. SAWYER. Madam Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Ohio.

Mr. SAWYER. Madam Speaker, I thank my friend from Indiana, and pause at this moment only to recognize that although virtually every sponsor of a commemorative resolution goes through a substantial process of collecting signatures for these resolutions, and in evidence of the support and extraordinary appeal throughout the House for this matter under consideration, I think it is appropriate at this time to make special recognition of the effort that was made by the gentleman from Idaho [Mr. STALLINGS], and the gentleman from Massachusetts [Mr. MOAKLEY], in the course of just a very few hours, to collect the more than 218 signatures necessary for this timely legislation.

I genuinely recognize and admire the level of effort that was made on this particular resolution, and further, the broader effort that is made by every sponsor of such resolutions.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint Senate resolution, as follows:

S.J. RES. 159

Whereas 1991 marks the one hundredth anniversary of the National Forest System with the establishment of the first forest reserve in 1891, the Yellowstone Park Timber Land Reserve;

Whereas the establishment of this first forest reserve marked a fundamental change in United States conservation policy toward the administration of public lands;

Whereas the purpose of the National Forest System is to conserve a portion of America's forests for the people of the United States, recognizing the important environmental and economic values in holding such public lands in trust and managing them for the greatest good;

Whereas the National Forest System is one of the few examples in the world where a public effort is being made to manage natural resources in an economically efficient, environmentally sound, and socially responsible manner;

Whereas the National Forest System has introduced new ideas for sound resource management, such as multiple use, sustained yield, and preservation of both wilderness areas and wild and scenic rivers; and

Whereas the one hundred and ninety-one million acres of national forests, national grasslands, and experimental forests that now make up the National Forest System stretch from Alaska to the Commonwealth of Puerto Rico and from California to Maine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1991 is designated as "National Forest System Month", and the President is authorized

and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate activities and programs.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL LITERACY DAY

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 259) designating July 2, 1991, as "National Literacy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I yield to my good friend from New Jersey [Mr. PAYNE], who is the chief sponsor of the resolution, designating a "National Literacy Day."

Mr. PAYNE of New Jersey. Madam Speaker, House Joint Resolution 259 will designate Tuesday, July 2, 1991 as "National Literacy Day". I would like to thank my colleagues for supporting this legislation for the past 5 years. Passage of this resolution will demonstrate congressional support for nationwide efforts to improve the plight of 30 million Americans who lack the basic skills to function in our society.

Illiteracy takes a painfull toll, both in terms of its impact on individual lives and on our American society as a whole. The daily feelings of frustration and defeat that afflict those who cannot read signs, instructions, warning labels, or newspapers too often lead to escape through alcohol or drug abuse.

Presently, as we are struggling to remain competitive in world markets, we cannot afford the loss of productivity that the total cost of errors, accidents and missed opportunities in business has reached—a staggering $225 billion annually.

Mr. Speaker, we are fortunate to have in our communities many dedicated volunteers and professionals who are working to remedy the problem of illiteracy. This is a chance to give them the recognition and encouragement they deserve.

As we approach the Fourth of July, Independence Day, let us also offer the hope of independence to the millions of our fellow citizens who are trapped in the prison of illiteracy. I urge my colleagues to join me in voting for House Joint Resolution 259, to designate July 2, 1991, as National Literacy Day

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We have accidents, missed opportunities in business, and it is estimated that a staggering cost of $225 billion annually is lost through this process.

Madam Speaker, we are fortunate to have in our communities many dedicated volunteers and professionals who are working diligently to remedy the problems of illiteracy. This is a chance to give them recognition and the encouragement that they all deserve.

As we approach the Fourth of July Independence Day, let us also offer the hope of independence to the millions of our fellow citizens who are trapped in the prisons of illiteracy.

Madam Speaker, I urge my colleagues to join me in voting for House Joint Resolution 259, to designate July 2, 1991, as National Literacy Day.

Mr. BURTON of Indiana. Madam Speaker, continuing my reservation and before I yield, I would like to yield to my colleague, the chairman of the subcommittee, the gentleman from Ohio [Mr. SAWYER], but before I do that, I notice that I am not among those on the bill that we are discussing as a cosponsor.

ADDITION OF NAME OF MEMBER AS SPONSOR OF HOUSE JOINT RESOLUTION 259

Mr. BURTON of Indiana. Madam Speaker, I ask unanimous consent to have my name added as a cosponsor of the legislation, House Joint Resolution 259, National Literacy Day.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Madam Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Madam Speaker, I thank my friend, the gentleman from Indiana, for this opportunity to rise in specific support of House Joint Resolution 259, designating July 2 as National Literacy Day.

We are no longer living in a time where a strong back and a good attitude are enough to live a secure and meaningful life and provide for one's family. Most jobs today, and many other parts of our daily lives, require us to learn and learn to use a great deal of information.

For between 30 and 75 million adults in this country, adapting to changes in the work force is simply not possible because, for a variety of reasons, they have never really mastered the basic skills. That is what functional illiteracy is: the inability to function productively using one's knowledge, and many people successfully hide this condition for their entire lives.

I believe that efforts like the resolution sponsored by my friend from New Jersey make it easier for adults who need help to make the decision to do it. Marking July 2d as National Literacy Day sends a signal that our Nation is committed to raising the literacy skills of all Americans.

I also want to let my colleagues know that the author of this resolution has been instrumental in helping to advance my legislative proposal the National Literacy Act which passed the House in March, and will be approved by the Senate, I understand today or tomorrow.

National Literacy Day will help build awareness of what we need to do. We believe that the National Literacy Act will provide the tools we need to solve the problem by elevating the leadership role of the Federal Government, creating networks within States that will develop model literacy programs, and opening opportunities for groups at the local level to fight illiteracy in their communities. Schools, businesses, volunteers and civic leaders should combine resources, ideas, know-how, and good, old-fashioned elbow grease.

As our colleague may know, one of the 6 education goals is that every American will be literate by the year 2000, 9 years. If we are even going to approach achieving this goal, we have a lot of work to do. I appreciate the leadership on this issue provided by my colleague from New Jersey and I urge our colleagues to support House Joint Resolution 259.

Mr. BURTON of Indiana. Madam Speaker, I would just like to say before I withdraw my reservation of objection, that the world is getting smaller and smaller. If we are to continue to be a big factor in world economics and other areas, we are going to have to be a more literate nation, so I want to congratulate my colleague, the gentleman from New Jersey [Mr. PAYNE] for his efforts in bringing this to the attention not only of this body, but to the country.

Mr. FALEOMAVAEGA. Madam Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from the American Samoa.

Mr. FALEOMAVAEGA. Madam Speaker, I also would like to extend my appreciation and commendation to the gentleman from New Jersey for sponsoring this piece of legislation.

I think the question of literacy in America is certainly one of the most salient points and issues that not only is confronting Congress, but certainly all the leaders of our country.

I want to recognize the efforts of the gentleman from New Jersey for seeing that we pay more attention to this very important issue confronting the youth of America.

I just want to thank the gentleman from Indiana for giving me this time to say these words, and I thank the gentleman from New Jersey.

Mr. GILMAN. Mr. Speaker I would like to commend the distinguished gentleman from New Jersey, [Mr. PAYNE] for introducing this legislation and I would like to thank the distinguished chairman, Mr. SAWYER, the gentleman from Ohio, for his efforts in bringing this legislation to the floor.

As we all know, literacy is a vital attribute which millions of Americans are lacking. Conversely, one of our chief economic competitors, Japan, has a literacy rate of nearly 100 percent among its citizens over 17 years of age. Obviously our deprived work force is not up to par with our competitors. Billions of American dollars are lost annually due to the inability of some of our work force to read directions and solve problems which require reading and math skills. Millions of jobs cannot be attained due to a lack of these vital skills and the inability to complete application forms, one of the more significant reasons for our alarming number of unemployed citizens. It is our moral duty and obligation to emphasize and support the need for education and literacy in this country.

Too many people have lost hope for those adults who are illiterate. I have not lost hope and neither have those adults who are seeking an education. It should be the mission of this Congress to help supply those necessary tools which will enable them to find jobs.

The other half of this mission should be a preventive measure. Let us prevent the problem of illiteracy by providing and encouraging our bright, young children to start reading at an early age. Let us prevent more stories like that of Dexter Manley, the former Washington Redskin and current Phoenix Cardinal, who passed through a major university incapable of reading. But, as Mr. Manley proved, it is possible to educate the adults of this great Nation. It should be the goal of Congress to eliminate illiteracy from our vocabulary so that we never have to confront this problem again. Let us regain the edge we once possessed at all levels of our education system.

Accordingly, I strongly urge my colleagues to support this legislation designating July 2, 1991 as "National Literacy Day." We need to create awareness of the extensiveness of the illiteracy problems and we need to emphasize the vital impact literacy can have on our lives.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 259

Whereas literacy is a necessary tool for survival in our society;

Whereas forty-two million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are thirty million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as two million three hundred thousand persons, including one million two hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for a vailable employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;

Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 per centum illiteracy rate among black youths is expected to increase;

Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1991, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VACATING SPECIAL ORDER, AND GRANTING SPECIAL ORDER

Mr. MARTINEZ. Madam Speaker, I ask unanimous consent to vacate my special order for 60 minutes that I have requested for today, and instead request 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE CIA DID NOT ASSASSINATE RAJIV GANDHI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Madam Speaker, I would like to call to the attention of the House a very dismaying matter reported in the June 14, 1991, edition of the Washington Post. In a news analysis article, correspondent Steve Coll reported that, many in India's governing elite continue to believe—and to write in leading newspapers—that CIA agents probably organized the plot to kill Rajiv Gandhi. The article cites a bizarre Indian rationale for this fantastic theory. It refers to the views of well-educated Indians that "the CIA killed Gandhi because he was a strong leader who would have transformed India into a great world power that would have challenged the United States on the international stage." In fact, the Post report describes a lengthy article by Sudheendra Kulkarni in the Indian weekly Sunday Observer, which claims that it is "the desire of the industrialized world, particularly the United States, to ensure that India, Pakistan, and Bangladesh remain impoverished, weak, and unstable."

One hardly knows where to begin in addressing such a patently ridiculous and irresponsible assertion; however, even such ridiculous charges might be believed or be given some credibility in the absence of a denial. Therefore, the subject needs to be addressed and I will do so as a Member of the House Select Committee on Intelligence.

Resisting the obvious temptation to recommend a massive course of group psychotherapy for some of the Indian ruling elite, let me inject one or two important facts or elements for sanity into this febrile, paranoid delusion. First of all, assassination is specifically prohibited by a Presidential directive, Executive Order 12333, the primary Executive order governing U.S. intelligence activities. That absolute prohibition states:

No person employed by or acting on behalf of the United States shall engage in, or conspire to engage in, assassination.

This is not a new policy. In remarks delivered at Albany Law School on April 4, 1990, the then CIA General Counsel noted that in 1972, DCI Richard

Helms issued a policy memorandum for the Central Intelligence Agency prohibiting assassinations. Subsequently, President Ford issued Executive Order 11905, which prohibited any employee of the U.S. Government from engaging or conspiring to engage in political assassination. President Carter issued a superceding order, Executive Order 12036, which first contained the specific language currently in Executive Order 12333, issued by President Reagan and continued in force by President Bush.

Not only is this assassination ban firmly established, but covert actions, the category of intelligence activities in which any questions about assassination conceivably could arise, are carefully reviewed by compliance with law and regulation, including the assassination ban. They are reviewed within the CIA and at the sub-Cabinet and Cabinet level in the NSC review process. The President himself is usually present during the Cabinet-level NSC review. Ultimately, the President must approve every covert action because he must sign a written finding certifying that each covert action is important to the national security of the United States. So, he is required to know if any covert action raises any questions or concerns related to the assassination ban. As a result of this ban on assassinations, the executive branch of the U.S. Government does not directly or indirectly assassinate people.

Finally, the House and Senate Intelligence Committees scrupulously review each covert action authorized by the President. As a member of the House Intelligence Committee, I can assure the House that we are particularly careful to assure ourselves that these covert programs and activities do not involve assassination by direct or by any indirect means. That is why I was especially struck by the preposterous assertion in this news report that the CIA was somehow behind the tragic death of Rajiv Gandhi.

Second, the rationale cited to explain why we should want to see Mr. Gandhi dead is totally inconsistent with the facts and with rational thought. Far from wanting to destabilize India and see it perpetually locked in poverty, United States policies and programs are directed toward helping India achieve just the opposite. Both the executive branch and Congress have long supported a policy of trying to promote stability in the Indian subcontinent. In particular, we hope to see normal and stable relations between India and Pakistan to avoid another outbreak of armed conflict between the two—and to improve Indian-American relations as well. Many are concerned that such a conflict might possible witness the first exchange of nuclear weapons on the Indian subcontinent. Moreover, rather than wishing to see India poor and starving, we have long provided foreign aid to India; we want India and its people to prosper. Since the partition of India and Pakistan, the United States has provided India with nearly $12 billion in foreign assistance. Almost 99 percent of that has been food aid and economic development assistance.

Perhaps, regrettably, India's ruling elite will continue to ignore these facts. Perhaps, as the Washington Post reporter suggested, these absurd allegations of CIA involvement in the assassination of Mr. Gandhi are actually meant to distract the attention of the Indian people from holding their leadership elite accountable as he puts it, for "the mess India is in." In any event, I bring this matter up today because I want the people of India to know the facts behind this cynical fable and to have those assurances from a member of the House Select Committee on Intelligence.

I hope the Indian people learn these facts and this assurance, for they are the whole truth and nothing but the truth. The United States of America had no direct or indirect role in the assassination of Rajiv Gandhi. Our Government and the American people deplore this terrible act and share the grief of the people of India over this tragic and senseless act.

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The SPEAKER pro tempore, [Mrs. UNSOELD]. Under a previous order of the House the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Madam Speaker, today the House passed the HHS appropriation, and I reluctantly voted for it. I did so reluctantly because I believe the programs that are so desperately needed by our most vulnerable citizens were so woefully underfunded.

Madam Speaker, over the past 10 years that I have been here I have heard about the need to provide a safety net for those Americans who, through no fault of their own, have become victims of recession or those who have fallen into poverty because of underemployment or unemployment. And a number of us have pledged support to those victims and support the programs like LIHEAP, which assists low-income Americans and our elderly, who live on minimal fixed incomes, to meet their home energy needs.

Madam Speaker, the Older Americans Act, which provides nutritional and other vital services to our hungry and isolated elderly, is another program that is worthy of our support and is dramatically underfunded.

Affordable child care programs that allow low-income parents the opportunity to become self-sufficient are in desperate need of support. Drug education and prevention programs are a vital part of gang eradication and should be a high priority for funds. The Stewart McKinney Homeless Assistance Act, refugee aid, and a number of other vital services that provide support for those persons traditionally the first victims of recession—the poor—are all programs that are reaching a small percentage of the eligible populations and need additional funds.

Unfortunately, when it came time to provide sufficient dollars to fund these vital programs, we have had to rob Peter to pay Paul, having to decide which program is more vital than the other, funding one program on the back of another.

Just 4 months ago we were—and still are—celebrating our great victory over Saddam Hussein. But what about the war here in the United States? The war against poverty, drugs, teenage pregnancy, illiteracy, and unemployment. We fought Saddam Hussein because he was an oppressor. An oppressor of not only the people of Kuwait but of his own people.

Let me tell you, there is nothing more oppressive than poverty. Than despair. Than waking up each day knowing that your survival that day and the next depends on someone else's compassion and charity.

I think that those of us who just stand idly by and give lip service support for these programs, but do not stand firm on the need to provide the funds necessary to adequately serve our fellow Americans, are not being completely sincere when they speak of protection of our most vulnerable citizens.

Madam Speaker, I understand that the decisions on how to spread our limited resources have been difficult. My objection is not with the decisions made by my worthy colleagues, given the limitations that bound them. My objection is with the fact that in a world of priorities, our overall domestic budget that protects the most vulnerable in our great Nation—the youngest, the oldest, and the poorest—is not the highest priority.

I call upon my colleagues in conference to provide adequate funding for those programs that will provide self-sufficiency for the poor of our Nation and adequate funding that will break the bonds of poverty forever. And I call for all of us to make a sincere commitment to our citizens—our families and our future—especially those who need it the most—those born into poverty.

REMEMBER THE BATTLE OF KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Madam Speaker, June 28 marks the 602d anniversary of the Battle of Kosovo, an armed struggle in which thousands of Serbian patriots laid down their lives rather than surrender to the Ottoman Empire.

Although these brave, Serbian fighters were overwhelmed by a larger Turkish force, they showed an unmatched determination to defend their homeland and their right to self-determination.

The battle we are commemorating today was waged on the Plain of Kosovo, in an area known as the "Field of Blackbirds." The fighting began on July 15, 1389, under the Julian calendar, when Turkish troops launched a surprise attack.

Prince Lazar, the czar of Serbia, led an army of 25,000 troops into this battle in which the Serbs endured repeated blows from Turkish forces led by Murad I. The Turks prevailed despite Lazar's skillful leadership and the determined resistance of the Serbians. The battle claimed the life of Murad, who was assassinated on the eve of the attack by the Serbian patriot, Milosh Obilich. After the battle, Lazar was executed by the Turks.

Lazar's martyrdom to the Ottoman conquerors gave rise to a national legend. According to this tradition, Lazar was visited by the prophet Ezekial, who offered Lazar a choice between heaven or earth. Lazar sacrificed his country so that the Serbians would be rewarded in heaven. The legend of Lazar's Christian sacrifice stands as a symbol of how Serbian nationalism endured nearly five centuries of harsh, Turkish rule. The Ottoman Empire had actually begun its conquest of Serbia several years before the Battle of Kosovo, when Turkish troops attacked near the Maritsa River in 1371.

Throughout the occupation, the Serbians drew strength from the Serbian Orthodox Church, which helped them to maintain a sense of national identity amid foreign oppression. Efforts to support Serbian nationalism included yearly pilgrimages to Lazar's tomb in the main Orthodox Cathedral at Belgrade. These visits renewed the Serbians' longing for freedom by giving them an opportunity to remember the Battle of Kosovo.

In the early 1800's, a new generation of Serbian patriots rose up to remove the yoke of Turkish rule. The Serbian people finally avenged the killing fields of Kosovo and their ravaged homeland by breaking away from the Ottoman Empire in 1833.

Madam Speaker, I would like to join with the Serbian people in remembering the anniversary of the Battle of Kosovo and their stuggle for freedom. I also would like to offer a special greeting to Americans of Serbian descent from the 11th Congressional District of Illinois, which I am proud to represent.

Finally, in light of Tuesday's declaration of independence by Croatia and Slovenia, I urge the people of Serbia to negotiate a peaceful settlement of their differences with these neighboring, Yugoslav republics. I pray that the Serbs will apply the same dedication to this task as they did when they fought for human rights and self-determination after the Battle of Kosovo.

MAJ. GEN. ARTHUR H. HUTTON, USAFR

Mr. MONTGOMERY. Mr. Speaker, over the last 7 years, there has been only one Air Force Reserve Mobilization Assistant to the Director of Legislative Liaison for the U.S. Air Force. During that time, Maj. Gen. Arthur H. Hutton has provided superb advice and expertise on all Reserve issues. On June 30, he culminates a distinguished 37-year career as an active duty and Reserve officer of the U.S. Air Force.

I would like to take this opportunity, upon Art Hutton's retirement, to thank him for effective, dedicated, and distinguished service to his country, the Air Force, and the Air Force Reserve. General Hutton's career has spanned a diverse range of responsibilities. While on active duty, he served in the missile field at Cape Canaveral and in Germany in the 1950's. He went on to Reserve assignments in air defense, with the Judge Advocate General, with Systems Command, and finally in legislative liaison.

Art Hutton built a very successful career in civil aviation, including senior positions at Pan Am and the presidency of World Airways. He brought that management skill and aviation expertise to his Reserve assignments, enriching the organizations to which he has been assigned. His distinguished career acts as an ideal example of the benefits we derive from having outstanding, accomplished civilian leaders as strong members of our Reserve forces.

Mr. Speaker, we are entering times of great change in the Department of Defense. As a result of projected force reductions, our relative reliance on Reserve components will be greater in the future. We can be reassured about these changes when we see the kind of men and women we have in the Reserves. Certainly Art Hutton personifies the quality, dedication, and mission effectiveness we have come to expect from the Air Force Reserve.

We thank Gen. Art Hutton for his service and wish him the very best in his retirement.

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STAND UP AMERICA

(Mr. MILLER of Ohio asked and was given permission to address the House for one minute.)

Mr. MILLER of Ohio. Mr. Speaker, Old Glory celebrated her 214th birthday earlier this month and this past year has exemplified once again just how important she is to this country and to the cause of freedom around the world.

Last Friday marked the second anniversary of the controversial Supreme Court decision protecting those who would descretate our flag and reminding us that, as grave an undertaking as it is, a constitutional amendment appears to be the only way to ensure Old Glory's protection.

For this reason I am reintroducing today my bill which proposes an amendment to the Constitution of the United States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act. I ask Congress to have faith in the American people and to pass this bill expeditiously and send it to the States for their approval.

Our flag is a stirring, vibrant reminder of all that our nation stands for and it is certainly deserving of our protection. I trust that you, like I, envision a mental picture of Old Glory when you hear Lee Greenwood's popular lyrics:

I'm proud to be an American
where at least I know I'm free
And I'd like to thank the ones who died
who gave that right to me.
And I'd gladly stand up, next to you
and defend her, still, today.
There ain't no doubt, I love this land.
God Bless the USA

Let us not let that mental picture be marred by those that would choose to denigrate this most important symbol.

NCAA ACADEMIC REQUIREMENTS REFORMS NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 60 minutes.

Mrs. COLLINS of Illinois. Madam Speaker, the NCAA President's Committee is concluding a 2-day meeting at which it will decide on academic reforms for student athletes. Among the proposals are on increase in initial eligibility requirements, a requirement that junior college transferees first complete 12 hours of credits at the new school before becoming eligible, and continuing eligibility requirements to ensure that the student athlete is on a track to graduate.

Last week, Madam Speaker, the Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, began the first in a series of hearings into intercollegiate athletics. The subcommittee received testimony from the Knight Commission, a college president, coaches, and other experts in the field.

Nearly every observer of collegiate sports has found a system that is rapidly gettint out of control. What began as a high-spirited complement to college academic has now become an increasingly dominating force at universities. College sports have become big business.

The victims of this transformation, Madam Speaker, are inevitably the student athletes. Athletic seasons are stretched, corners are cut, and academics take a back seat to the drive for a championship. Student athletes are under increasing pressures, recruitment and academic standards are compromised, and the result is low graduation rates, failed promises, the diminution of self-esteem and crushed hopes.

The Knight Commission, in its recent review of college sports, concluded * * * that abuses, and I am quoting now—

> * * * are grounded in institutional indifference, presidential neglect and the growing commercialization of sport combined with the urge to win at all costs.

The saddest victims of course come from the poorest neighborhoods in our

country. Lured by dreams of being the next Michael Jordon, many leave their university after 4 or 5 years unemployable and, in many instances, without a decent education.

Madam Speaker, that has become the focus of our subcommittee's investigation: Do college athletics provide an avenue for our young people, particularly our poor children, to get a decent education at a good university, or do college athletics at this time merely exploit the athlete?

I asked one of the witnesses at our recent hearing how coaches and athletic departments view the students when they come to them. His response was that they are looked upon as meat, not as students who are to be educated, not as young people who have been placed in their care by their parents, and not even as human beings. Instead they are regarded, in the words of our witness who was in academia, as meat. What a sad, disgraceful commentary on the lack of esteem, the lack of understanding, the lack of concern, and the lack of fairness with which our young people are being regarded when they are in the sports athletic programs in these various universities.

Now the reason for this sorry state of affairs to obvious to all of us: the almighty dollar, money. There have always been alumni booster groups who put pressures on schools to win, but in the 1980's and 1990's commercial revenues from college sports place enormous new pressures upon schools to win. Presidents of schools that win get millions of dollars in endowments, and the coaches really make it big. They reap enormous benefits and pocket all kinds of dollars in endorsements. The only group that gets shortchanged at all is the student group of athletes. It is this kind of pressure on presidents and coaches that results in recruiting violations and abuses, the abandonment of academic integrity and the railroading of poor inner-city youth through the institution leaving them with few, if any, marketable skills and often with very little, if any, education.

During the 1980's, over half of all Division A schools were the subject of various NCAA sanctions, and I would ask, "Who do you think the sanctions really hurt?" Got that right; most of the time when sanctions are applied the victims are once again the innocent student.

For example, some time ago sanctions were made against UNLV's basketball team. That means that next year that school will be penalized. Those students who are going to be the athletes and playing for that school were infants when 15 years ago those infractions occurred. This after-the-fact penalizing of students, not the cheaters, occurs in schools, after school, after school.

I ask my colleagues: Is that fair? Is it fair to make a young person who is in the athletic department suffer for something that happened 15 years ago when he was 2 or 3 years old? Certainly the answer has to be no.

It is indeed ironic that the large sports contracts of recent years have not really benefited collegiate sport programs or even academic programs. Rather it appears that they have led to a host of new problems in college athletic programs, period.

Madam Speaker, at our hearing I urged university presidents to heed the advice of the Knight Commission and retake control of their schools. Our subcommittee stands ready to help that happen, and I am pleased that the NCAA presidents committee appears to be responding to the concerns that we expressed at our hearing last week, and I hope that our continuing hearings will keep up the pressure for academic reforms. Future hearings, including one next month, will review such issues as graduation rates, eligibility and academic requirements, the distribution and use of sports revenues, impacts on minority students and historically black institutions, and the treatment of women in sports. Our intention is to assist, not interfere with, efforts by university presidents to regain control of intercollegiate athletics, to eliminate cheating, and to restore universities to their function as educators, not as stables for meat.

□ 2030

KIMBERLY BERGALIS PATIENTS AND HEALTH PROVIDERS PROTECTION ACT OF 1991

The SPEAKER pro tempore (Mrs. UNSOELD). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Madam Speaker, for the benefit of those at the desk, I am not going to take the whole 60 minutes, so we will not be here too long. I felt compelled, since this is the last day before the break, to take just a few minutes about a very, very important issue, and a very, very important young American lady who is dying this evening named Kimberly Bergalis.

A lot of people in this country do not know who Kimberly Bergalis is, but she is the young lady who is a beautiful, vibrant young American, very pretty. I have seen pictures of her in her earlier days.

She went to her dentist, a Dr. Acer, who had known for 3 months that he was dying of AIDS. He had full-blown AIDS. He had lesions on his arms that were dripping, and yet this man continued to perform oral surgery in his practice without his patients knowing about it.

Kimberly Bergalis went to this dentist. He extracted I believe two teeth, and later on she found out, along with four or five other patients of Dr. Acer when he died, that she had been exposed to the AIDS virus. After having been tested, she found out she in fact did have the AIDS virus.

Today, the gentleman from California [Mr. DANNEMEYER] sponsored a piece of legislation, of which I am cosponsor, along with the gentleman from California [Mr. DORNAN] and a number of other Members, and it is called the Kimberly Bergalis Patient and Health Providers Protection Act of 1991.

That legislation would mandate that health-care professionals, doctors, dentists, and other health-care professionals who are in the business of providing for the health and protection of the people of this country, be tested, mandated to be tested on a regular basis, and, if they test positive for the AIDS virus or for hepatitis-B, they would be mandated by this law to tell their patients if they are infected so the patient can make a decision on whether or not they want that professional to work on them.

If the patient then decides, after having been warned that the health care professional has the AIDS virus, they would have to give written consent to that doctor, dentist, or health care professional, before they could be worked on by that individual.

Conversely, it also gives doctors, dentists, and other health care professionals, the right to ask a patient to be tested before they perform invasive procedures on that patient.

Madam Speaker, I think this is a commonsense approach to health care. About 5 years ago I stood in this well and started talking about the problem of AIDS being the biggest pandemic to face mankind since the 13th and 14th centuries, when the bubonic plague wiped out half of Europe.

I said at that time that we, as a body, this Congress of the United States, needed to have a comprehensive program to deal with this pandemic. We needed to have education, to be sure. But in addition, we needed to have a testing program for everybody in this country from the age of about 10 to 65. Hopefully, that would cover the spectrum of those who would be at risk.

In addition to testing, we needed to have contact tracing, to find out if people who have active AIDS and who are informed of it continue to spread the disease, thus killing innocent human beings when they know that they had the AIDS virus.

We needed to have psychological help for those who found out that they had the AIDS virus, so they could learn how to deal with it. Finally, we needed to have severe penalties, including extricating people from society who had the AIDS virus and went around spreading it, knowing they were doing it, because those people are more of a threat than a man walking into a bank

with a gun, because they are in effect killing human beings, and it is a much more horrible death than if you shoot somebody.

So I think this bill that we are sponsoring and cosponsoring today, the bill of the gentleman from California [Mr. DANNEMEYER], is extremely important.

Madam Speaker, over 90 percent of Americans in a poll that was recently conducted agree. There was a poll conducted just this past week asking Americans whether or not they thought their health care provider, dentist, doctor, or health care worker, should let them know if they are infected with the AIDS virus or hepatitis-B before they work on them. Ninety-five percent said that surgeons should let them know; 94 percent said that dentists should let them know; and 90 percent said that all health care workers should let them know before they work on them.

So overwhelmingly the American people want to know if somebody working on them, doing invasive procedures, have the AIDS virus, so they can protect themselves and/or their families.

Madam Speaker, I want to read into the RECORD an article that was written by David Zeman of the Miami Herald about Kimberly Bergalis. This article ought to be read by every single American, because it is so important that they understand what we are up against.

Madam Speaker, I quote:

Here are two things you have never seen in AIDS victim Kimberly Bergalis.

Her anger: "Do I blame myself? I sure don't. . . . I blame (dentist David) Acer and every single one of you b------. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was."

Her pain: "I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. . . . . I have lived through the torturous acne that infested my face and neck—brought on by AZT."

Bergalis, 23, is no longer the delicate but beautiful young woman who appeared on national talk shows or stood bravely on windswept beaches. That was months ago, when she was the strong, mature-beyond-her-years college grad who contracted AIDS from her dentist during a 1987 office visit.

Now she spends her days in agony, drifting in and out of consciousness. Her wasted body resembles a jumble of broken match sticks. She weighs maybe 70 pounds. She hasn't eaten solid foods in two months. She must be carried to the toilet. A rust-colored paste cakes her tongue like broken concrete on a sidewalk.

"She'd like to die," says her father, George Bergalis. "That's foremost in her mind. She just continually questions why God hasn't taken her yet. Death, as far as she's concerned, will be a relief.

"We don't pray for miracles anymore. We pray for her to pass on as quickly and as painlessly as possible."

But before she dies, she desperately wants you to see her. To see AIDS.

"People never saw the down side of her condition," says her father. "This is the real AIDS, the way people really get. It's not a pretty picture."

Kimberly can barely talk now. She makes sounds, but her mouth cannot form shapes. Her words above are from a letter she wrote April 6 to Nikki Economou, an investigator with the Florida Department of Health and Rehabilitative Services. It is an extraordinary, and bitter, account of her body's destruction. Is she glad she wrote it?

"Yes," she said Wednesday, her blue eyes sharp against her sunken face. "Very happy."

"It's the first time she came out and expressed anger," said her father, "She was keeping that inside."

In September 1987, Stuart dentist David Acer was diagnosed as having full-blown AIDS. Three months later, Bergalis, a University of Florida student, entered his office to have some molars extracted.

It would take two years before Bergalis, then 21, also was diagnosed with AIDS. Last August, she learned from the National Centers for Disease Control that Acer (who would die one month later) was the source. It was the first time a patient ever had contracted AIDS from a doctor.

Bergalis sat down with her family and attorney Bob Montgomery and charted their options. Together, they decided she would go public; she would devote the time she had left to lobby for mandatory AIDS testing for health care workers and full disclosure of AIDS status between doctors and patients.

"She's going to be in every history book written from now on," said Barbara Webb, a 65-year-old retired schoolteacher and one of the four other Acer patients who tested positive for the virus.

"She is the prime inspiration for the movement toward mandatory testing."

□ 2040

Think about how those other four people must feel, knowing that they have AIDS and are destined to die because of this doctor.

It is a movement that has drawn significant opposition from the medical establishment. In January both the American Medical Assocation and the American Dental association added new guidelines asking physicians infected with AIDS virus to either stop performing invasive medical procedures or disclose their HIV status to patients.

However, neither the State nor the national organization has recommended mandatory testing or disclosure for doctors with AIDS.

"AIDS is a confidential disease." said Dr. James Howell, District Director of the AIDS program for the Department of Health and Rehabilitative Services.

He said that "State regulatory boards are in the process of setting new standards for reporting infectious diseases." He declined to discuss the Bergalis letter. "It is a hell of a way to die," he said.

But they still have not come out four-square in favor of mandatory testing for health care professionals or also letting patients know about it and we, every one of us who goes to a doctor or a dentist or health care professional, have the right to know because our lives are at risk.

Kimberly Bergalis agrees. "Do you know what it is like to look at yourself in a full-length mirror before you shower and see only a skeleton," she wrote in a letter. "Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror."

Meanwhile her family, her parents and her sisters, 19-year-old Allison and Sondra, 11, are determined to carry on as normally as possible. "We are not about to maintain a death vigil," said George Bergalis. "We are not going to gather around her bed and wait for her to die."

This is a very brave family, and she is a very brave young lady.

There was a P.S. to that letter that she wrote, and I think everybody in this country ought to know what that P.S. says. She said, "If laws are not formed to provide protection, then my suffering and death was in vain."

She knows what it is like. She knows what it means to go in to a person in whom you have confidence and get a death-dealing blow.

Dr. Acer knew that he had AIDS, not just the AIDS virus but he had active AIDS. He had lesions on his body and knew he was terminally ill, yet he continued to perform invasive procedures on patients, and he has killed five of them and there may be others that test positive down the road, we don't know.

So I commend my colleague, the gentleman from California [Mr. DANNEMEYER], for his legislation. I am going to work very hard to help get that passed, and I will continue to come to this well in the next few months informing my colleagues and anyone else who cares to listen about the erroneous information that is being given out through this country and by the media about there not being much of a danger to them from the AIDS virus from various modes of possible transmission.

I would like to also say that we must, as a Congress and as a Nation, come to grips with this. We need a program that is comprehensive to find out how AIDS is being spread, where it is spreading and how rapidly it is spreading.

The only way that is going to occur is for Congress to pass legislation mandating testing on a routine basis for everybody, contact tracing if people who have the disease and know it continue to spread it, education, psychological training for those who have it. And we need to protect their benefits.

We do not want to see discrimination. We need to protect their health care benefits and if possible their jobs, make sure their civil rights are not violated. We need to treat this as a health care issue, not as a civil rights issue, because the health of the Nation is at risk.

For those who continue to spread AIDS after they know they have it, like Dr. Acer, there needs to be penalties for that. They need to be extracted from society or they need to suffer severe penalties for their actions. There needs to be consequences for actions like Dr. Acer has per-

petrated upon those five individuals and particularly Kimberly Bergalis.

I would just like to end up before I yield to my colleague from California, Mr. DORNAN, by saying to Kimberly Bergalis, God bless you, young lady. Everybody in this country is thinking about you and many of us in Congress are going to work day and night to try to get the Kimberly Bergalis Patient and Health Providers Protection Act of 1991 passed so your dying will not be in vain.

I yield to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Well, DANNY boy, my distinguished colleague from the great State of Indiana, you are to be honored again for taking out this special order and showing your steadfastness over the years. It is actually almost 6 years now since you and I and Mr. DANNEMEYER and maybe one or two others started to speak out regularly about what the proper health procedures were to approach this always fatal venereal disease that we predicted years ago by believing the statisticians at the Centers for Disease Control and the Institutes for National Health.

I took my wife Sally to the World Health Organization in Geneva to talk to a Dr. Jonathan Mann and Dr. James Chin, and all the statistics that they gave us, although we had a different approach as to what to do about it, they have all come through. There is going to be 15 million people die. That is 5 million more than World War I in the next 10 or 12 years.

In the United States we are going to see a million people die of this in the next 10 years.

One of the things that I have said in that well, and only you and a handful of others have even listened, let alone done anything about it, is that if a person is told by a doctor they have manifested AIDS, that the HIV virus has now kicked in, one-third of everybody told that is dead within 6 months. And it looks like Kimberly fell into that tough category.

I was planning during this July break of seeing if her dad would let me come down and see her. I was planning on calling or talking to her on the phone. It seems like only a few months ago she was on the cover of People Magazine looking very vigorous and healthy. We have seen her on talk shows. I thought she might be around for years, helping us lobby to get this bill through.

Somehow or other, until someone has manifested AIDS, and I thought she was just in the HIV carrier category, you always tend to think, because it is human nature to be an optimist, you tend to think, this person will be one of the long-time survivors. They will not be in the 60 percent that are dead within 18 months, more than 60 percent, or that one-third dead in 6 months. They will be one of the tough ones that will be around for 5, 6, 7 years, helping us.

All of a sudden, I open up the Washington Post, our local newspaper here, a few days ago and saw this picture of her down to 65 pounds, this striking picture on the cover of the brandnew Newsweek of a doctor who looks like a concentration camp, death camp inmate, Dr. Richard Duff, who for 3 years did not tell his patients that he was not only an HIV-infected person but that he was an AIDS carrier, and that he had open, this medical word in here, weeping lesions, running sores on his arms and that his partner that he swears he never had any sexual relations with, and you have to take the man at his word, because he is dying, that he divorced his wife. And he said, "I ran around for 3 years." Then remarried his wife. What a sad story.

But his friend, it says in here, by an incredible coincidence, this Dr. Benson, is also dying of AIDS. The Benson case comes up in Minnesota, and the medical authorities there fooled around with the paperwork on this for over a year.

Now they have determined 339 of his patients were in danger of AIDS because he also had weeping, open lesions. And he was treating three or four dozen mothers, their children, touching the children's private parts, doing eye, ear, and nose examinations with weeping wounds.

Anybody who has seen this on the news racks may be enticed into buying this as the brandnew Newsweek of July 1, but when they open to the cover story "Doctors and AIDS" the first picture they will see is beautiful Kimberly Bergalis as though she is in a casket at home. Her dad, George, bathes her, carries her to bed. It tells the story of how when he says, "Good night, Hon," he says, "I will see you in the morning."

She says, "Hopefully not." She is a very religious young woman, 23 years of age. You could tell that in the talk shows.

In this jaded, sexually obsessed society, when she said, "I am a virgin, I was saving himself for my husband, I wanted to have a good marriage and children," in this cynical, sleaze-ball world of popular culture, people scoffed and jeered at her and said, "Check her out. She is probably promiscuous."

But when one, two, three, four other people making five of them and maybe more to come, if this one dentist were infected, suddenly the world had to say, "Maybe this beautiful young woman is telling the truth.

So she begins to lobby and the gentleman read that beautiful P.S. in her letter. There is a tough line in the letter that I will ask the indulgence of adults and smart children who watch the proceeding of this House, that when she says, "I blame every one of you bastards," she is not questioning anyone's parentage.

□ 2050

She is using that word "bastard" for illegitimate child in the sense that most of us use it, a rough way of meaning, "You are a rotten person, you have hurt me, you have done me dirty," and what I said at the press conference today is I do not want to be one of those people in her life, with her gone.

To tell you the truth, you and I and a handful of other people do not fit in that category anyway, because we have had somehow or other, and it sounds so self-serving to say the words "political courage," so I will fumble and figure out some way to say it in different words. We have earned our pay here to get into that well and talk about the worst public-health crisis in the 215-year history of the United States.

Out there, have you ever been to a press conference in any room in this beautiful office building, the world's greatest office building, the U.S. Capitol, or in the Rayburn Building, the Longworth Building, the Cannon Building, any one of the three Senate office buildings, have you ever been at a press conference with 15 cameras, loads of press, 3 tiers of them, and only 4 Members? It is usually the other way around, 3 or 4 cameras and 15 or 20 Members on some issue.

What makes this issue different is that very often here we screw up people's lives. We cost them more taxes. We hurt them when we are, all of us, trying to help them. Occasionally we make someone's life better and help people. A lot of times we waste time and spin our wheels.

Rarely does a piece of legislation come along where you can go home and tell your husband or your wife, "Today in the Congress of the United States I have done something that will save lives." I hope it is matched on the Senate side. I hope it survives conference. I know the President will sign it into law, and we have saved lives.

This is such legislation.

Mr. BURTON of Indiana. I would like to interject one thing if I might. What a lot of people, what a lot of our colleagues, do not know is that there are probably 4,000 or 5,000 health care workers in this country today who are infected with the AIDS virus and who are potential spreaders of this disease to their patients today. In addition to that, we passed legislation last year which stood this whole idea on its head when we passed the Americans With Disabilities Act. There is a provision in there which says that if a person who is infected with the AIDS virus is a health care worker and they are working in a hospital and they have active AIDS and they are working on a patient, if the hospital moves them against their will to some other job so they will not infect that patient or if a doctor asks them to do some other job in the hospital so they will not infect that patient, the doctor and the hos-

pital are liable and can be sued, and they can collect. Can you imagine that?

So we have protected the right of a person who is infected with AIDS to stay there endangering these people without letting them know. We need to change that, and that is what this law does.

Mr. DORNAN of California. It is because of what we said at the press conference. It is a simple, little sentence, and it has the ring of truth to it. That is what makes it so appealing. All the words are the same except two, "health" and "relations."

This is a public health problem, not a public relations problem, not a political problem, not driven by some task force that has got a hidden agenda on sexual behavior that they are trying to protect or advance or push. This is a public health problem.

Let me get in the RECORD, just before we quit, some of the statistics from the Gallup Poll that go with this article. Question 1: Which of the following kinds of health care workers should be required to tell patients if they are infected with the AIDS virus? By the way, the CDC says it is 6,800 people, almost 7,000, and given the error on the low, conservative side, it is over 7,000 people.

Here is what Americans say.

Mr. BURTON of Indiana. You say 7,000 instead of the 4,000 I said?

Mr. DORNAN of California. Seven thousand health workers of all kinds. They break it down into basically four categories: surgeons, all physicians, dentists, healthcare workers. This is a 5-percentage-point error nationwide, Gallup Poll. Corporations pay huge dollars to take Gallup Polls, and they are market based on accepting it as factually correct.

This is what America thinks, and I say this to all my doctor friends, and the AMA, by the way, has come out, and the American Dental Association, and they work this Hill pretty good, pretty good people. Their Washington, DC, people are great. They have said voluntarily all doctors should tell their patients if they are HIV carriers, if they are infected, or if they have AIDS, tell your patients, and they recommend that they get a signed release.

I am afraid that that is what they should have done 6 years ago. It is too late.

Mr. BURTON of Indiana. It should not be voluntary, either. It should not be voluntary.

Mr. DORNAN of California. It has got to be Federal law, and they are dragging their feet.

By the way, look, our ethics committee here in this House has not dazzled the Nation with their skill of judging one another.

I am a big fan of the police across this country, as the gentleman is, but to see my heroes, and I thought it was the best police department in the country, the LAPD, sit around at an atrocity scene, at a beating, reminding me of Gestapo or people beating our pilots in Hanoi, and nobody says a peep when there are more than two dozen officers there. Yes, it is hard for even good organizations to police themselves.

But I am telling the medical people of this country, and you are not hostile as some people around here, trying to whip up a fever for socialized medicine, I am telling them, "Physicians, heal thyselves, because you are going to make it harder if you keep resisting."

Here is what our fellow Americans think, I say to the gentleman from Indiana [Mr. BURTON], who are not doctors: 95 percent, in the Gallup Poll, say surgeons must, not voluntarily, must by law be forced to identify that they have HIV, that they are a carrier, or that they have AIDS: 94 percent of all physicians, 1 point more for surgeons, 94 percent of all dentists; and 90 percent of all health-care workers. That is all within the 5-percent margin of error. So it is over or pushing 95 in all categories.

Then here is one other: If you knew a physician, dentist, or other health care worker treating you was infected with AIDS, what would you do? Sixty-five percent said that they would discontinue treatment immediately with that person. Now, that is their right. That is their right. Thirteen percent say they will continue, but they will exclude surgery or anything invasive. They say, "You can continue to be my doctor, but go get somebody else if there is going to be any blood or you are going to start poking around me." Fifteen percent, only, say that they would continue with stringent protective measures.

The gentleman just pointed out to me, reading this article, that this one woman said, "By the way, have you been AIDS tested?" And the doctor was so insulted he said, "Well, yes, I have." But, now, what did it say, he dresses himself like a football linebacker, or a scuba diver, or something.

Then this one says that if the following kinds of health care workers test positive for the AIDS virus, should they be forbidden to practice, forbidden to practice, taken out, not just tell the patient, and let it go option person to person, patient to patient? It says—and this is what Americans want—63 percent of all surgeons should be forbidden to practice; all physicians, 50 percent; more than half of the Americans say any physician should be stopped from practicing; dentists, 60 percent of Americans say a dentist must stop practicing. As for all other health care workers, 49 percent.

I am not that harsh, and I will bet the gentleman is not. Because, you know what I would let them do? Research or work with AIDS patients, of which we are going to have a million soon.

Mr. BURTON of Indiana. Let me interject one thing that I think is very important.

I hope our colleagues will think about this. Doctors and dentists and health-care workers have a right to know if the patient they are working on has the AIDS virus as well.

Mr. DORNAN of California. That is next.

Mr. BURTON of Indiana. If they know, they will protect themselves or not perform an invasive procedure. They will make sure they are not going to be exposed to the AIDS virus, so it is going to protect them as well, and if we allow routine testing across the board for patients and doctors, eventually we will know who has this virus, and doctors will be able to protect themselves so this will not spread through the medical community, through the health-care industry, thus endangering not only them but their patients as well.

Mr. DORNAN of California. Exactly.

Saturday, I went out to Space Command to the big national test facility for SDI, and I looked at my first Cray 2 computer, so much smaller than the Cray 1.

It actually has a fluid in it that Seymour Cray, this genius inventor, had in a dream one night: What cools the brain, he said, all of this energy. So it is a clear fluid that is exactly based on blood plasma.

Here are all of these hand-wired systems in this intricate Cray computer.

Now, if this Congress could not fund, and they cost $17 million each, fund a Cray computer and put it at some American Medical Association facility, and a doctor with AIDS comes forward and says, or HIV positive, and says, "All right, help me continue working as a doctor. I want to heal. More than ever, I want to heal. My years are limited." You crank it into that, and then crank in the jobs available, my God, any doctor in this country who really is filling his shoes can go to Africa and be Dr. Schweitzer, for Pete's sake, a man with a Nobel Prize, and praise for all of the centuries to come, because Africa has 15 million people with AIDS, and it is destroying their countries, and there it is spread by heterosexual promiscuity and some—but not like the Western World—some needle abuse.

I am glad the gentleman brought this up. Because American are tough on their doctors, their nurses, their health care workers, their paramedics, their surgeons, and dentists and not tough on themselves. Get this, should patients be required to tell physicians, dentists, and other health care workers if they, the patient, are infected with the AIDS virus?

□ 2100

Ninety-seven percent of our fellow Americans say yes, we must tell the

doctor, because more doctors are in danger of patients than patients of doctors. Only 2 percent of weirdos say, "No," that you can go lie to your doctor, and while he is trying to save your life or heal the patient, they can kill him. So there are 2 percent jerks in every survey. I like to assume that they did not hear the question right.

So, Americans are being fair on this. They are getting doctors 5 to 10 percent more slack than they are giving themselves as patients to say we should give the doctor.

What it comes down to is what I heard the gentleman in the well and myself going on in late 1965 when we started getting with the program, when we believed the medical industry's own statistics on how bad this was going to get, and that is contact tracing and testing.

While we were doing that, Cap Weinberger, our former great Secretary of Defense, left a great legacy to Dick Cheney. As he put it to me, "We stick everybody in the military." Then it was about 2.1 million people. Stuck every man, woman, every old sergeant, every admiral, every general, everyone was stuck with a needle. Blood was drawn, and they were tested. We ended up with the cleanest universe of any profession in our country in the military because Cap said, "Let others argue. I will take action."

Mr. BURTON of Indiana. Madam speaker, as we draw this to a close, let me just say that the military does test everyone. It costs about $5 for the series of tests, including the ALIZA test, if they need a second one, and the Western Blot test. They are about 99⁹⁄₁₀ percent accurate, so the margin of error is infinitesimal. The fact is, we could test everybody in the country between the age of 10 and 65 every year for under a billion dollars, and the cost of treating one AIDS patient, from the time they get AIDS to the time they die, is about $100 to $150,000. So it is much more cost-effective than most people think. It will save America money in the long run, way more than it will cost, if we start a testing program. It will save a lot of lives.

Mr. DORNAN of California. Let me ask a question. The article ends on a sour note on those who met at the Seventh International AIDS Conference in Florence, Italy. It adjourned after 8 days last Sunday. They said probably it will forego a convention next year, kill it completely, and certainly not come to the United States because the United States has a policy of not accepting immigrants who are infected with this always fatal venereal disease.

Has the gentleman had any of his constituents—I have only had a few of mine aware of it—has the gentleman had any constituent talk to him about this, because the average American's reaction is stunning to me. They say, "What?" We have a disease, always fatal, raging out of control, with 1 million infected people. That is a conservative low figure. We want to let more people in with the danger of spreading that further and faster? Are we crazy? When I ask them what about exceptions, like infected doctors who might want to come to this conference in Boston. They say, "Of course." How about visiting a friend who is very ill or dying? "Well, of course." How about getting treatment themselves? "Well, sure, anybody could be allowed in."

So again, there is the generous average American who has fought wars all over the world and liberated dozens of countries. There are always exceptions, but to let people come into this country, and the irony is, because of this politically driven AIDS crisis we are suddenly going to release the standards on gonorrhea, syphilis, leprosy, and a lot of other diseases, all to give cover to the humano imnuno deficiency virus, to give cover, and we will be left with tuberculosis.

How many people do we see like Kimberly Bergalis, an innocent victim, shriveled on a bed, crying to God, begging for God to take her, to take her in His arms. How many people do we see like this with tuberculosis in this country?

I did not get a chance at the press conference to say this today, but I will close on it. Every single week now, for the rest of our lives probably, more people will die of AIDS, and most of them young, in their vigorous productive years, than died in the Vietnam war. Every single week for 10 years, but the 2 weeks of the Tet offensive. Take out the first 2 weeks of February 1968, and we are losing more people to AIDS every week, with far more expense, than young GI's who were killed on the battlefield, giving the full measure of devotion. These people die slowly. Most of them, like Kimberly Bergalis, at great cost; $40 thousand minimum. Some States up to $100,000 a year maintenance, a tragedy ripping apart our young people. I do not see 250,000 people out there with Tom Hayden, David Dellinger, Jerry Rubin, ana Abby Hoffman making fools of themselves. I do not see this. Everybody is saying, "Go away," and that syndrome has affected the Senate and the House of Representatives in this Capitol. People do not want to get at these two lecterns from both parties, and face up to the health crisis.

There is only one conclusion this Member can come to. It involves a three-letter word: s-e-x. Because it involves sex, because it involves a powerful, arrogant, homosexual, politically finely honed operation in this country of activists, people are afraid to discuss this health crisis. The result is a totally innocent, beautiful victim, like a little saint, Kimberly Bergalis, shriveled in her bed, pleading her life not be wasted, that we pass in Congress a bill to wake up the medical profession. They ought to be on the Hill, as a few courageous ones lobby to get to Members to do this before they have totally wrecked their profession in the sense of public relations and broken their faith with the American people.

I was reading the article. At the beginning the gentleman from Indiana [Mr. BURTON] said he would read the Hippocratic oath. I suggest that the gentleman do what he said at the opening, and read those words from the Hippocratic oath.

Mr. BURTON of Indiana. Before I read that, I would like to say that I am confident, and I thank the gentleman from California for his contribution, I am confident that the people of this country will demand a comprehensive program, including routine testing, before too long.

The problem is, every day that we wait, we condemn more people to get AIDS, and dying a very horrible death like Kimberly Bergalis.

I would like to read one section from the Hippocratic oath which every doctor takes:

> I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.

"I will keep them from harm and injustice." They all swear to that. I cannot believe that Dr. Acer did not know that he was violating that oath when he exposed Kimberly Bergalis and the other four people to the AIDS virus, along with his other patients.

Let me end by saying one more time to the family of Kimberly Bergalis and Kimberly Bergalis herself that I and my collegues who are very strongly in favor of this legislation, will work tirelessly over the next few months and years to get the Kimberly Bergalis Patient and Health Providers' Protection Act of 1991 passed. God bless Kimberly Bergalis and her family.

Mr. DORNAN of California. Let me add, the rules of the House say that we have to direct everything through the Speaker, so I do this through the Speaker.

Mr. Speaker, if Kimberly's father, George, were so inclined, Mr. Speaker, I would hope he would call the Capitol, and if any of his friends are watching the proceedings on C-SPAN following the House in the CONGRESSIONAL RECORD. If the other four patients, some of them who still have the strength that Kimberly had a few months ago when she was walking the beach 2 months ago and speak out, if they would call here, I would invite them to come to the Congress of the United States, Mr. Speaker, walk the Halls with Members, and personally go in and lobby Members of both of these distinguished legislative bodies, and get this legislation passed, and help get this monkey off the back of medical profession, like the LAPD has to be

helped through its own travail because of the code of silence that all professionals develop among themselves.

Mr. BURTON of California. Madam Speaker, I thank the gentleman for his contribution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SUNDQUIST (at the request of Mr. MICHEL), for today, on account of official business.

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today until 2 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes each day, on July 9, 10, 11, 15, 16, 17, and 18.

Mr. BILIRAKIS, for 60 minutes, on July 23.

Mr. BEREUTER, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

Mr. DORNAN of California, for 60 minutes each day, on July 9, 10, 11, 15, 16, 17, and 18.

Mr. DREIER of California, for 60 minutes each day, on July 9, 10, 11, 15, 16, 17, and 18.

(The following Members (at the request of Mr. FALEOMAVAEGA) to revise and extend their remarks and include extraneous material:)

Mr. DURBIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. BOUCHER, for 30 minutes, today.

Mr. OBERSTAR, for 60 minutes, on July 10.

Mr. WISE, for 60 minutes, on June 27.

Mr. FALEOMAVAEGA, for 60 minutes, on June 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PETRI and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2863.50.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. GRADISON.

Mr. DANNEMEYER, in two instances.

Mr. GEKAS.

Mr. WELDON.

Mr. BALLENGER.

Mr. BEREUTER.

Mr. PORTER.

Mr. SOLOMON.

Mr. CRANE.

Mr. CAMPBELL of California.

Mr. SHAW, in two instances.

Mr. GUNDERSON.

Mr. BLILEY.

Mr. EMERSON.

Ms. ROS-LEHTINEN, in two instances.

Mr. FIELDS.

Mr. SCHULZE.

Mr. GILMAN, in four instances.

Mr. HORTON.

Mr. LOWERY of California, in two instances.

Mr. SANTORUM.

Mr. PETRI.

Mr. CAMP.

Mr. LEWIS of Florida.

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. RAY.

Mr. ROWLAND.

Mr. TORRES.

Mr. HAMILTON.

Mr. RAHALL in two instances.

Mr. HERTEL in two instances.

Mr. WOLPE.

Mr. MONTGOMERY.

Mr. ATKINS.

Mr. MORAN.

Mr. MURTHA.

Mr. JACOBS.

Mr. LANTOS.

Mr. BRUCE.

Mr. HOYER.

Mr. CARR.

Mr. HALL of Ohio.

Mr. REED.

Mr. HUBBARD.

Mr. DINGELL.

Mr. KILDEE.

Mr. DYMALLY.

Mr. NOWAK.

Mrs. LOWEY of New York in two instances.

Mr. CARDIN.

Mr. KOPETSKI.

Mr. FAZIO in two instances.

Mrs. COLLINS of Illinois.

Mr. MORAN.

Mr. FALEOMAVAEGA.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

ADJOURNMENT

Mr. BURTON of Indiana. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, June 27, 1991, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1634. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to modify the physical examination requirement for members of the Ready Reserve of the Armed Forces; to the Committee on Armed Services.

1635. A letter from the Administrator, Environmental Protection Agency, transmitting a report on railroad emissions; to the Committee on Energy and Commerce.

1636. A letter from the Secretary of Labor, transmitting the semiannual report of the Pension Benefit Guaranty Corporation's inspector general, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1637. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to promote international cooperation and to reduce dolphin mortalities in the purse seine fishery in the eastern tropical Pacific Ocean by amending the mandatory trade embargo provisions of the Marine Mammal Protection Act; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1776. A bill to authorize for fiscal year 1992 the United States Coast Guard Budget; with an amendment (Rept. 102-132). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 1989. A bill to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes; with an amendment (Rept. 102-134). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2130. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992; with an amendment; referred to the Committee on Interior and Insular Affairs and to the Committee on Ways and Means for a period ending not later than July 12, 1991, for consideration of such provisions of the amendment as fall within the jurisdiction of those committees pursuant to clause 1(n) and 1(v) of rule X, respectively. (Rept. 102-133, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KOPETSKI (for himself and Mr. RIGGS):

H.R. 2770. A bill to limit contributions by nonparty multicandidate political committees in House of Representatives elections, to provide an income tax credit for contributions to nonincumbent candidates to such elections, and for other purposes; jointly, to the Committees on House Administration, Ways and Means, and Post Office and Civil Service.

By Mr. STAGGERS:

H.R. 2771. A bill to amend title 38, United States Code, to remove limitations on payment of attorney fees in cases in which the United States is seeking to collect an indebtedness to the United States arising out of a housing loan guaranteed or insured by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ROSE:

H.R. 2772. A bill to establish in the Government Printing Office a single point of online public access to a wide range of Federal databases containing public information stored electronically; to the Committee on House Administration.

By Mr. PETRI (for himself, Mr. GOODLING, Mr. GUNDERSON, Mr. ARMEY, Mr. FAWELL, Mr. BALLENGER, Ms. MOLINARI, Mr. BARRETT, Mr. BOEHNER, Mr. KLUG, Mr. GRANDY, and Mr. SENSENBRENNER):

H.R. 2773. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to set standards under such title for multiple employer welfare arrangements providing health plan benefits; to the Committee on Education and Labor.

By Mr. CONYERS:

H.R. 2774. A bill to provide that one-half of the Department of Justice Assets Forfeiture Fund be available to be used for community-based crime control programs for drug education, prevention, and demand reduction, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 2775. A bill to amend certain provisions of the Internal Revenue Code of 1986 to simplify the application of such provisions; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 2776. A bill to designate "The Most Beautiful Lady in the World", by Helmut Christopher Calabrese and Paul L. Calabrese, as the official anthem of the Statue of Liberty; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI (for himself and Mr. ARCHER):

H.R. 2777. A bill to simplify certain provisions of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. ACKERMAN:

H.R. 2778. A bill to amend certain Federal laws to provide the same rights and privileges to deaf or hard-of-hearing individuals who depend on hearing dogs as are provided to blind individuals who depend on guide dogs, and for other purposes; jointly, to the Committees on Agriculture, Public Works and Transportation, and Veterans' Affairs.

By Mr. ATKINS (for himself, Mr. ANDREWS of Texas, Mrs. BOXER, Mr. DURBIN, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. HANSEN, Mr. MARKEY, Mr. MCDERMOTT, Mr. MRAZEK, Mr. NEAL of Massachusetts, Mr. SANGMEISTER, Mr. STARK, Mr. SYNAR, Mr. VISCLOSKY, Mr. WAXMAN, Mr. WEISS, and Mr. WHEAT):

H.R. 2779. A bill to make exports of cigarettes and the advertising of cigarettes abroad subject to the same restrictions on labeling and advertising of cigarettes as apply to the sale or distribution and advertising of cigarettes in the United States; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. ROYBAL (for himself, Mr. MARTINEZ, Ms. OAKAR, Mr. WYDEN, Mr. DOWNEY, and Mr. KILDEE):

H.R. 2780. A bill to amend the Older Americans Act of 1965 to increase the authority of the Commissioner on Aging; to establish the Office of Long-Term Care Ombudsman Programs and provide for the appointment of an Associate Commissioner for Ombudsman Services; to enhance State long-term care ombudsman programs; to provide financial assistance for programs relating to elder abuse, exploitation, or neglect; and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. ATKINS (for himself, Mr. ANDREWS of Texas, Mrs. BOXER, Mr. DURBIN, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. HANSEN, Mr. MARKEY, Mr. MCDERMOTT, Mr. MRAZEK, Mr. NEAL of Massachusetts, Mr. SANGMEISTER, Mr. STARK, Mr. SYNAR, Mr. VISCLOSKY, Mr. WAXMAN, Mr. WEISS, and Mr. WHEAT):

H.R. 2781. A bill restricting the activities of the United States regarding foreign laws regulating the marketing of tobacco products, and for other purposes; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. BERMAN:

H.R. 2782. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws; to the Committee on Education and Labor.

By Mr. BILIRAKIS:

H.R. 2783. A bill to direct the Secretary of Health and Human Services to conduct a study on the feasibility and desirability of resolving medical malpractice claims in the same manner provided for resolving workmen's compensation claims; to the Committee on the Judiciary.

By Mrs. BOXER:

H.R. 2784. A bill to assist counties adversely affected by a base closure, change in the place of performance of a defense contract, the cancellation or failure to proceed with a defense contract, or reductions in defense spending; to the Committee on Education and Labor.

By Mr. CAMPBELL of California:

H.R. 2785. A bill regarding the compliance of the People's Republic of China with certain internationally recognized standards of conduct, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. CAMPBELL of California (for himself, Mr. SHAYS, and Mr. MACHTLEY):

H.R. 2786. A bill to protect the physician-patient relationship relating to Federal restrictions on abortion counseling; to the Committee on Energy and Commerce.

By Mr. CAMPBELL of Colorado:

H.R. 2787. A bill to amend the Department of Energy Organization Act to require the Secretary of Energy to establish an area office in Grand Junction, CO, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DANNEMEYER (for himself, Mr. BLILEY, Mr. HOLLOWAY, Mr. BARTON of Texas, Mr. DORNAN of California, Mr. INHOFE, Mr. LAGOMARSINO, and Mr. BURTON of Indiana):

H.R. 2788. A bill to amend title XXVI of the Public Health Service Act to provide for the establishment of protections against certain communicable diseases for both health care providers and the patients of such providers, and to provide for certain forms of assistance for such providers and patients; to the Committee on Energy and Commerce.

By Mr. KILDEE:

H.R. 2789. A bill to amend the Star Schools Program Assistance Act to establish a program of grants for purposes of providing dissemination services; to the Committee on Education and Labor.

By Mr. KOLBE:

H.R. 2790. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOPETSKI for himself, Mr. AUCOIN, Mr. WYDEN, and Mr. DEFAZIO):

H.R. 2791. A bill to authorize emergency crop loss assistance for producers of 1991 crops of cranberries who suffer crop losses due to damaging weather or related conditions in 1990 or 1991; to the Committee on Agriculture.

By Mr. LANTOS (for himself and Mr. PORTER):

H.R. 2792. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. MARTINEZ (for himself, Mr. KENNEDY, and Mr. KILDEE):

H.R. 2793. A bill to amend part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et. seq.) and to provide assistance to community development cooperations and to increase their community development activities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. MINK:

H.R. 2794. A bill to establish the Spark M. Matsunaga Renewable Energy and Ocean Technology Center to conduct research on renewable energy and ocean resources, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Merchant Marine and Fisheries.

By Mr. SCHIFF:

H.R. 2795. A bill to amend title 18, United States Code, to reduce the number of prior convictions for a violent felony or a serious drug offense that are required for the imposition of enhanced penalties on persons who unlawfully ship, transport, or receive firearms or ammunition; to the Committee on the Judiciary.

H.R. 2796. A bill to provide that proceeds of U.S. savings bonds shall not be paid to any individual who kills the individual otherwise entitled to such payment where State law would prohibit such payment; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself, Mr. AUCOIN, Mr. ACKERMAN, Mr. BERMAN, Mr. BRYANT, Mr. CARDIN, Mr. COX of Illinois, Mr. DREIER of California, Mr. DEFAZIO, Mr. EDWARDS of California, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. FROST, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. JAMES, Mr. JEFFERSON, Mr. KOPETSKI, Mr. LAGOMARSINO, Mr. LEHMAN of Florida, Mr. LENT, Mr. MARKEY, Mr. MATSUI, Mr. MCMILLEN of Maryland, Mr. MOODY, Mr. MRAZEK, Mr. NEAL of North Carolina, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PRICE, Mr. SCHEUER, Mr. SCHIFF, Mr. SHAYS, Mr. SMITH of Texas, Mr. STALLINGS, Mr. STUDDS, Mr. TRAFICANT, Mr. TORRICELLI, Mr. TOWNS, Mr. YATES, and Mr. WOLPE):

H.R. 2797. A bill to protect the free exercise of religion; to the Committee on the Judiciary.

By Mr. STALLINGS (for himself, Mr. ANTHONY, Mr. CAMPBELL of Colorado, Mr. EMERSON, Mr. HANSEN, Mr. HERGER, Mr. JEFFERSON, Mr. JONTZ, Mr. LAUGHLIN, Mr. MFUME, Mr. MYERS of Indiana, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. PENNY, Mr. STENHOLM, and Mr. TOWNS):

H.R. 2798. A bill to provide for the coordination and implementation of national aquaculture policy for the private sector by the Department of Agriculture, and for other purposes; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. SWIFT (for himself, Mr. DICKS, Mr. CHANDLER, and Mrs. UNSOELD):

H.R. 2799. A bill to require the revision of the land and resource management plans for the Olympic, Mt. Baker-Snoqualmie and Gifford Pinchot National Forests to implement an alternative management strategy known as high quality forestry; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. STARK:

H.R. 2800. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on an employer's cost of providing medical benefits to his employees and to amend the Social Security Act to provide support for hospitals in meeting indigent care costs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TORRES (for himself, Mr. CARPER, Mr. WYLIE, Mr. COX of California, Mr. NEAL of Massachusetts, Mr. SMITH of Florida, Mr. SKELTON, Mr. FASCELL, Mr. LAROCCO, Mr. LANTOS, and Mr. ANNUNZIO):

H.R. 2801. A bill to authorize the minting of legal tender coins to commemorate the 1994 World Cup and to provide a financial legacy to youth and amateur soccer in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. UNSOELD (for herself, Mr. SWIFT, Mr. MCDERMOTT, Mr. DEFAZIO, and Mr. KOPETSKI):

H.R. 2802. A bill to expand the existing restriction on exports of unprocessed timber originating from Federal lands in the 48 contiguous States to include unprocessed timber originating from Federal lands in the State of Alaska; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs.

By Mr. WAXMAN:

H.R. 2803. A bill to amend part B of title XIX of the Public Health Service Act to establish a program of formula grants to the State for improving the delivery of mental health services, to establish a program for providing comprehensive mental health services for children with serious emotional disturbances, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARTINEZ:

H.R. 2804. A bill to amend the Urban Mass Transportation Act of 1964 to provide for grants and loans to private nonprofit corporations and associations to be used to pay operating expenses related to new and existing mass transportation services for elderly and handicapped persons; to the Committee on Public Works and Transportation.

By Mr. GILLMOR:

H.J. Res. 286. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriations; to the Committee on the Judiciary.

By LOWERY of California (for himself, Mr. MORAN, Mr. GINGRICH, Mr. FAWELL, Mr. WHITTEN, Mr. WEBER, and Mr. BILIRAKIS):

H.J. Res 287. Joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week"; to the Committee on Post Office and Civil Service.

By Mr. MCNULTY:

H.J. Res. 288. Joint resolution designating October 1991 as "National School Attendance Month"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Ohio:

H.J. Res. 289. Joint resolution proposing an amendment in the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. GEPHARDT:

H. Con. Res. 175. Concurrent resolution providing for an adjournment of the House from June 27, 1991 to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991 or Tuesday, July 2, 1991 to July 8, 1991; considered and agreed to.

By Mr. WALKER (for himself, Mr. HYDE, and Mr. RITTER):

H. Res. 185. Resolution concerning the United States position on environmental protection at the 1992 United Nations Conference on Environment and Development in Brazil; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

204. By the SPEAKER: Memorial of the Legislature of the State of Maine, relative to the desecration of the American flag; to the Committee on the Judiciary.

205. Also, memorial of the Legislature of the State of Maine, relative to protecting the Bill of Rights; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. GRADISON introduced a bill (H.R. 2805) to extend the terms of the olestra patents, and for other purposes; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. OLVER.

H.R. 23: Mr. ARCHER, Mr. VANDER JAGT, Mr. GRANDY, Mr. BUNNING, Mr. RIGGS, Mr. LIVINGSTON, Mr. LIPINSKI, and Mr. UPTON.

H.R. 46: Mr. LIPINSKI.

H.R. 47: Mr. FRANK of Massachusetts and Ms. KAPTUR.

H.R. 63: Mr. DINGELL.

H.R. 74: Mr. LEWIS of California, Mr. MYERS of Indiana, and Mr. COBLE.

H.R. 127: Mr. SAXTON, Mr. HUBBARD, Mr. ENGLISH, Mr. WILSON, and Mr. DIXON.

H.R. 134: Mr. PERKINS, Mr. BOUCHER, and Mr. MARTINEZ.

H.R. 200: Mr. MACHTLEY, Mr. JACOBS, Mr. DOOLITTLE, Mr. CHAPMAN, Mr. MURTHA, and Mr. MCGRATH.

H.R. 318: Mr. MCMILLEN of Maryland, Mr. GEREN of Texas, and Mr. LEWIS of Florida.

H.R. 338: Mr. UPTON.

H.R. 413: Mr. LIGHTFOOT, Mr. JENKINS, Mr. CARPER, Mr. PETERSON of Florida, Mr. ZIMMER, Ms. ROS-LEHTINEN, and Mr. JONTZ.

H.R. 431: Mr. DUNCAN, Mr. SHAW, Mr. HUBBARD, Mr. FIELDS, Mr. LEHMAN of California, and Mr. CONDIT.

H.R. 467: Mrs. MINK, Mr. HAYES of Louisiana, Mr. FORD of Tennessee, and Mr. HUBBARD.

H.R. 492: Mr. MCNULTY.

H.R. 565: Mrs. COLLINS of Michigan, Mr. GEREN of Texas, Mr. ALEXANDER, Mr. PENNY, Mr. ATKINS, Mr. SCHEUER, Mr. NEAL of Massachusetts, Mr. CLEMENT, Mr. RIGGS, Mr. GUNDERSON, Mr. DUNCAN, Mr. CONDIT, and Mr. ERDREICH.

H.R. 462: Mr. STEARNS, Mr. BACCHUS, and Mr. SAXTON.

H.R. 709: Mr. BRUCE, Mr. WILSON, Mr. COLEMAN of Texas, and Mr. HAYES of Illinois.

H.R. 736: Mr. GREEN of New York.

H.R. 775: Mr. CHAPMAN, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. ESPY, Mr. FORD of Tennessee, Mr. FROST, Mr. FUSTER, Mr. GONZALEZ, Mr. GREEN of New York, Mr. HAYES of Illinois, Mr. HORTON, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. KENNEDY, Mr. LAFALCE, Mr. MARKEY, Mr. MARTINEZ, Mr. MORAN, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. ROE, Mr. TOWNS, Mr. VALENTINE, Mr. WASHINGTON, and Mr. WHEAT.

H.R. 797: Mr. RICHARDSON.

H.R. 859: Mr. GUNDERSON.

H.R. 941: Mrs. MORELLA.

H.R. 967: Mr. GEREN of Texas.

H.R. 978: Mr. ANNUNZIO.

H.R. 993: Mr. MCMILLEN of Maryland, Mrs. COLLINS of Michigan, Mr. BEVILL, Mr. LEWIS of Georgia, and Mr. MACHTLEY.

H.R. 994: Mr. LEWIS of Georgia and Mr. MCNULTY.

H.R. 1004: Mr. GUNDERSON.

H.R. 1048: Mr. DICKINSON.

H.R. 1063: Mr. TORRES, Mr. PEASE, and Mr. DIXON.

H.R. 1069: Mr. CRAMER, Mr. DANNEMEYER, Mr. JEFFERSON, Mr. GUARINI, Mr. BRYANT, and Mr. RANGEL.

H.R. 1076: Mr. SENSENBRENNER, Mr. FISH, and Mr. RAHALL.

H.R. 1079: Mr. SANGMEISTER.

H.R. 1108: Mr. SUNDQUIST.

H.R. 1126: Mr. MILLER of California.

H.R. 1130: Mr. JOHNSON of South Dakota and Mr. BUSTAMANTE.

H.R. 1189: Mr. GILMAN, Mr. VENTO, Mr. TOWNS, and Mr. LAGOMARSINO.

H.R. 1192: Mrs. COLLINS of Michigan, Ms. DELAURO, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. SANDERS, Mr. SCHEUER, Mr. SHAYS, Mr. STARK, and Mr. TORRES.

H.R. 1237: Mrs. BYRON, Mr. GINGRICH, Mr. KASICH, Mr. ROHRABACHER, Mr. TAYLOR of Mississippi, Mr. VALENTINE, Mr. VANDER JAGT, and Mr. WISE.

H.R. 1257: Ms. DELAURO, Mr. JONES of Georgia, Mr. FISH, and Mr. ENGEL.

H.R. 1270: Mr. PORTER and Mr. TAUZIN.

H.R. 1293: Mr. DONNELLY, Mr. BUSTAMANTE, Mr. WHEAT, and Mr. RANGEL.

H.R. 1300: Mr. RAVENEL and Mr. WEISS.

H.R. 1322: Mr. ECKART, Mr. VENTO, Mr. MURPHY, Mr. DE LUGO, Mrs. VUCANOVICH, Mr. FALEOMAVAEGA, Mr. JONTZ, Mr. KOSTMAYER, Mr. YOUNG of Alaska, Mr. DEFAZIO, and Mr. HOAGLAND.

H.R. 1330: Mr. DURBIN, Mr. TANNER, Mr. ORTIZ, Mrs. BENTLEY, Mr. ARMEY, Mrs. MEYERS of Kansas, Mr. HUBBARD, Mr. TRAFICANT, and Mr. IRELAND.

H.R. 1405: Mr. CLINGER, Mr. BUSTAMANTE, Mr. SCHEUER, and Mr. BONIOR.

H.R. 1406: Mr. CRAMER, Mr. EDWARDS of Texas, Mr. DE LA GARZA, Mr. STENHOLM, Mr. ROSE, Mr. JOHNSON of Texas, Mr. LEWIS of Florida, and Mr. SOLARZ.

H.R. 1407: Mr. MCMILLAN of North Carolina and Mr. COX of California.

H.R. 1411: Mr. BAKER, Mr. DANNEMEYER, Mr. HANSEN, Mr. TORRES, Mr. LUKEN, Mr. VANDER JAGT, and Mr. RAVENEL.

H.R. 1439: Mr. DUNCAN.

H.R. 1468: Mr. DANNEMEYER, Mrs. VUCANOVICH, and Mr. HANSEN.

H.R. 1472: Mr. WYDEN, Mr. GINGRICH, Mr. DUNCAN, and Mr. SMITH of New Jersey.

H.R. 1473: Mr. MINETA and Mr. BAKER.

H.R. 1482: Mr. WISE, Ms. LONG, Mr. VOLKMER, Mr. DOOLEY, Mr. FUSTER, Mr. WASHINGTON, Mr. WALSH, Mr. BACCHUS, Mr. SCHEUER, Mr. BLILEY, Mr. FISH, Mr. FEIGHAN, Mr. POSHARD, Mr. MILLER of Washington, and Mr. PETERSON of Florida.

H.R. 1495: Mr. WEBER, Mr. AUCOIN, and Mr. SANDERS.

H.R. 1523: Mr. CUNNINGHAM and Mr. HENRY.

H.R. 1572: Mr. HUBBARD, Mr. BALLENGER, Mr. LAUGHLIN, Mr. NICHOLS, Mr. LEWIS of Florida, and Mr. SAXTON.

H.R. 1579: Mr. JONTZ and Mr. FAZIO.

H.R. 1598: Mr. MACHTLEY, Mr. MCNULTY, and Mr. OBEY.

H.R. 1618: Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. JONES of North Carolina, Mr. DERRICK, Mr. LEVINE of California, Mr. BILBRAY, Mr. SOLOMON, Mr. WISE, Mr. HUBBARD, Mr. VALENTINE, Mr. HEFNER, Mr. BRUCE, Mr. NEAL of Massachusetts, Mr. LIGHTFOOT, Mr. BATEMAN, Mr. CARPER, Mr. SLATTERY, Mr. MACHTLEY, and Mr. ROSE.

H.R. 1628: Mr. PAYNE of New Jersey, Mr. MARTIN, Mr. OWENS of New York, Mr. JONES of Georgia, Mr. FROST, Mr. FORD of Michigan, Mr. KOLTER, Mr. SMITH of New Jersey, Mr. MCMILLEN of Maryland, Mr. MARLENEE, and Mr. MURPHY.

H.R. 1655: Mr. LEHMAN of California, Mr. CONDIT, Mr. PACKARD, Mr. ZELIFF, and Mr. YOUNG of Alaska.

H.R. 1662: Mr. LIPINSKI.

H.R. 1733: Mr. SIKORSKI.

H.R. 1754: Mr. RAHALL.

H.R. 1755: Mr. RIGGS, Mr. ALLARD, Mr. BARRETT, Mr. EDWARDS of Oklahoma, and Mr. TAYLOR of North Carolina.

H.R. 1790: Mr. CARR and Mr. GEJDENSON.

H.R. 1841: Mr. BAKER.

H.R. 1842: Mr. BAKER.

H.R. 1860: Mr. SPENCE.

H.R. 1864: Mr. JEFFERSON, Mr. MCEWEN, Mr. LENT, and Mr. YOUNG of Alaska.

H.R. 1870: Mr. SAVAGE.

H.R. 2027: Mr. FAZIO.

H.R. 2074: Mr. KOLBE.

H.R. 2089: Mr. TOWNS and Mr. OWENS of Utah.

H.R. 2125: Mr. BONIOR, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. OWENS of Utah, Mr. ROE, and Mr. SMITH of Texas.

H.R. 2202: Mr. ARMEY.

H.R. 2212: Mr. KASICH.

H.R. 2215: Mr. BONIOR, Mr. CUNNINGHAM, and Mr. PALLONE.

H.R. 2232: Mr. ROSE, Mr. WISE, Mr. VOLKMER, Mr. AUCOIN, Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H.R. 2236: Mr. GILCHREST, Mr. ROSE, Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H.R. 2238: Mr. GILCHREST, Mr. LEACH, Mr. ROSE, Mr. GILLMOR, Mr. VOLKMER, Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H.R. 2245: Mr. MCCLOSKEY, Mr. JONTZ, Mr. PENNY, Mr. HORTON, Mr. LIPINSKI, Mr. GUARINI, Mr. LEVINE of California, Mr. DWYER of New Jersey, Mr. FRANK of Massachusetts, Mrs. LLOYD, Mr. RANGEL, and Mr. DORNAN of California.

H.R. 2248: Mr. DONNELLY.

H.R. 2267: Mr. WILSON, Mr. LEVINE of California, Mr. EVANS, Mr. CARDIN, Mr. MARKEY, and Ms. NORTON.

H.R. 2268: Mr. MCCLOSKEY and Mr. EVANS.

H.R. 2290: Mr. BACCHUS, Mr. FASCELL, Mr. HUTTO, Mr. GIBBONS, Mr. LEHMAN of Florida, Mr. MCCOLLUM, Mr. PETERSON of Florida, Ms. ROS-LEHTINEN, and Mr. STEARNS.

H.R. 2299: Mr. HORTON and Mr. ROYBAL.

H.R. 2323: Mr. DURBIN.

H.R. 2324: Ms. ROS-LEHTINEN.

H.R. 2327: Mr. RAHALL, Mr. WOLF, Mr. UPTON, Mr. JACOBS, Mrs. LOWEY of New York, Mr. SANGMEISTER, Mr. CAMPBELL of Colorado, Mr. NEAL of Massachusetts, Mr. WYDEN, Mr. MCCLOSKEY, Mr. LAGOMARSINO, Mr. HYDE, and Mr. STENHOLM.

H.R. 2361: Mr. DAVIS and Mr. WASHINGTON.

H.R. 2383: Mr. HORTON and Mr. COSTELLO.

H.R. 2389: Mr. FOGLIETTA, Mr. BEREUTER, Ms. PELOSI, and Mr. TOWNS.

H.R. 2401: Mr. PETERSON of Florida, Mr. ECKART, Mr. TOWNS, Mr. BEREUTER, and Ms. KAPTUR.

H.R. 2452: Mr. GORDON, Mr. OBERSTAR, Mr. TORRES, and Mr. EVANS.

H.R. 2453: Mr. STEARNS.

H.R. 2455: Mr. LANCASTER and Mr. TAYLOR of Mississippi.

H.R. 2464: Mr. ROYBAL, Mr. DICKINSON, Mr. HUCKABY, Mr. MOORHEAD, Mr. ROWLAND, Mr. FROST, Mr. ARCHER, Mr. GINGRICH, Mr. BARTON of Texas, Mr. ERDREICH, and Mr. VOLKMER.

H.R. 2518: Ms. NORTON and Mr. ACKERMAN.

H.R. 2542: Ms. NORTON and Mr. MARTINEZ.

H.R. 2553: Mr. MAZZOLI and Mr. JONTZ.

H.R. 2561: Mr. POSHARD, Mr. FAZIO, Mr. BUSTAMANTE, Mrs. UNSOELD, Mr. WOLPE, Mr. COLEMAN of Texas, Mr. FRANK of Massachusetts, Mr. TORRES, Mr. RAHALL, Mr. REED, Mrs. LOWEY of New York, Mr. CARR, Mr. DE LUGO, Mr. RANGEL, Mr. PAYNE of Virginia, Mr. DURBIN, Mr. BOUCHER, Mr. NEAL of Massachusetts, Mr. ROEMER, Mr. MRAZEK, Mr. SABO, Mr. BRYANT, Mr. WILSON, Mr. MARTINEZ, Mr. ANDREWS of Maine, Mr. DWYER of New Jersey, Mr. BRUCE, Mr. BACCHUS, Mr. ESPY, Mr. MURTHA, Ms. NORTON, and Mr. PERKINS.

H.R. 2566: Mr. MCEWEN, Mr. OXLEY, and Mr. SPRATT.

H.R. 2568: Mr. MCCANDLESS.

H.R. 2579: Mr. LAGOMARSINO.

H.R. 2595: Mr. DANNEMEYER.

H.R. 2624: Mr. CARDIN and Ms. KAPTUR.

H.R. 2628: Mr. TRAFICANT.

H.R. 2632: Mr. JONTZ.

H.R. 2634: Mr. BATEMAN, Mr. CONYERS, Mr. FORD of Michigan, Mr. MCNULTY, Mr. MCMILLEN of Maryland, Mr. HARRIS, Mr. REED, Mr. NOWAK, Mr. JEFFERSON, and Ms. NORTON.

H.R. 2641: Mr. ANTHONY.

H.R. 2693: Mr. CLINGER, Mr. MCEWEN, Mr. HEFLEY, Mr. DORNAN of California, and Mr. SCHIFF.

H.J. Res. 9: Mr. FRANK of Massachusetts and Mr. LIPINSKI.

H.J. Res. 67: Mr. PALLONE, Mr. HORTON, Mr. TORRES, Mr. DAVIS, Mr. CARDIN, Mr. VALENTINE, Mr. BONIOR, Mr. MCGRATH, and Mr. CARPER.

H.J. Res. 70: Mr. PACKARD.

H.J. Res. 140: Mr. PORTER, Mr. SPENCE, Mr. CARPER, Mr. KILDEE, Mrs. COLLINS of Michigan, Mr. MURTHA, Mr. VOLKMER, Mr. SHAYS, Mr. DAVIS, Mr. COOPER, Mr. FOGLIETTA, Mr. WEBER, Mr. JONES of Georgia, Mr. SABO, Mr. BAKER, Mr. WELDON, and Mr. JEFFERSON.

H.J. Res. 142: Mrs. MINK, Mr. NEAL of Massachusetts, Mr. JOHNSON of South Dakota, Ms. LONG, Mr. MCCOLLUM, Mr. MCDADE, Mr. MURTHA, Ms. NORTON, Mr. OWENS of New York, Mr. MATSUI, Mr. BILBRAY, Mr. BILIRAKIS, Mr. CARDIN, Mr. RAVENEL, Mr. TRAFICANT, Mr. TAUZIN, Mr. POSHARD, Mr. TAYLOR of Mississippi, Mr. TALLON, Mr. WOLPE, Mr. HUTTO, Mr. GRANDY, Mr. DREIER of California, Ms. DELAURO, Mr. WYDEN, Mr. HALL of Ohio, and Mr. SERRANO.

H.J. Res. 181: Mr. APPLEGATE, Mr. BENNETT, Mr. BOUCHER, Mr. BURTON of Indiana, Mrs. COLLINS of Michigan, Mr. DICKS, Mr. DONNELLY, Mr. FAZIO, Mr. GAYDOS, Mr. GILCHREST, Mr. GORDON, Mr. GRAY, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HUBBARD, Mr. HUGHES, Mr. LANCASTER, Mr. LANTOS, Mr. JACOBS, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCEWEN, Mr. MILLER of Ohio, Mr. NEAL of North Carolina, Mr. PAYNE of New Jersey, and Mr. PRICE.

H.J. Res. 191: Mr. FEIGHAN, Mr. ROE, Mr. DE LUGO, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. GREEN of New York, Mr. REED, Mr. BUSTAMANTE, Mr. JONES of North Carolina, Mr. LIVINGSTON, Mrs. LLOYD, Mr. KANJORSKI, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. NEAL of Massachusetts, Mr. NATCHER, Mr. LEWIS of Florida, Ms. LONG, Mrs. MINK, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PAXON, Mr. PURSELL, Mr. RAVENEL, Mr. PERKINS, Mr. MCMILLEN of Maryland, Mr. MCDADE, Mr. SAVAGE, and Mr. MCCLOSKEY.

H.J. Res. 226: Mr. ZELIFF, Mr. GEKAS, Mr. APPLEGATE, Mr. MANTON, Mr. MCDADE, Mr. LANCASTER, Mr. JENKINS, Mr. DAVIS, Mr. BATEMAN, Mr. BEVILL, Mr. MCCOLLUM, Mr. RAVENEL, Mr. RIGGS, Mr. SLAUGHTER of Virginia, Mr. LOWERY of California, Mr. OWENS of Utah, Mr. SKEEN, Mr. THOMAS of Wyoming, Mrs. VUCANOVICH, Mr. WILSON, Mr. YOUNG of Alaska, Mr. FRANK of Massachusetts, Mr. JONES of North Carolina, Mr. QUIL-

LEN, Mr. ESPY, Mr. SAWYER, Mr. POSHARD, Mr. SPENCE, Mr. FAWELL, Mr. HALL of Ohio, Mr. TALLON, Mr. GEJDENSON, Mr. MILLER of California, Mr. EVANS, Mr. KILDEE, Mr. RANGEL, Mr. WISE, Mr. SARPALIUS, Mr. KENNEDY, Mr. RAHALL, Mr. MCNULTY, Mr. HERTEL, Mr. BEILENSON, Mr. GUARINI, Mr. PAYNE of Virginia, Mr. DURBIN, Mr. SISISKY, Mrs. BOXER, Mr. MAVROULES, Mr. MARKEY, Mr. ASPIN, Mr. SMITH of Florida, Mr. HARRIS, Mr. WALSH, Mr. SERRANO, Mrs. LOWEY of New York, Mr. YATES, Mr. SHARP, Mr. FAZIO, Mr. DICKS, Mr. DE LUGO, Ms. WATERS, Mr. CARDIN, Mr. PICKETT, Mr. BRYANT, Mr. CONDIT, Mr. JONES of Georgia, Mr. ROBERTS, Mr. MCMILLEN of Maryland, Mr. LANTOS, Mr. CLEMENT, Mr. STOKES, Mr. KOPETSKI, Mrs. PATTERSON, Mr. JOHNSON of South Dakota, Mr. BOEHLERT, Mr. HUCKABY, Mr. HUGHES, Mr. BRUCE, Mr. HUBBARD, Mr. ERDREICH, Mr. GEREN of Texas, Mr. EMERSON, Mr. ROEMER, Ms. OAKAR, Mr. LIPINSKI, Mr. SANGMEISTER, Mr. MINETA, Mr. MONTGOMERY, Mr. TRAFICANT, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. FORD of Michigan, Mr. HEFNER, Mr. FOGLIETTA, Mr. RAY, Mr. BENNETT, Mr. BALLENGER, Mr. GORDON, Mr. ROSE, Mr. PRICE, Mr. TANNER, Mr. STAGGERS, Mr. DE LA GARZA, Mr. ANTHONY, Mr. VALENTINE, Mr. DOOLEY, Mr. JONTZ, Mr. COLEMAN of Texas, Mr. NAGLE, Mr. MOLLOHAN, Mr. LIGHTFOOT, Mr. LEHMAN of California, Mr. BROWDER, Mr. LEVIN of Michigan, Mr MCCLOSKEY, Mr. PERKINS, Mr. LEWIS of California, Mr. DINGELL, Mrs. UNSOELD, Mr. AUCOIN, Mr. BONIOR, Mrs. BENTLEY, Mr. SKELTON, Mr. CRAMER, Mr. WOLF, Mr. MORAN, Mr. HOUGHTON, Mr. HUTTO, Mr. EDWARDS of Texas, Mr. BREWSTER, Mr. STENHOLM, Ms. LONG, Mr. BUSTAMANTE, Mr. MCHUGH, Mr. BOUCHER, Mr. FEIGHAN, Ms. KAPTUR, Mr. SWETT, Mr. PETERSON of Florida, Mr. ACKERMAN, Mr. ABERCROMBIE, Mr. LAUGHLIN, Mr. HANSEN, Mr. GRANDY, Mr. VISCLOSKY, Mr. HATCHER, Mr. PICKLE, Mr. MOODY, Mr. CHANDLER, Mr. HUNTER, Mr. TAUZIN, Mr. BROOMFIELD, Mr. MILLER of Ohio, Mr. REGULA, Mr. GREEN of New York, Mr. RITTER, Mr. KASICH, Mr. UPTON, Mr. BROWN, Mr. ORTON and Mr. SMITH of Oregon.

H.J. Res. 237: Mr. DELLUMS, Mr. WHEAT, Mr. BALLENGER, Mr. FEIGHAN, Mr. MCNULTY, Mr. KENNEDY, Mr. CLEMENT, Mr. SMITH of Florida, Mr. SERRANO, Mr. OWENS of New York, Mr. HORTON, Mr. QUILLEN, Mr. DEFAZIO, Mr. LANCASTER, Mr. BONIOR, Mr. JEFFERSON, Mr. ACKERMAN, Mr. ENGEL, Mr. RANGEL, Mr. BUSTAMANTE, Mr. FROST, Mr. HUGHES, Mr. VALENTINE, Mr. HAYES of Illinois, Ms. NORTON, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. DE LUGO, Mr. SAVAGE, Mr. SPRATT, Mr. WAXMAN, Mr. BLAZ, Mr. PAYNE of New Jersey, Mr. MARTINEZ. Mr. EVANS, Mr. WALSH, Mr. FISH, Mr. FORD of Michigan, Mr. FAZIO, and Mr. ESPY.

H.J. Res. 238: Mr. FORD of Michigan.

H.J. Res. 252: Mr. BURTON of Indiana, Mr. DICKINSON, Mr. SPENCE, Mr. BLILEY, Mr. COBLE, Mr. GALLO, Mr. WELDON, Mr. LAFALCE, Mr. PAYNE of New Jersey, Mr. TRAFICANT, Mr. GUARINI, Mr. TALLON, Mr. JACOBS, Mr. MARTINEZ, Mr. NEAL of North Carolina, Mr. HATCHER, Mr. MOODY, Mr. RAHALL, Mr. MFUME, Mr. DYMALLY, Mr. FASCELL, Mr. DEFAZIO, Mr. TOWNS, Mr. PALLONE, Mr. BEVILL, and Mr. BROWDER.

H.J. Res. 259: Mr. BURTON of Indiana.

H. Con. Res. 65: Mr. BARNARD and Mr. SOLARZ.

H. Con. Res. 101: Mr. ESPY and Mr. JEFFERSON.

H. Con. Res. 130: Mr. VISCLOSKY.

H. Con. Res. 171: Mr. JEFFERSON, Mr. FASCELL, Mr. BEILENSON, and Mr. MRAZEK.

H. Res. 130: Mr. JONTZ, Mr. WHEAT, Mr. MARTINEZ, and Mr. SHAYS.

H. Res. 141: Mr. MACHTLEY.

SENATE—Wednesday, June 26, 1991

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, Father Dennis Dease, Basilica of St. Mary, Minneapolis, MN.

PRAYER

The Reverend Dennis Dease, Basilica of St. Mary, Cocathedral of the Archdiocese of St. Paul and Minneapolis, Minneapolis, MN, offered the following prayer:

Let us pray:

Good and gracious God, we thank You for the many ways in which You grace our lives. We are Your family, we and everyone else in this world that You have made.

You send prophets to remind us that the poor and hungry are also Your children. Your love knows no bounds of race, class, nation, or even religion. Give us the wisdom to take down the walls we so easily put up.

Show us the way to cherish and preserve the ties of friendship that bind us to so many other nations. We know that together we can do so much more than we can do separately.

Help us not to forget how truly fleeting our opportunities are.

This we ask You who live and reign forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 26, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein. The time prior to 9:30 a.m. is under the control of the majority leader or his designee.

The Chair recognizes the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FATHER DENNIS DEASE

Mr. DURENBERGER. Mr. President, it is a too rare opportunity for each of us to welcome our pastors to the U.S. Senate, and I rise this morning to thank my pastor, the Reverend Dennis Dease, the director of the Basilica of St. Mary in downtown Minneapolis for his prayer.

For my colleagues, who have also had this opportunity, let me say that each of us looks forward to this kind of an opportunity to demonstrate to not only our colleagues, but to the many people that rely on the U.S. Senate for the wisdom that Dennis spoke of, that we premise a lot of that on our personal faith.

Dennis Dease was born to a Catholic family in Corcoran, MN, which is now a suburb of Minneapolis—what used to be what you could call the "boonies." You have to understand my pride in welcoming him to the U.S. Senate by understanding something about Catholic education, higher education, particularly in Minnesota.

There are several institutions of higher education in the State, but the premier institution is the one on whose campus I was born, raised and educated, at St. John's University. Our major rival in intellectual endeavor as well as on the athletic field was the college of St. Thomas which only recently, and I think perhaps in preparation for the rearrival on its campus of Dennis Dease as its 14th president, changed its name from a college to a university.

So, I thought it would be an appropriate occasion for me, to salute the arrival at the top of Catholic higher education in the State of Minnesota, to ask its new president to come and pray with the Members of the U.S. Senate.

Dennis is only 47 years of age. He has his baccalaureate and masters degrees from St. Thomas and his doctorate in systematic theology from Catholic University. So he is not a newcomer to Washington, DC. In fact, we went out last night and he asked me where all the old Irish bars were that he remembers from the days of Catholic University.

He has taught at the seminary; he has taught at St. Thomas College. But perhaps those of us who know him best know him for his pastorate at the Basilica of St. Mary in downtown Minneapolis. Besides doing the obvious, for which a lot of people rate great pastors, increasing the membership from 900 to over 2,000, he has taken his personal commitment to community and social responsibility into the downtown Minneapolis community. And he is best known for the way in which his parish reaches out, through its members as well as through the priests and the lay people in the parish, to that downtown community that is so often neglected.

In addition to that, he as well has launched a major fundraising drive to replace the roof on the basilica which, believe it or not, with prices such as they are these days, just replacing the roof on this rare historic gem which happens to be the first basilica in America, will cost over $10 million to accomplish. But, when he applied for and he was accepted by the regents of St. Thomas, he listed three goals and objectives; the first one, to imbue today's higher education at the University of St. Thomas with a moral and ethical vision and a desire to better society. Then after that he talked about the usual things that incoming presidents talk about in terms of continuing improvement of the faculty and having his university make a major contribution through its educational activities to the productivity of the region in which it lies.

But I am proud to say that those of us who know Dennis Dease know him best for the relationships that we have with him, and that is literally people in the thousands in our community of Minneapolis and St. Paul.

A couple of his family are with him here today, sisters Patty and Judy, and a special friend of his, Ramon Borrego-Echevarria, who came over in the Mariel boat lift from Cuba about 10 years ago.

Dennis and Ramon got to go back to Cuba in January and spend a week together right after Ramon's father died. His mother was most anxious for her

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

family, and Ramon, with Dennis accompanying him, spent a week in Havana and they will continue to spend probably much of the rest of their lives together.

It is for that, Mr. President, that small example of that very large spirit in this man that I welcome Dennis Dease to the U.S. Senate this morning.

Mr. President, I am pleased to yield the floor at this point.

The ACTING PRESIDENT pro tempore. Who yields time?

The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join as well in welcoming Father Dennis Dease. We are looking forward to being out in Father Dease's community in the not too distant future for the Special Olympics Program, which is going to take place later in July out there. I know that community will be hosting all of those various special individuals who will be coming from all over the country and all over the world. We want to join in expressing our appreciation for Father Dease's blessing here this morning.

We are very grateful to our good friend, Senator DURENBERGER, for inviting Father Dease and we wish him and his family a very warm and wonderful stay here in the Nation's Capital.

Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. We are in a period of morning business.

Mr. KENNEDY. Mr. President, as I understand, there is a time now designated until 9:30 for morning business; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

HEAD START

Mr. KENNEDY. Mr. President, later this morning the Committee on Labor and Human Resources will consider a step that is long overdue—a bill to make Head Start an entitlement, and thereby gurarantee that every eligible child has access to these essential services.

Head Start has a 25-year record of proven success. Millions of children have benefited from it, and millions more will benefit too, once this legislation becomes law. The only serious problem with Head Start is that after all these years, only one out of three children have access to it. It is as though we created Social Security and Medicare, and then said that only one out of three elderly Americans can have it. We do not do that to our senior citizens, and we should not deny Head Start to any eligible children.

Last year, with strong, bipartisan support, Congress enacted a landmark reauthorization that put Head Start on a path to universal access for all eligible children by 1994. In doing so, Congress and the President made a promise to children and families that we would begin to reverse years of neglect by supporting early childhood education and family self-sufficiency. That legislation took an encouraging step forward by defining Head Start as an investment in the Nation's future.

No one disputes its effectiveness. For more than two decades, Head Start has been spectacularly successful in providing the kind of community-based comprehensive early childhood development services that are now being replicated as one-stop shopping programs nationwide.

Study after study has demonstrated that early childhood education enhances child development and decreases long-term social costs. But, despite the fact that the need is well known and the tools are within reach, we currently provide this service to only one out of three eligible children.

The legislation before us will put our resources where our rhetoric is. If we are serious about children and our national education goals, it is time to start paying for Head Start, instead of just paying lipservice to it.

President Bush and the Governors have declared "school readiness" to be the Nation's No. 1 education goal. To keep faith with this pledge to tomorrow's schoolchildren, we must make Head Start an entitlement for every eligible child today.

Unlike many other goals we establish for society, we have a program in place that puts the realization of this goal within our grasp. If we are serious, we can take concrete action now by making Head Start services available to all those in need.

Leading representatives of the business community have also urged Congress to act. Their message was clear—our economic future depends on investing wisely in today's children.

These corporate executives know that Head Start is cost effective and makes good business sense. For every dollar invested in Head Start, the Federal Government saves nearly $5 in future costs for welfare, unemployment compensation, and other social costs. Just as any good business looks to the bottom line, so must the Federal Government.

Making Head Start an entitlement will keep our promise to America's children, by guaranteeing that funds for Head Start for all eligible children will be available and phased in over the next 6 years.

The Bush administration has made progress on increased funding, but we are still too far from our goal of full funding. With the Bush administration increases in the past 2 years, the program has gone from serving 24 percent of eligible children to serving 33 percent. Unfortunately, the increase requested by the administration for fiscal year 1992 is only $100 million.

At that rate, it would take 180 years to cover all eligible children, according to the estimates by the Children's Defense Fund.

Under S. 911, the Labor Committee bill, we will increase funding by $1 billion a year and reach universal coverage by 1997.

If children could vote for their interests, they would have had Head Start long ago. It is up to us to cast our votes for them. For 5 million American children under 6 who live in poverty, this is their chance. Head Start is a guaranteed investment in America's future, and it deserves to be an entitlement for America's children.

The question facing us now is not whether we will pay, but when and how much. Will we invest wisely now in a program that works, or spend foolishly tomorrow, in a futile struggle to repair the damage caused by our own neglect today? I urge the Senate to join the Labor Committee in making Head Start the entitlement it ought to be.

Mr. President, we often hear around here, "Well, we can't afford it. Where are we going to get the resources for it?"

Well, we were able to find the resources when we were involved in the recent challenges in the Persian Gulf. We have been able to find resources when we had the collapse of the S&L industry.

We have recommended this, Mr. President, within the budget proposal that was accepted by this U.S. Senate. In a provision in the budget, there is what was called a reserve fund. This body, this institution, the House and Senate effectively have gone on record to realize that this ought to be one of the priorities in this Congress: the full funding of Head Start. We know that this is a program that works. We know what the results have been.

I see a number of our colleagues who want to speak to this issue, I will take advantage later on in the course of this hour to include in the RECORD the extraordinary achievements of Head Start and what it has meant, the difference it has made in the quality of life not only for these young people but for their families, and what a difference it has made generally in so many different communities across this country.

I see our colleagues on the floor now. I yield time to the Senator from South Dakota. How much time does the Senator wish?

Mr. DASCHLE. Five minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from South Dakota.

HEAD START: A VITAL COMMITMENT TO AMERICA'S CHILDREN

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator

from Massachusetts for his statement, and for the incredible leadership he has shown virtually from the day this program began. It is no secret on this floor and virtually around the country that were it not for his leadership, were it not for his tenacity, were it not for his incredible effort to ensure its viability over the years the program that we boast about today perhaps would not even have existed.

Mr. President, more than a quarter-century ago, President Lyndon Johnson launched the Head Start Program as a vital part of his "Great Society's War on Poverty." Head Start, he proclaimed, would "make certain that poverty's children would not be forever poverty's captives."

Today, as cochairman of the Senate Democratic Policy Committee, which President Johnson himself once chaired, I am proud to see the Senate taking steps to build upon the success of Head Start. No program has yielded greater improvements in the lives of young Americans, as the distinguished Senator from Massachusetts has indicated, with clearer long-term savings to society, and with wider bipartisan support.

Shortly, the Senate will have the opportunity to realize the promise of Head Start. The School Readiness/Head Start Entitlement Act of 1991, S. 911, proposed by Senator EDWARD KENNEDY, will be taken up today by the Senate Labor and Human Resources Committee. This legislation puts Head Start on the path of full participation by all income-eligible 3-, 4-, and 5-year-olds.

Head Start is, without question, one of the most effective and successful poverty-fighters in American society. The program has made a difference in the lives of more than 11 million poor American children—giving them the learning and behavioral skills to succeed in school and in society at large, and providing early medical intervention that may avert needless and costly health problems in later years.

Head Start demonstrates—to the satisfaction of conservatives and liberals alike—that carefully designed and administered antipoverty policy is a public investment, not a public expense. Every $1 spent on this cost-effective program provides $4.75 in return.

The only problem with Head Start is that, despite its broad support, it does not reach all of the children who need it. This remarkably successful program reaches only one of every three eligible children and families—a failure that will be remedied by the measure the Labor and Human Resources Committee will consider today.

I hope and expect this much-needed legislation will receive the same level of bipartisan support that Head Start enjoyed last year when we passed Senator DODD's authorization bill—an important step toward putting the Senate on record in support of full funding for Head Start.

Today, we take another important step by making Head Start an entitlement program. By doing this, we will end the uncertainty of funding that has characterized this program during the Reagan and Bush administrations. Indeed, if we need any evidence for the need for this legislation, we can look at the Bush administration's record, which clearly shows that we cannot count on the President to provide the money.

As a Presidential candidate and as President, Mr. Bush repeatedly promised to fully support the program. For the first 2 years, to his credit, his administration did provide substantial increases in the program. However, his 1992 budget proposal falls far short of his stated national education goals. He has proposed a mere $100 million increase over the amount appropriated last year. At this rate of increase, it would take more than 180 years for the program to serve all eligible American children.

It is this type of uncertainty and sporadic funding that must end, and S. 911 does just that. By increasing the program by $1 billion per year, the legislation assures that 100 percent of eligible children will receive Head Start service by the year 1997—the deadline we must meet if our country is to reach the national educational goal of ensuring that all children entering first grade by the year 2000 are ready to learn.

The School Readiness/Head Start Entitlement Act of 1991 will allow us to fulfill for a generation of impoverished Americans the promise made by this Government more than 25 years ago. It should be adopted without delay.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

HEAD START

Mr. WELLSTONE. Mr. President, first of all, let me thank the Senator from Massachusetts for his leadership over the years and his commitment to education of children.

I would also like to thank the Senator from South Dakota for all of his work on the policy committee.

And I see the Senator from Connecticut is here. He has led the way through his chairmanship of the Subcommittee on Children, Family, Drugs, and Alcoholism, and I thank him as well.

This is what public policy is all about. This is why I came to Washington, DC, to serve in the U.S. Senate. S. 911 is about public policy which will directly lead to the improvement in the lives of children in the United States of America. So often we hear on the floor of the U.S. Senate about the complexity of problems. We talk so much about the complexity of problems that that has become the simplification—there is nothing that we can do.

The Head Start Program for 25 years has been an unambiguous success, but the President's budget proposal calls for only one-third of the funding for this program; only one-third of the children who are eligible being able to improve their lives.

We talk so much about how we do not know what will work. Let us talk a little bit about what we do know today. What we do know is that ages 3, 4, and 5 are critical ages. It is when children are beginning to see the magic of the world before their eyes and have an opportunity to become excited and learn. But they must have a nurturing, supportive environment. That is what we know.

What we know is that if we do not give children this nurturing, supportive environment, if we do not make a commitment to the education of children when they are ages 3, 4, and 5, then by the time they are 8, 9, and 10, quite often it is too late. That is what we know.

What else do we know? We know that the Head Start Program tells us a lot about who we are as a people. Head Start is just what it says it is. Head Start represents a commitment on the part of the American people to give children—children who are on the bottom, children who sometimes face the most difficult circumstances—a head start. That is what this program is all about. And the American people support full funding for such a program.

What do we know? We know that if we do not invest in our children when they are young, we will pay the price later. Senator KENNEDY talked about the investment potential of this program. If you do not support children when they are young, then the interest you pay later is high rates of illiteracy, high rates of dropout, high rates of drug abuse, high rates of crime. When are we going to learn that lesson? When are we going to learn that lesson?

What do we know? We know what the executives of the large corporations of the United States of America know. I am proud of the Committee on Economic Development report. I am proud of Jim Renier from Minnesota, from Honeywell, who chaired that committee. What did they say? They said we are not going to be strong as a nation and we are not going to be able to compete economically unless we have a literate, highly trained work force. That is what Head Start is all about. We know that.

What do we know? We are always talking about what we do not know. We are always harping on the complexity of everything. We are always coming up with excuses for inaction.

What do we know? We know that there will not be any real national security for this country until we invest in the health and skill and intellect and character of young people. That is

what this Head Start Program is all about. We make it an entitlement program.

Today we mark it up in Senate Committee on Labor and Human Resources. S. 911 says we are no longer going to be dishonest about this. S. 911 says we are no longer going to engage in symbolic politics, which I think is a cynical politics.

Every politician of every stripe imaginable loves children. It has become the equivalent of kissing babies. Everybody stands up on the floor of the Senate and says they are for the children. But when it comes to reaching into our pockets and coming up with the resources we fall short.

Now, with S. 911, we make Head Start an entitlement program, and we make a commitment to match our rhetoric with our resources. That is why this is such an important piece of legislation. That is why I feel so strongly about it.

Today in the Labor and Human Resources Committee we honor our commitment to children in this country. Today, in the Senate Labor and Human Resources Committee, we make a commitment to the most vulnerable children in this country. And now as we classify Head Start as an entitlement program and make a commitment to fully fund it over the next 5 years, we will be taking an enormous step forward.

SCHOOL READINESS ACT OF 1991

Mr. DODD. Mr. President, last year, in the 25th anniversary year of Head Start, we in Congress created a historic blueprint for the future of the program that, in its own way, was as visionary as the original concept of a program to prepare disadvantaged children for school. The legislation we enacted last year authorized the funding necessary for every eligible child to participate in Head Start by 1994. Moreover, for the first time, the legislation set aside funds to ensure that the quality of the program would not be compromised.

It was a great honor, and one of the highlights of my years in the U.S. Senate to sponsor that legislation. Of course I worked closely with the distinguished chairman of the Labor Committee, Senator KENNEDY, who has provided such great leadership on education and poverty programs. Not a voice was raised in opposition to that legislation, which passed the Senate by unanimous consent. When President Bush signed the Head Start Reauthorization Act of 1990 into law, it became a momentous promise to the disadvantaged children in this country—a promise on which we were all in agreement.

Today, in the Labor Committee, we will make a major step toward fulfilling that promise. Today, we will consider legislation to make Head Start an entitlement; to ensure that the money we all agreed the program and the children it serves deserve is actually there for them.

There is no disagreement that Head Start works, Mr. President. It enjoys more bipartisan support than almost any other domestic program. But tragically, two-thirds of the children who are eligible for Head Start, and could benefit from its comprehensive approach, miss out on it because the money just has not been there. Now is the time to open Head Start's doors to all our children who need it.

The benefits to us as a society will be enormous. Studies have found that Head Start students are less likely to be placed in costly special education classes or to be held back in grade. Head Start cannot inoculate children against poverty. But research has shown consistently that high-quality early childhood services have a positive impact on young low-income children that ripples throughout their lives. They are better prepared when they enter school. A good start certainly helps them do better while in school. Doing better in school tends to lead to a more successful adolescence and adult life, with lower rates of delinquency, teenage pregnancy, and welfare usage, and higher rates of school completion and employment.

Head Start benefits not only the children, but their families as well. A few weeks ago, I was privileged to take part in a Head Start graduation ceremony at a center in Hartford. The center was overflowing with bright, eager children and their proud parents. The message was clear: Head Start is a program that says to children and families, you are worth caring about. It helps parents learn how to take part in their child's development and take charge of their own lives.

But, in considering the School Readiness Act of 1991, we are not being carried away by the warm feelings generated by visits to Head Start classrooms. Rather, we are making a hard-nosed business investment. Many of the children who are shut out of Head Start today will make up the work force needed to keep our Nation strong 20 years from now. How competitive that work force will be then depends on the kind of start in life we give these children now. And any business leader will tell you that we can not afford to waste the potential of a single child.

That is why business groups such as the Committee for Economic Development, the National Alliance of Business, and the Business Coalition for Education Reform all have called for giving Head Start the full funding needed to allow every eligible child to participate. On Monday, these groups were joined in this appeal by the National Commission on Children, led by the distinguished Senator from West Virginia [Mr. ROCKEFELLER]. The Commission noted the appalling status of children in this country, where one child in five lives in poverty. For children under the age of 6, that number is closer to one child in four.

Mr. President, there is no escaping the fact that giving every eligible child the chance to participate in Head Start is going to cost money. But we have not been generous to the children of this country in the last few years. Over the past decade, children's programs grew at only one-fourth the rate of the budget as a whole. The portion of the budget devoted to children's programs declined from 4.1 percent to 3.5 percent during that period.

Yes, guaranteeing a place in Head Start for all eligible children will cost money, money that will be hard to find. But we knew that last year when we unanimously agreed to the full-funding blueprint. By not funding programs such as Head Start, Mr. President, we are runing up and even bigger bill; a bill that will come due down the road in the form of higher special education, welfare, and criminal justice costs. So, I urge my colleagues, when the School Readiness Act comes to the floor, do not choose to just pay the bills. Choose to make an investment. Choose to keep our promise to a lot of eager youngsters. As President Bush has said, "Give any American kid an equal place at the starting line, and just watch what that kid can do. Head Start helps kids get that equal place." Mr. President, we have before us a chance to make sure that all American children make it to the starting line. We only have to find the means to make it happen, and I am confident that this time we will not fall short.

Mr. President, very briefly, in summary, we have heard a great deal of eloquence here this morning on the importance of Head Start.

Suffice it to say, last year when the full funding, or reauthorization of the Head Start Program came up on the floor of the U.S. Senate, there was not a single voice in opposition raised by any Member of this body from either side of the aisle to the reauthorization of the program, including some of the structural changes in that program. But, maybe more important, Mr. President, was the commitment in that legislation to full funding of Head Start by 1995.

I fully expected, as I think others did when I brought that measure to the floor, that there would be some who would object to that, who would argue of course not on the basis that Head Start was not a worthy program but just that, like many other worthy programs, we could not afford to fully fund that program any more than we could others. It was revealing, I guess, more than any other single thing I can think of, that no single Member of this body raised an objection about the full funding of Head Start by 1995.

So this morning, as has been noted earlier, the distinguished chairman of the Labor Committee, the Senator

from Massachusetts, will be proposing to authorize legislation which will make the Head Start Program an entitlement program which, in a sense, is fulfilling the commitment that was made last year in terms of full funding for this remarkable domestic program which meant a great deal to so many people.

We are gilding the lily here a bit, Mr. President, because we all know about it now. Head Start is a quarter of a century old. It is one of the few programs of the Great Society, the New Frontier, that survived—Head Start, the Peace Corps, a couple of others. All the rest, basically, have disappeared over the last two and one-half decades.

But Head Start has survived because it works so well and because no one really could come up with a good, solid argument against it despite the fact they tried for many years.

Every year the program lasted longer, 1 year longer, in some cases just barely lasting. We continued to build up the body of evidence that proved that, of all the domestic programs geared to try to prepare this Nation for its future, this one probably had the highest success rate of any.

Today, of course, there are millions of young adults who, in some cases, are the teachers and the parents of young people who are also getting involved in the Head Start Program who are making the difference in our society.

So I hope that our colleagues, when the legislation comes from the Labor Committee, will take a good, hard look at the proposal, and if they have the same sentiments they expressed last year when we proposed full funding for Head Start, then I am confident we will end up with the same kind of support in the U.S. Senate that we did a year ago for this remarkable effort.

Of course, we all know it benefits the children; we know it benefits the families.

I lastly point out, Mr. President, the one constituency that may have been somewhat reluctant about supporting a Head Start Program in the past, I think today has become one of its strongest advocates, and I speak of the business community. In the past, they may not have seen the relationship between an investment and a young child and their particular needs. Today, we will hear businessmen from all across this country, from large, medium, small businesses, tell us that there is a real danger that the population that they must employ by the end of this decade and the early part of the 21st century must be the best trained, the healthiest, the best educated that this Nation ever produced in its more than 200-year history.

The challenges will be that great. There will be less than one-half of 1 percent of all the jobs available in this country available to people with less than a high school education by the end of this decade. So Head Start becomes absolutely pivotal and critical to meeting our competitive economic needs as we face the challenges in the next century.

So while we have a tendency, and rightfully so, to focus our attention on the children and the families and the money we save by having young people become involved at an early age in a positive program that avoids welfare, avoids the criminal justice system, helps avoid teenage pregnancy, keeps people in school, all the things which sell the program, in my view, if nothing else, I think it is also important to point out what a pivotal point Head Start plays in the long-term economic strength of this Nation.

Mr. President, I am pleased to be able to join with others who have addressed this issue this morning in sponsoring this legislation. I hope that our colleagues, as I said a moment ago, will take a good look at the legislation and if they found, as the rest of us have, what a worthwhile effort this is then they will also support the effort to create an entitlement program for Head Start.

I yield the floor.

The ACTING PRESIDENT pro tempore. Senator JEFFORDS is recognized.

MAKING HEAD START AN ENTITLEMENT PROGRAM

Mr. JEFFORDS. Mr. President, I will speak briefly. I have been a strong supporter of Head Start since its exception and continue to be so. I think one of the most startling things that brought to mind the importance of enlarging and making Head Start an entitlement program was my first few days in this body in the Senate. A group of CEO's from some of the major corporations of the country came to visit me. I fully expected that when they started talking they would be talking about the need to do things with respect to corporate taxes or all sorts of things and/or do not mandate on us things like family leave or whatever else might be on their minds.

But I was surprised and pleased that their discussion was about the need to reform our education system with an emphasis on the utilization of Head Start and that we ought to increase dramatically the amount of money that is available for this very important program.

They made that decision to change what you would ordinarily expect to hear from CEO's because they recognized that the demographics of our society have changed so and the dynamics of our economy were such at that time, and hopefully will be also in the not-too-distant future, that we were running out of a supply of people who we would call those who have had the advantages of our society; that the number of women entering the marketplace, for instance, was declining because we have come close to reaching the maximum of those who are available to come into our society.

Thus, we will be needing to rely more heavily upon those who are now considered as the economically disadvantaged and those who have been shunted aside by our society, ignored by our society, or not given the opportunities they need must be given those opportunities. We must recognize that we must start at an early age and start reforming our educational system by first, as they pointed out, giving an opportunity for all our young people, although they did not talk in terms of entitlement, I should probably say, to correctly phrase what they said, giving more opportunity to young people of the economically disadvantaged to participate in the Head Start program. I listened intently to that.

It also means, as we have gone on and listened to the studies, this in a sense would only be a step in enhancing our educational programs and that we must look at changing and working to restructure our whole education program.

I praise the President for his desire of creating new schools in the next century to look to ways to take a new look and get out of the sort of box we are in just expecting that our system is working but just needs some modifications, but rather saying let us take a new look at education in this country and find out if there are better ways to create educational opportunities in our school system.

In addition to that, I will be proposing, and am hopeful that it will be enacted, to take a look also at primarily the economic disadvantaged in a program we call early intervention. I will be offering an amendment to the reauthorization of the Higher Education Act which would go down not just to the high school years but below the high school years to try and help our young people who are in the economic disadvantaged category to recognize that they do have opportunities and great opportunities in this Nation if they are willing and if we help.

It is the "we help" that we will be emphasizing in our program. Nothing too dramatic, for I think in the end it must be the school systems that need to reform to give that kind of early intervention.

What the young people need is mentoring. They need people who can excite them. And also we need a program which would put a carrot out there which would say "If you do come through that school system, if you do get your high school diploma, there is financial aid available to you that you can go on to postsecondary education." I emphasize postsecondary because we talk not only about college—in fact, in some respects there has been too much emphasis on college and too little on the other kinds of postsecondary education that is available.

So, Mr. President, I rise in support of broadening the opportunity of those who started in Head Start and I am hopeful we can continue to broaden the opportunities for all of our young people all the way up through and until they do get that, I think in most cases, the necessary postsecondary education.

Mr. President, I do not know the format here, but I ask unanimous consent to continue for 5 minutes as in morning business for the purpose of a discussion on another topic.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY INDEPENDENCE

Mr. JEFFORDS. Mr. President, there is a story about as old as my State of Vermont about some out-of-stater who stops by a farmhouse to ask directions of an ancient Vermonter seated on his front porch. The answer to the inquiry about how to get to Barre, or Peacham, or Goose Green, or some such place is, "You can't get there from here."

I must tell my colleagues today that those familiar words well sum up my feelings about our Government's attitude toward energy independence. I have heard key people in the administration tell me that energy independence really is not possible, a nice idea, but not possible.

Believe me, with that kind of an attitude, you cannot get there from here. Or by the time you get there, taking 10 back roads, three wrong turns and a couple of dead ends, you have probably forgotten the reason you started in the first place, or when you get there, nobody's home. Or, the last oil well is as dry as that old Vermonter's sense of humor.

Energy independence is possible. It makes sense. It is cost effective. It is environmentally responsible. What we need is for Congress to adopt what I have called a new Declaration of Independence. We must declare our intention to become energy independent, and we must do it now for there is no time to lose.

Our energy future need not be dark as the Kuwaiti sky. It can be bright as a summer sunrise over the Green Mountains of Vermont.

My plan for getting there is called RAFA, the Replacement and Alternative Fuels Act of 1991. It outlines a course for achieving energy independence.

It says that by 1998, 10 percent of all motor vehicle fuel must be made from something other than oil. Not surprisingly, as I have outlined the need for a new Declaration of Independence, energy independence, I have encountered a few stories, just like our forefathers. The oil interests say that 10-percent goal is impossible.

But by 2000, under the Clean Air Act, they are already planning to replace 7 percent of their production. If they can do 7 percent, certainly we can do another 3 percent.

The oil interests will tell you my plan costs too much. It is not expensive, and that is one of the prime reasons they are worried.

When I started working on this bill, I went to the Department of Energy and asked what it might cost. The answer I got was pennies a gallon. That is right, we are just pennies a gallon from energy independence, and the American people want energy independence and are willing to pay for it.

Right now we are paying $40 billion each year in defense costs to keep the oil flowing. Add in the cost of Desert Storm and you are talking hundred-dollar-a-barrel oil and more.

It has been said my bill could cost as much as $45 a barrel to implement, or $100 billion over 10 years. That certainly is a worst-case basis. But even if it did, the cost at the pump would be only between 5 and 10 cents per gallon.

Also consider what major positive effect the alternate and replacement fuel bill such as I propose could have on American employment. Then I hear talk that my bill is anti-free market. Quite the opposite. And certainly nothing is less free market than the OPEC cartel which charges customers 10 times the cost of production for its product.

My approach can work. It does not need subsidies, and it does not raise taxes one thin dime. It creates a free market in which domestic energy producers can be free to develop domestic energy alternatives without being undercut by OPEC.

Is this careless, radical? Canada, Brazil, and South Africa are already successfully using substitute fuels. And it is a little-known fact that we are already producing nearly a billion gallons each of ethanol and methanol in America.

Certainly, the costs of doing nothing far outweigh the costs of remaining on our present course. An energy policy keyed to dependence on foreign oil is a policy that is looking for trouble. Desert Storm will not be the last war we will be fighting with at least one root cause that is oil based.

Consider this. A spokesperson for a major oil company had this to say not long ago:

> The costs of preparing for a disruption in supply * * * will be far less than the costs we'll bear if a supply disruption occurs and we face it with inadequate or poorly planned programs.

That, in best bureaucratic jargon, is an endorsement of my program, I think.

We could vastly improve our position in the world market if we were energy self-sufficient, with a huge advantage over such major economic competitors as Japan and Germany.

So where are we now? We are on a road that is leading off into the hills, a road that likely dead ends in a very unpleasant place. There is grass growing in the middle of the road, a sure sign that the thing is about to peter out.

We are on the road to energy ruin, not independence. It is time to stop and ask directions.

Well, there is a Vermonter here on the porch who is not as young as he once was who is ready to help.

"You are on the wrong road and you'd darn well best turn around before it gets dark," he will tell you.

There is trouble ahead for America if we do not get on the road to energy independence. Let us not kid ourselves. We all know it.

To you, today, I say, you can get there from here.

But do it now, before it is too late. Turn around and take the road to energy independence.

Mr. President, I yield the floor. I raise a point of order that a quorum is not present.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 1377 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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, are we still in morning business?

The PRESIDING OFFICER. The Senator is correct.

CAMBODIA

Mr. KERREY. Mr. President, I know that the distinguished Presiding Officer watched, as did I, with a considerable amount of interest recent events in Southeast Asia, including the Seventh Party Conference in Vietnam. I watched, from my standpoint, with great disappointment the unwillingness of the Politburo and the Communist Party to relinquish control and allow multiparty democracy in Vietnam, but watched with considerable amount of enthusiasm and excitement in the last week, in particular, the

events and movement that appear to be taking place inside of Cambodia.

In this morning's Washington Post, Mr. President, there is a story that is a follow on of some reporting that we have been receiving on changes in attitude not only on the part of our allies, the non-Communist resistance, but also on the part of the Hun Sen government. In particular, Mr. President, former President Norodom Sihanouk announced yesterday he intends to go back to Phnom Penh and convene the Supreme National Council, the body that is a key part of the permanent plan for peace in Cambodia; that he plans to go to Phnom Penh this summer and convene that body there. He goes on to say that he believes now that Phnom Penh is the seat of power for the Supreme National Council as well; that he plans to perhaps even occupy the palace; that he sees that future action is inside of Cambodia.

In addition, Mr. President, the statements of Mr. Hun Sen go on to say that he is now willing to allow U.N. supervision for this transitional process, which I think is also very good news. It indicates a softening on the part of the Cambodian Government and a willingness to allow international supervision of this transition. It does not mean, obviously, that we have reached agreement on all aspects. It does not mean, by the way, that we are not still with a considerable amount of reservation and fear about the possibility of the Khmer Rouge returning to power in Cambodia.

I felt, I must confess, some anxious moments reading that Khieu Samphan and Son Sen would be coming back, or the possibility they might be coming back, as well, to Phnom Penh and that we do not have sufficient guarantees that the Khmer Rouge may come back to power. But I must say Mr. President, that those anxieties do not cause me to say that we should get a guarantee prior to moving forward. Indeed, Mr. President, what I believe the United States of America should do right now is to declare that the war itself is over.

There now is a cease-fire in place. We are still a few steps away from getting an agreement on a comprehensive peace settlement, but I believe that our strategy should change from one of supporting an insurgency on the Thai-Cambodian border of non-Communist allies to one of saying we will support democratic forces inside of Cambodia. I believe the possibility is there now to do that. In addition, we shall declare that the war is over and that a new war has begun, a war for the establishment of democratic institutions inside of Cambodia.

In addition, I believe the United States would be very wise to say that we are going to lead the world again, that we are going to come back to Southeast Asia. It is exceedingly difficult. I know there is a great deal of emotional concern about coming back into Southeast Asia, but I believe that very emotional concern can be used as a real force for good.

There are many, I assume, like the distinguished occupant of the chair and I, who have strong feelings about this area of the world. I believe we can turn those strong feelings into a force for good by, first of all, Mr. President, dropping the economic sanctions; and second, Mr. President, by saying that our objective now is to build democratic institutions. And that will be exceedingly difficult and will require, I believe, prior to any question of whether or not we are going to recognize the Government of Cambodia, will require some kind of American presence inside of Phnom Penh.

I believe it is important for the U.S. Government to organize some kind of movement directly in Phnom Penh as quickly as possible to be there at the moment that Sihanouk comes, to make a declaration that the action now has shifted from the border to inside of Cambodia itself.

I do not underestimate the difficulty of establishing democratic institutions in Cambodia. It is apt to take a generation to get that done. But it will require, I believe, the United States as a friend, and the people of Cambodia recognize that we are friends. The United States has friends inside of Cambodia assisting in making the difficult decisions that the people of Cambodia themselves are going to have to make over the next few years.

Finally, Mr. President, we appropriated $20 million last year to be used for humanitarian assistance inside of Cambodia itself, $7 million of which has already been used for the non-Communist resistance effort on the Thai-Cambodian border. I believe that as quickly as possible the United States should make a decision as to how we are going to apply that humanitarian aid to nongovernmental organizations inside of Cambodia itself.

In a recent fact-finding mission, USAID said when it goes to Cambodia, they are not able, because of our restrictions, to go inside. Instead, they stay out and had somebody else go inside and make an evaluation. This kind of long distance look creates a considerable difficulty in trying to figure out where to apply the assistance. If we are there, Mr. President, with $13 million still remaining, it seems to me that we have the resources to make a real impact immediately and can stimulate what appears to be recent movement toward reconciliation inside of Cambodia itself. I do not understand the difficulty, as I have said now three or four times, of moving forward to send the aid and end the embargo.

I believe the course of events inside of Cambodia are difficult for us to predict. But I believe, and believe very strongly, that we should lead in Southeast Asia again and we should not be intimidated by our own past to be reluctant to get involved again.

There is a historic moment presenting itself inside of Cambodia, Mr. President. I, indeed, hope the President of the United States sees that and takes immediate action to move the United States back into a position of leadership in this very important area.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

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

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

The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 1380 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. 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. DIXON. 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. DIXON. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1378 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I thank the Chair. I yield the floor.

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

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

The Senator from Nebraska is recognized.

(The remarks of Mr. EXON pertaining to the introduction of S.1379 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DYING BREED

Mr. HEFLIN. Mr. President, I rise to pay tribute to Mr. Herman W. Moore III who has been honored with a front page article in the June 3, 1991, Wall Street Journal for his outstanding achievements in manufacturing management. Many people consider Mr. Moore to be a dying breed in the work force but it is this type of manager who will keep America competitive as we approach the 21st century. While many of his business school classmates have been lured to the fields of marketing and finance by the higher salaries and luxurious offices, Moore finds great satisfaction in his position as the manufacturing manager for Reynolds Metal Co.'s Muscle Shoals, AL, plant. The article quotes Mr. Moore saying, "I put up with the headaches, because when I get home I can say, 'We made something today.' You can't have a service economy without a manufacturing base—you've got to make something to generate that dollar."

Herman Moore grew up in Atlanta and a small Virginia town as the son of a jet mechanic. He received his bachelors degree in industrial engineering from the University of Dayton before beginning work with Reynolds Metals Co. as an engineer. He exhibited his dedicated work ethic by earning his M.B.A. at night from the University of Richmond Business School in 1982 while continuing to work full workweeks. Since then, Mr. Moore has been able to reap the benefits of his hard work and dedication. He achieved gratifying results by transforming an uncompetitive plant operating at 40-percent capacity to a smoothly operating plant at 100-percent capacity in 2 short years. By bringing in new teams of industrial engineers, Mr. Moore was able to cut costs, improve quality and safety, and increase efficiency by 35 percent. His changes enabled the plant to set company records for profits, shipments, recovery, energy conservation and productivity. Mr. Moore's efforts were recognized when his plant was awarded the Chairman's Award—Reynolds' top award.

In 1990, Mr. Moore was promoted to plant superintendent of Reynolds' largest plant. This position involves managing revenue of over $1 billion, and some 2,100 employees. Today, the plant is running 3 months ahead of schedule.

Herman Moore is a lost soul in our economy. According to Lester C. Thurrow, an MIT economics professor, and author of the nenowned book "The Zero Sum Society," a major deficiency in our economy is in manufacturing development. Our economy has been graced with the inventions of the television, radio, and computers, but has failed to manufacture them efficiently while also improving quality. Herman Moore proves that it can be done.

I would like to represent the entire work force by paying tribute to Herman Moore, a man who joyfully excepts a 12-hour work day beginning at 6:45 a.m. Mr. Moore chose to turn down the lure of a possible $125 million portfolio in favor of $125 million to build a plant and see the results of his work. I admire Herman Moore's attitude about his job and about the challenges he faces. We need more people who think like he does when he says, "I can't save American manufacturing, but at least I am doing my part to make it possible."

Mr. President, I appreciate the opportunity to shed light on the accomplishments of Herman Moore. I hope that my colleagues will take the time to read the article from the Wall Street Journal. Once again, I congratulate Herman Moore for his accomplishments and look forward to his continued success.

Mr. President, I ask unanimous consent that a copy of a June 3, 1991, Wall Street Journal article be inserted in the RECORD.

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

[From the Wall Street Journal, June 3, 1991]

DYING BREED: NO GLAMOUR, NO GLORY, BEING A MANUFACTURER TODAY CAN TAKE GUTS

(By Dana Milbank)

MUSCLE SHOALS, AL.—It's 6:36 Monday morning, and Herman Moore is already late.

Whizzing at 70 m.p.h. through the empty streets of this northwest Alabama town, he scarcely slows down even after he enters Reynolds Metals Co.'s aluminum rolling plant here, where he is the manufacturing manager.

The night superintendent is waiting with his report. A hinge broke on the coating plant's truck door and a valve problem threatens to shut down the hot line. The baler is down and scrap is piling up outside. One furnace has stalled, and the bolts are disintegrating on another. On top of that, the production staff is bickering with maintenance and accounting, the union has filed a grievance against a foreman, and a customer is coming for a tour.

To his business-school classmates now in marketing or finance, Mr. Moore's job might seem like punishment. But not to Mr. Moore. "I put up with the headaches, because when I get home I can say, 'We made something today,'" says Mr. Moore, a warm, ebullient man of 38. "You can't have a service economy without a manufacturing base—you've got to make something to generate that dollar."

But this is a rare sentiment these days. Lured by higher salaries and comfortable offices, the best and brightest usually overlook manufacturing jobs.

"The rewards and financial incentives do not exist for someone to stay within the manufacturing sector," says Robert J. O'Meara, a consultant with A.T. Kearney Inc. who recently finished a study on the subject with the National Association of Manufacturers, "Without these incentives, we run the risk of being manufacturing dinosaurs in the 21st century."

The study found that only 59% of American engineering graduates go into manufacturing, compared with over 70% in Japan. Perhaps with good reason. According to a survey by management consultants Towers Perrin, a U.S. manufacturing manager like Mr. Moore makes an average of $91,713 a year, while a top marketing executive in a similar-size operation earns an average of $229,678 and a controller $159,368. In Japan, the Kearney study found, the salaries among such executives are roughly equivalent.

And because most manufacturers won't recruit managers with non-technical backgrounds, only some 15% of all college graduates take manufacturing jobs, according to a Northwestern University survey. "Manufacturers are losing out on some excellent sources of talent," says Victor R. Lindquist, the school's dean of placement.

Even once inside manufacturing companies, those who choose to work in production often find their paths blocked. Only five of Reynolds Metals' 25 executive officers came from the plants, and all four of the chief executives in the company's history (three of them Reynolds family members) came from sales backgrounds.

But Mr. Moore keeps trying. The son of a jet mechanic who grew up in Atlanta and a small Virginia town, Herman W. Moore III majored in industrial engineering at the University of Dayton. He worked in the plants as an engineer in Reynold's management training program before taking a staff job at the Richmond, Va., headquarters. While there, he took night classes at the University of Richmond's business school, earning his M.B.A. in 1982.

It wasn't any love of manufacturing that sent Mr. Moore back to the plants—he just figured it was the best way to climb the corporate ladder. So in 1985, when a superintendent position opened up at a reclamation plant in Muscle Shoals, Mr. Moore applied, over the objections of his wife, pregnant with their second child. "I told her we'd be in Alabama two, three maybe four years," recalls Mr. Moore, sturdily built with prematurely gray hair. In the early days after moving to Muscle Shoals, hours from the nearest cities of Birmingham or Nashville, Mr. Moore often came home to find his wife crying on the couch with their newborn son, (though she now likes the area).

But for Mr. Moore, from the first, the plant held an appeal he never expected to find. "I was full of admiration for the hourly workers and foremen who were making things happen," he says. After years in stuffy conference rooms, Mr. Moore liked the unpretentious dress and the quick, no-nonsense meetings.

The admiration was mutual. The plant's scrap rate and its overall costs improved under Mr. Moore, and after a year, he won a promotion to become manager of Southern Reclamation Co., Reynolds's newly opened plant for recycling cans.

GETTING RESULTS

There, Mr. Moore had a tougher task. The plant was operating at only 40% of capacity. Its costs weren't competitive with rivals, and it wasn't getting much business. Mr. Moore lured top industrial engineers away from other plants with better pay and promotions. He developed teams to cut costs and improve quality and safety, and petitioned headquarters for a new $2.5 million de-lacquering machine.

The results came quickly. After two years the 60-worker plant was at 100% of capacity. It had increased its efficiency by 35%.

After setting records for profit, shipments, recovery, energy conservation and productivity, the plant in 1989 won the Chairman's Award for Quality, Reynolds's top recognition.

By 1990, a triumphant Mr. Moore was ready to turn back to headquarters. But head-

quarters wasn't ready for him. The only jobs he could get were the same staff jobs he had before. "I saw no movement in my division," he says. Instead, Reynolds made him the plant superintendent, second in command, at the nearby Alloys Plant.

Reynolds's largest plant, with revenue of over $1 billion and some 2,100 employees, Alloys makes aluminum sheet for cans, siding and appliances. It converts scrap and molten aluminum into 15-ton, 26-inch-thick bars of aluminum ingot, and then rolls them through a series of presses that turn them into coils of sheet that can be less than 1/100 inch thick.

Built in 1941 as part of the war effort, the Alloys plant is a living monument in a graveyard of manufacturing failures. On either side of it are gray, hulking sister plants that Reynolds closed in the 1980s. Weeds sprout through the vacant parking lot of the smelter that once employed 1,600 and the bar, rod and wire plant that kept 200 workers busy. Both succumbed to high labor and energy costs; much of that production has been moved in Canada or eliminated.

But the Alloys plant was spared: Reynolds chose to pump it up with $430 million in the last three years for capital improvements, $125 million of which is going to a new "cast house" that Mr. Moore is overseeing.

The new cast house, which uses tilting furnaces and electromagnetic methods to stir and set the molten aluminum, raised capacity 30% while cutting costs 39%; it uses far fewer furnaces than the old house, and half as many workers. Since 1990, the plant has cut 105 jobs, and is planning to cut another 120 this year. Under Mr. Moore, the plant has also automated its process controls—reducing the rate of defects by as much as two-thirds.

Mr. Moore says he is equally concerned with non-technical improvements. "Before, a manufacturing manager was responsible for getting a pound out the door," he says."Now you have to get the pound out the door in a safe, quality, cost-effective and environmental manner." He must also woo customers, hold his own at headquarters, and deal with 15 separate unions (even though Alabama is a right-to-work state, the Alloys plant has been a union shop since it opened in 1941). "We're in it together," says Mr. Moore.

TEA AND SYMPATHY

"Herman's a new breed," says Wilt Wagner, a Reynolds vice president and Mr. Moore's boss. "When he disagrees with me, I'm going to hear about it."

Before his first day on the job, Mr. Moore assembled his superintendents for a meeting to ask them about their families and their hobbies and then took them golfing. On the job, he routinely visits the "graveyard" and weekend shifts, and knows workers in every department by name, "Other guys get high on the totem poll and don't come down here," says Ford McNatt, a 46 year veteran of the cast house, "but Herman's all right. He gets out and rubs bellies with us."

When top executives from Richmond come to town, Mr. Moore has the hourly workers make the presentations. He also instituted regular tours of the plant for workers conducted by their peers so they could see how their efforts bear on the final product. "Nobody ever showed me that before," said Frank Glover, 58, after completing his first tour in 39 years.

Arriving by 6:45 on a typical morning. Mr. Moore offers a perfunctory wave to his colleagues in suits in the front office then hops onto his golf cart and heads to his office, which looks like a cheaply refurbished basement. He takes the night supervisor's report, directs his assistant to put together a slide presentation, scans 40 of the latest production numbers on his computer, dons his safety clothes and dashes to the morning meeting at the cast house.

Mr. Moore listens to his day supervisors: Four of yesterday's ingots came out cracked, but despite the start-up glitches, the cast house is three months ahead of schedule. So after a half-hour strategy meeting juggling production schedules and coordinating his superintendents, he wheels by the controller's office to check last month's performance against his targets. He is responsible for 16 objectives, from scrap variance and overtime reduction to employee training and lost workday cases. He's ahead in shipments, but 1% behind in inventory reduction, 2% behind on delivery performances, and 1% behind on returned goods.

No time for lunch, Mr. Moore takes a "Sno-ball" from the vending machine and turns his cart toward the weekly quality meeting. Two customers have reported record production, but another complains that defective metal shut down its lines. Next, he's swinging through his office to check the pile of phone messages, but without answering them he's off to the afternoon staff meeting (other days it's the weekly production or safety meeting).

Inside, a blend of frenzied jargon: "Change the two-Js . . . testing is holding up the MD301 . . . No. 5 is down . . . I can't run it at 45% . . . we've got to hit that 80 million . . . we're running out of time here!" But Mr. Moore (Herman to all in the plant) doesn't seem fazed. "We'll keep smiling and get through 'em," he says in his soft Virginia drawl to end the meeting. "You've got to be able to sit back and laugh," says Mr. Moore, who takes inspiration from a Jimmy Buffett lyric, "If we weren't all crazy we would go insane."

Next, he swings through the new cast house, making sure to chat with the department's union steward in anticipation of next week's annual union-management conference. Soon, he's off to hear a presentation from a team of hourly workers that wants the plant to use a new wooden guide on the slitting machines. Some 28 teams came up with 264 such ideas last year.

It's late, but Mr. Moore wants to check in with the coating workers (still cooling down from a recent labor dispute), and to stop in the front office to see how the engineers are coming with his presentation for the customer visit and the Reynolds divisional meeting. Twelve hours after he arrived, he is heading home with his beeper and a briefcase full of reports to read after dinner. "I think he borders on hyper," says his wife, Gail.

After hours, it's not always calm. Last month he was called in at 1 a.m. after some workers were burned when a machine jammed. He was called back from out of town last year when the hydraulic valves failed and shut down the entire rolling line. He has weathered a snowstorm that burst the pipes and a heat wave that saw the power company threaten to cut off the plant's power.

With such a pace, Mr. Moore says he hasn't had time to think about how far he is past the four-year limit he put on staying in operations. And he realizes it may be a lot longer still before headquarters calls. "Eventually, it would get to where it bothers you," he says. But for now, he's satisfied.

"I could be in finance and have a $125 million portfolio to hold, but here I have $125 million to build a plant and see ingot coming out of it," he says. "I can't save American manufacturing, but at least I'm doing my part to make it possible."

COMMENDING DR. BASIL PAPACHRISTIDIS

Mr. HEFLIN. Mr. President, it gives me great pleasure to submit an article entitled "The Safe Transportation of Oil," written by a man who sheds a candid, knowledgeable and honest perspective on an industry that wants to act responsively for the good of mankind and its global environment. Dr. Basil Papachristidis, chairman of Papachristidis Ltd., can speak with authority on a subject that has placed the shipping industry in an often defensive and apologetic position over the last several decades. He most recently assumed the role as chairman of the Hellenic Marine Environmental Protection Association [HELMEPA], founded in the early 1980's by a group of environmentally committed Greek and Greek-American shipowners to increase environmental awareness of all sectors of society with respect to pollution of the sea and waters. A replica of a dying bird, soaked in oil, has been standing at the entrance of the HELMEPA permanent exhibition in Piraeus, Greece, since its first opening on June 4, 1982—the date of the association's inauguration. Although the bird is a reminder of the notorious oil spills of the 1970's, it also, and more importantly, is a testament of the industry's unified commitment to protect other living creatures from seafaring accidents. Mr. George P. Livanos, founding chairman of this organization and a good friend of many of my Senate colleagues, has done so much to enhance the public's awareness to protect the sea. Earlier this year, Mr. Livanos participated in a U.S. Coast Guard-sponsored seminar in Washington, DC, reinforcing HELMEPA's commitment to providing the framework for international cooperation for combating oil pollution incidents. Most recently HELMEPA kicked off its largest joint program with the Commission of the European Communities to encourage voluntary protection of seas and beaches from land-based pollution.

Dr. Papachristidis also serves on the General Committee Lloyd's Register and is a current member and past chairman of the International Association of Independent Tanker Owners.

Besides Dr. Papachristidis' professional credentials, he holds a long list of academic degrees from both McGill University in Montreal, Canada, and Columbia University in New York. Dr. Papachristidis received his Ph.D. from Columbia where he authored "A Model of the Oil Company Shipowner-Charterer."

I take this opportunity to outline Dr. Papachristidis' outstanding credentials

and more importantly, his commitment to the environment because he represents those individuals in an industry who can think in global and at the same time, individual terms. As a responsible businessman and community leader, he understands the delicate balance one must assume in carrying out these equally significant societal roles.

I ask that the article be printed in the RECORD.

Thank you, Mr. President.

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

THE SAFE TRANSPORTATION OF OIL

(By Basil Ph. Papachristidis)

All level-headed people, whether in government, regulatory agencies, the oil industry or shipping companies, know what needs to be done to reduce the risk of marine accidents. What's more, all responsible people involved in carrying oil by sea are prepared to take positive initiatives in the matter. Tragically, many of the initiatives needed will not take place in the foreseeable future.

Ironically, it is the American Congress—with its self-righteous arbiters of all that is just and virtuous—that is singlehandedly, posing the greatest obstacle to the safe transport of oil. By promulgating their Pollution Act of 1990, American legislators have, in one fell swoop, stymied progress in the quality of ships and operators and in the development of effective rules and regulatory mechanisms.

INEFFECTIVE SOLUTION

The politically expedient double-hull requirement in OPA '90 is arguably the biggest hoax of all time in shipping. Though it will look good on the average congressman's record, it has the following grave flaws:

1. It is not an effective solution. A double hull would prevent the escape of oil in only a very few types of incidents and in others, the discharge could be considerably greater. Furthermore, the incidence of explosions could be significantly larger in double hull vessels. A much more reliable solution (and one far less costly to the consuming public) would be to use the hydrostatic flow effect to cause an ingress of water rather than an exit of oil if the skin of a ship is punctured. All this requires is to load more ballast and less cargo in a vessel. Another solution would be to impose more severe draft limitations in ports and estuaries, thereby reducing the risk of groundings. Neither of these solutions have the sex appeal required to attract votes so they were never seriously considered.

2. It is not an immediate solution. Because of the time it will take to bring double-bottom vessels into service, Congress has had to concede a long lead period. It will take about 10 years for a significant percentage of tonnage trading into the US to be fitted with double bottoms, and the American public will benefit from no additional protection at all (not even the simple measures mentioned above) in the interim.

3. It delays the replacement of the world's tanker fleet. By stipulating that all newbuildings would henceforth have to be fitted with double hulls while, say, a 15 year-old vessel could trade without restriction to the US until 1999, Congress has again characteristically shot itself in the foot. It was difficult enough to justify ordering a single-skin newbuilding tanker before OPA '90; to justify ordering a double-skin vessel is well-nigh impossible given the outlook for the tanker market. And to do so knowing that old ships have been told they can trade another, say 10 years (more than many ever intended) would be downright foolhardy. Critics of the 'hydrostatic flow' solution would argue that it could increase freight rates because of the resulting reduction in carrying capacity of the fleet. Even if this were true, it would create a commercial climate much more conducive to ship replacement. In short, the double hull requirement has discouraged rather than encouraged fleet replacement (and, therefore, improvement).

The folly of the double-hull provision is superceded only by the outrageous scandal underlying Congress' decision to threaten owners with unlimited liability in the event of a oil spill. It is doubtful that the American public is aware of the cost it is about to pay for allowing the fervour of certain sanctimonious senators to be indulged. Nevertheless, it is a fact that American consumers will be held to ransom by insurance underwriters covering pollution risks run by small single-ship operators while responsible owners with large fleets, are withdrawing from trades to the US. If the world needs responsible operators with high safety standards and experienced personnel, America's initiative here can only be seen as contemptible.

The US refusal to ratify the 1984 IMO Protocols (which ironically, were adopted at the insistence of the US) has other interesting repercussions. First, it deprives the world of a stable statutory regime for sharing oil pollution liability and for delivering prompt damaged relief. More importantly, it undermines the authority of the IMO in its rule making role for international shipping. If the world's (including America's!)—ocean transport needs are to be satisfied more safely and efficiently there needs to be a single set of rules that everyone understands and abides by in a uniform manner. This can only be achieved through multilateral arrangements as can be secured through the IMO. Unilateral measures—especially of the variety that has no foundation in logic—can only mitigate against safety and efficiency in ocean transport in a world which the US—want it or not—belongs to.

It is bad enough that Congress should deprive the US of the better ships and the better operators (with their better crews) and of the sensible rules and efficient regulatory system that safety at sea needs. But that it should be able to deprive the world of these things is simply unacceptable.

TRIBUTE TO PAUL MILLER JOHNSON

Mr. HEFLIN. Mr. President, I rise to pay tribute to Paul Miller Johnson, who after years of leadership and guidance to the Industrial Development Board of Lawrence County has announced his formal resignation. Mr. Johnson will be missed greatly for his contributions on the development board of Lawrence County and for his long and hard work for the George C. Wallace Airpark.

Paul Miller is a native of Lawrence County and has served an instrumental role as chairman of the Industrial Development Board—George C. Wallace Airpark Authority from its creation on February 4, 1985. Mr. Johnson's efforts were crucial in contracting Branshaw Mechanical, Cortco, and Consolidated Pipe and Supply Co., Inc. Mr. Johnson's successful attempts to dedicate land for the public airport paved the way for the development of the airpark and the creation many new jobs for Lawrence County.

Mr. Johnson secured the marketing services of well-respected marketing firms and grants for several projects. It is his unselfish leadership and guidance that lead me to pay tribute to Mr. Paul Johnson and his service to the Lawrence Industrial Development Board. In honor of his work, the industrial board is dedicating the administrative building as the Paul M. Johnson Administrative Building.

Mr. President, I again congratulate Paul Johnson on all of his accomplishments and look forward to his continued success.

AMERICA 2000 EXCELLENCE IN EDUCATION ACT

Mr. COHEN. Mr. President, the need for meaningful, progressive education reform is clear. The grim statistics detailing our children's educational shortcomings are widely accepted as indisputable reality. I do not intend to belabor the negative points about our Nation's educational system, of which we are all too aware. Rather, I would like to offer my support and cosponsorship of the President's America 2000 education strategy, which will set our Nation in motion to address some of our most pressing educational needs and to reach our education goals.

The fact that President Bush and Secretary Alexander are describing this plan as a long-term strategy, rather than a specific program or Federal mandate, is encouraging. The President is promoting the role of the Federal Government as a pulpit "to build a climate for reform," while leaving the real responsibility for actual changes to States, local districts, school communities, and parents. The four themes in the bill touch a vast spectrum of players: today's students; tomorrow's students; adult and lifetime students; and communities "where learning can happen."

Many of the provisions of this bill were included in the President's Educational Excellence Act of 1989, which I cosponsored, and which passed the Senate overwhelmingly last year. I understand that opposition remains on some of these issues. But I believe that on balance, rewards for merit schools, teacher training initiatives, alternative certification for teachers, and educational flexibility in exchange for increased accountability are ideas which have already received the support of the full Senate, and which should be enacted without further delay. The literacy and job skills provisions will help in the fight against adult illiteracy. I hope that the provi-

sions of the National Literacy Act, which go even further toward this goal, will also be enacted this year.

Some of the President's proposals will mirror initiatives which are already working in the State of Maine. The 535 "break the mold" schools established by the bill could take direction from the many alternative schools that have been so successful in my State. The bill's call to businesses to support education has already begun to be answered in Maine, as small businesses and international corporations alike have recognized their stake in the development of the work force of the future.

At this point, however, I must say that I do have reservations about some of the school choice provisions in the bill. I have long opposed voucher systems in education, as I feel that the Federal Government should not subsidize private or parochial schools. The availability of tuition-free, universal education is one of the cornerstones of our Nation. Our public educational system at the elementary and secondary levels has provided equality and access. I have concerns that proposals to provide vouchers or certificates to finance education would reduce the public and private support for our public educational system at the elementary and secondary levels, and raise important constitutional questions. Furthermore, school choice would not be the preferred educational reform effort in rural States like Maine, where long distances between schools may hinder participation.

I understand that the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, also has reservations about the bill's school choice provisions, and I am encouraged by his plan to move more quickly on the noncontroversial aspects of the bill, while postponing debate on the more contentious issues of choice and national testing. Hopefully, this strategy will ensure that the education debate will not get bogged down in controversy, as happened last year, and we will be able to pass meaningful education reform legislation this year.

Finally, I want to stress my support for the bill's America 2000 Community campaign—a call to the private sector, Governors, State legislatures, educators, and parents to play key roles in improving their children's performance in school—as a key element of this long-term strategy. While the Federal Government can, and should, set broad directions and goals for the Nation, the ultimate success of any education reform will depend on those most directly involved to carry it out.

I am confident that America is ready and able to achieve its education goals. It is our goal that by the year 2000: All children will start school ready to learn; the high school graduation rate will increase to 90 percent; American students will demonstrate competency in challenging subject matter in grades 4, 8, and 12; American students will be first in the world in math and science achievement; every adult will be literate and will possess the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship; and every school in America will be free of drugs and violence and will offer an environment conducive to learning.

This will not be easy, nor will it happen without true commitment from all parties involved. This bill is one meaningful step in the right direction.

NEW APPROACHES TO ARMS EXPORT POLICY

Mr. HATCH. Mr. President, I wish to bring to the attention of the Senate an important statement made by one of America's most distinguished business leaders, Mr. Robert H. Malott, who has steered FMC through nearly a quarter of a century of remarkable success.

Bob Malott's comments, made at the Center for the Study of the Presidency on June 26, 1991, express grave reservations over the way that we manage conventional arms sales. His thoughts echo many of my own comments made on this floor and in committee meetings. Bob's message in twofold: The current cascade of sentiment toward unilateral restrictions on U.S. arms sales benefit only our competitors, and such restrictions work to the disadvantage of our multilateral arms export control negotiations.

But, I want to add still another dimension. I do not doubt that many of the arms trade bills emanating from this body are well-meaning; my objection is that they are not well conceived. They generally lack provisions calling for restrictions on other countries' arms trade. And, of great importance to me, they fail to see that the singular condemnation of the U.S. arms trade offers our opponents much propaganda grist, allowing them to criticize us for providing arms to others, while ignoring the generally mixed basket of merchants found in every arms marketplace.

No one is promoting unfettered arms proliferation, especially in the Middle East. But that is precisely what happens when a country, like the United States, is denied access. Instead of placing arms there according to a sensible executive-legislative arrangement that promotes our regional foreign policy objectives, our goals are made impossible by the precipitous influx of countries whose sales have no foreign policy rationale like our own.

I invite my colleagues' close attention to Bob Malott's statement. We can learn much from it.

Mr. President, I ask unanimous consent that Mr. Malott's statement appear in the RECORD immediately following my remarks and I thank you and my colleagues.

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

[Center for the Study of the Presidency/Fortune Symposium on the Presidency, Washington, DC, June 26, 1991]

R. H. MALOTT: "NEW APPROACHES TO ARMS EXPORT POLICY"

Several months ago, the organizers of this symposium asked me to discuss one of the major defense and foreign policy issues facing the president: Namely, the vexing issue of arms export policy.

Certainly the Persian Gulf war highlighted the dangers posed by unrestrained arms trade. Saddam Hussein—a tyrant with a well-established propensity for making war on his neighbors and his own people—was permitted to accumulate the world's fourth largest army. His arsenal included not only a vast array of Soviet weaponry, but French, Chinese tanks and bombers, Chilean helicopters, Egyptian guns and Brazilian antitank missiles as well.

But the gulf war also drove home a basic strategic truth: Namely, that an imbalance of military power is an even greater invitation to aggression than the proliferation of that power per se.

The gulf war also highlighted the irrationality of the role of Congress, which has emotionally and in my view quite destructively exercised its increasing power in the arms sales arena. In recent years both of the countries most threatened by Iraq—Kuwait and Saudi Arabia—have been the subjects of rancorous congressional debates over arms sales, and a major request for F15 aircraft for Saudi Arabia was in fact denied. Even as were deploying U.S. troops in the region, Congress forced the administration to postpone consideration of several Saudi requests to purchase the weapon systems this country was in the process of providing at great cost and at the risk of American lives.

In this confusing—and frankly illogical—environment, President Bush has seized the opportunity to recast U.S. and, hopefully, international, arms export policy. In a speech last month he outlined several new initiatives, including proposed negotiations among the world's five biggest arms suppliers to establish "guidelines on conventional arms exports [to the Middle East], barriers to exports that contribute to weapons of mass destruction, a freeze now and later a ban on surface to surface missiles in the region, and a ban on production of nuclear weapons material."

The President has outlined an ambitious program. Unfortunately, a partisan Congress has seized on arms export policy as a vehicle for attemping to wrest the foreign policy initiative from the President. As a result, the current congressional debate threatens to be more political than rational in its tone, and more domestic than international in its audience.

The leading Democratic proposal is a call for a unilateral U.S. moratorium on arms sales to the Middle East. This is not a new idea. President Carter attempted to impose a unilateral reduction in U.S. arms sales, hoping that by our example we would encourage our allies to adopt similar restraint, while at the same time giving new impetus to negotiations designed to reduce worldwide arms transfers.

The Carter administration was only partially successful: Although some major sales were vetoed, new U.S. arms transfer commit-

ments to the Third World remained essentially constant in nominal dollars during the Carter years. The Carter administration was, moreover, totally unsuccessful in influencing the policies of other countries. From 1977 to 1980 the value of arms transfer commitments made by the Soviet Union, Great Britain, West Germany and Italy doubled; the value of French arms transfer commitments tripled; and a new, Third World arms export industry emerged.

Meanwhile, repeated attempts to negotiate arms export controls met with predictable failure. Our european allies—who were busily expanding their own defense export industries—refused to participate until the Soviet Union had agreed to similar restraint. And the Soviets had little incentive to curb exports that promoted their foreign policy interests and, in some cases, earned for them badly needed hard currency as well.

While glasnost may—at least for now—have tempered the Soviets' foreign policy adventurism, it has hardly eased their need for hard currency. In fact, the Soviet arms industry is continuing to produce weapons for export and indeed is gearing up to serve new customers—at least if the exhibitions of their fighters at air shows in Beijing, Manila, and Paris are any indication. One Soviet defense expert was quoted in Newsweek as saying: "There will be no ideological limitations on our side—we can act like an elephant in a China shop."

Is there any reason, then, to assume that unilateral arms export restraint will be more successful this time than it has been in the past? I think the answer is no. On the other hand, I think there are several reasons why the Bush administration may now have a unique opportunity to lead an international effort to control arms proliferation, and establish a cooperative multilateral arms export policy.

Above all, the successful prosecution of the Gulf war has put President Bush in an unusually strong position vis a vis our allies, our erstwhile adversaries—and Congress. The universally recognized strong performance of U.S. weapons and equipment also puts us in a much stronger bargaining position with arms customers: It's our weapons that most countries now want to buy.

How can the President build on this domestic and international strength and seize this—perhaps fleeting—moment of opportunity?

I would like to suggest three principles that should and indeed must guide any new arms export policy.

The first principle is that proposed controls must be selectively focused on the most dangerous weapons: ie., weapons of mass destruction, including nuclear, chemical and biological weapons, and their means of delivery; and new technologies that would give their possessor a major military advantage. The most significant weapons in this category are probably high precision conventional missiles, and more specifically their targeting and delivery mechanisms.

The United States has had significant—Albeit limited—success in promoting control of certain, especially deadly, classes of weapons. For example, the proliferation of nuclear weapons has not been anywhere nearly as wide or as rapid as was predicted twenty years ago, thanks to enforcement mechanisms established under the nuclear non-proliferation treaty. Chemical and biological weapons and high precision conventional missiles have also been the subject to separate, highly focused arms export control initiatives.

The President, for example, has recently proposed much more aggressive controls on the export of chemicals that could be used as inputs in chemical weapons.

FMC is a major chemical company. Chemical producers are not happy about the new controls, which involve a number of chemicals also used for completely innocent civilian purposes. But the chemical manufacturers association—and my own company—have nevertheless strongly supported these controls because we agree with President Bush that halting the spread of chemical weapons is a top national and international priority

The second principle that should guide arms export policy is that proposed controls must realistically differentiate among regions. In some regions, especially Latin America and Africa, we can strive to prevent the introduction of more sophisticated weaponry. In the middle east, where advanced weapons are already widely deployed, we should focus on controlling the most deadly weapons while ensuring that a sufficient balance of power is maintained to deter agression and promote negotiations and conflict resolution.

The third and most fundamental principle that should guide arms export policy is that proposed controls must be established and enforced on a multilateral basis. Unilateral U.S. controls—or even worse, a unilateral U.S. arms export moratorium—will simply ensure that what the U.S. won't sell through a carefully controlled and monitored export program, other countries will sell with no strings attached.

It will be extremely difficult to negotiate genuinely verifiable and enforceable multilateral export controls—difficult but not—probably for the first time in recent history—necessarily impossible.

I have already mentioned that the United States now has much greater leverage over potential arms customers. We also have much greater leverage over other major arms producers.

France and Britain are long-time allies, and both countries have indicated some willingness to support genuinely multilateral controls. The Soviet Union needs western credits even more than it needs the revenue from arms exports, and this should serve as an inducement for Soviet participation in multilateral negotiations. Finally the People's Republic of China is attempting to reestablish normal relations with the rest of the world in the wake of the Tiannamen Square crackdown: Here again, participation in a multilateral arms export control regime could be one condition of the PRC's rehabilitation.

These four countries together with the United States account for 85 percent of all international arms sales. A genuine, verifiable, and enforceable agreement among them could significantly—although probably neither entirely nor indefinitely—impede the proliferation of the most deadly and destabilizing weapons. It could promote regional stability. And—provided the penalties for failing to comply were sufficiently robust—such an agreement could compel other nations to join this multilateral arms export regime.

Of course there will be drawbacks to any multilateral agreement. The United States will lose some flexibility in determining how best to assist our friends and allies and maintain regional stability. And American arms producers, quite frankly, will lose some sales.

But let us also be realistic about the scope—and limitations—of any multilateral agreement. The world will still be a dangerous place. Ambitious leaders will still seek to upset the balance of power in their favor. Even a highly successful multilateral arms export control agreement will not eliminate the need to preserve a deterrent balance of power, especially in volatile regions such as the middle east. And therefore it will not eliminate the need for strategic, selective arms sales.

Let me acknowledge that I am *not* a neutral commentator on this subject. My company, FMC Corporation, is a major defense producer, and — percent of our 1991 defense sales will be made to foreign buyers. On the ohter hand, I've observed—and participated in—the highly political debate over arms export sales for almost twenty years. I have also established strong ties to our foreign customers, including Saudi Arabia, Israel, Turkey and Pakistan, and I've seen firsthand how the lack of a comprehensive and objective U.S. arms export policy can undercut our broader foreign policy objectives.

The President has been criticized for trying to reconcile the irreconcilable—arms sales to our friends and allies on the one hand, and multilateral arms export controls on the other. I would counter that multilateral controls can succeed *only* in an environment where outlaw nations such as Iraq are not allowed to upset the balance of power.

If nations such as Saudi Arabia, Turkey, the United Arab Emirates, Pakistan and Israel are persuaded that their legitimate defensive needs will be met, they are much less likely to circumvent multilateral controls. This, in turn, will reduce the economic incentive for countries such as North Korea to flout multilateral controls.

In the end, the United States will not be able to persuade other nations to control sales of every class of weapons to every country—and we shouldn't dissipate our bargaining power by trying to impose such a broad export control regime. Proposed multilateral controls must be highly targeted. They must reflect regional realities, and promote regional stability. And above all, they must be genuinely multilateral in their scope and enforcement.

To make the same point a slightly different way, the United States will have a much higher chance of persuading other countries to control arms exports if the proposed controls are motivated by strategic—as opposed to domestic political—concerns. And we will have absolutely no chance of persuading other arms producers to restrict their own exports if we unilaterally leave the field.

In the end, I suspect that President Bush's most formidable challenge may not be persuading other nations to accept multilateral arms export controls. His most formidable challenge will be persauding *Congress* that a focused and predictable arms export policy is vital to U.S. security, to regional and international stability, and to the success of genuine multinational arms export controls.

WE NEED PATRIOTISM

Mr. COCHRAN. Mr. President, an editorial from the Detroit News has impressed me as a response to the dangerous missile proliferation that is occurring around the world.

How much better and saner it would be to discourage the Saddam Husseins of the world from going to war, with an inventory of protective systems, than to remain vulnerable to the long range

missiles that are and will be in the future in the hands of several developing countries.

I ask unanimous consent that the editorial "We Need 'Patriotism'" be printed in the RECORD.

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

[From the Detroit News, June 18, 1991]

WE NEED "PATRIOTISM"

Opponents of the Strategic Defense Initiative (SDI) have been working assiduously to discredit the performance of the Patriot missile system in the gulf war. Instead of that, national security would be better served if the time was spent studying the lessons, including the tragic ones, that this spectacular weapon taught.

The most outrageous condemnation of Patriot was delivered by scientists who told the House Armed Services Committee that firing Patriots at incoming SCUD missiles probably did more damage in Israel during the gulf war than would have occurred had they not been used.

It should be remembered that the 25-year-old Patriot system was designed for close-in protection of small targets, such as airports. Its defensive "footprint" is on the order of 42 miles. In Israel, the "kills" scored by Patriots took place within its operating envelope, and when it destroyed a SCUD, the scrap iron fell like rain.

Given the choice, would you rather have your Tel Aviv apartment hit by a shard of metal from a SCUD or by an exploding warhead? The tragic answer to that question was written at the American Al Khobar barracks near Dhahran in Saudi Arabia on Feb. 25. The two SCUD batteries protecting that point were not functioning because of a computer glitch. A warhead hit and exploded in the barracks, killing 28 American military personnel, the largest single American toll in the gulf war.

The Patriot's battle-tested technological weaknesses were corrected, with improved results. Although the score card for Patriot is classified, we do know that 100 SCUD missiles were launched by Iraq, 50 of them were within areas protected by Patriot, that the SCUD kill rate was about 50 percent in Israel and 90 percent in Saudi Arabia. The performance differed because weapons fired at Saudi targets were aimed at specified (focused) points, whereas those launched at Israel were intended to hit a broad populated area between Haifa and Tel Aviv.

Patriot was the first missile used in war to destroy another missile. The success rate of this old system is high enough to justify the development of better defensive missile systems that can engage at greater distances, so that the litter will fall where it does the least damage. We need to do this because intelligence sources have warned us that the missile threat is growing.

Last year, CIA Director William Webster told a congressional hearing that by the year 2000, at least six Third World countries will have missiles with ranges as great as 3,400 miles. At least 15 nations will have ballistic missiles capable of firing conventional, chemical, biological and, in some cases, nuclear warheads over lesser distances. There is the further possibility that the turbulent Soviet Union may break up into ethnic pieces, creating several new nuclear powers that would be beyond any arms control agreements that exist.

That being so, the United States and the Soviet Union both have reasons for scrapping the 1972 Anti-Ballistic Missile (ABM) treaty, to clear away any ambiguities about whether either nation has the right to build and employ defenses against ballistic missiles in the hands of rogue tyrants. Certainly this country urgently needs to protect its shores with weapons that offer far more coverage and power than a kindergarten system like Patriot.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,293d day that Terry Anderson has been held captive in Lebanon.

MESSAGE OF THE U.N. SECRETARY GENERAL ON DRUG TRAFFICKING

Mr. BIDEN. Mr. President, today marks the U.N. International Day against Drug Abuse and Illicit Trafficking. In connection with this observance, the Secretary General of the United Nations, Javier Perez de Cuellar, has issued a statement urging the world community to redouble its efforts to fight the drug trade. I ask unanimous consent to insert the text of his statement into the RECORD, and commend it to the attention of my colleagues.

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

SECRETARY GENERAL'S MESSAGE ON INTERNATIONAL DAY AGAINST DRUG ABUSE AND ILLICIT TRAFFICKING, JUNE 21, 1991

Following is the text of the message by Secretary-General Javier Perez de Cuellar, issued in connection with the International Day against Drug Abuse and Illicit Trafficking, 26 June:

This year's observance of the International Day against Drug Abuse and Illicit Trafficking occurs at a time of growing concern on the part of the international community about the relentless increase in production, trafficking and abuse of illicit drugs, which undermines the very fabric of society in many countries around the world. The Day underscores the recognition by Governments everywhere that the phenomenon of drug abuse respects no national boundary, and that unflagging efforts are required at the international level to combat the devastation which this scourge inflicts on individuals and communities in both developing and developed countries.

Over the past year, the international community has renewed its commitment to join forces and to respond energetically, with coordinated and coherent action, to this global threat. The United Nations General Assembly declared last autumn that the last decade of the twentieth century would be known as the United Nations Decade against Drug Abuse (1991-2000). It also called for the creation of a United Nations International Drug Control Programme which would integrate fully the structures and functions of three existing drug abuse control units located in Vienna. This new Programme, which came into existence in March of this year, will enable the United Nations to provide effective leadership and to play a major role in the international drug control effort.

I should like to take this opportunity to draw attention to the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which entered into force in November 1990. Treaty compliance is a cornerstone of international cooperation against drug abuse and illicit trafficking. I would urge the international community to redouble its efforts and to take the necessary measures to ensure that all States ratify or accede to the Convention as soon as possible.

Since last year's observance, there have been a few encouraging signs in scattered parts of the world—some stagnation in demand detected in certain countries, some reduction in traffic in others. But the menace to society as a whole has not diminished overall, and the United Nations will endeavour to follow a balanced approach in addressing this situation. It will respond to the imperative of demand reduction, while stressing at the same time the need to halt illicit trafficking, and to curb illegal production of narcotic drugs through measures designed to promote development.

JAMES QUELLO DESERVES RENOMINATION

Mr. PRESSLER. Mr. President, yesterday the Senate confirmed the nomination of Mr. James H. Quello for the post of Federal Communications Commission [FCC] member.

As a member of the Senate Communications Subcommittee, I have worked with Commissioner Quello on a number of key telecommunications issues. This has been a pleasant experience for me, and I want my distinguished colleagues to know that Commissioner Quello has done an excellent job at the FCC. In particular, I have been impressed with his visionary approach to our Nation's telecommunications infrastructure improvements efforts. As policymakers, our fundamental challenge is to ensure that our Nation's communications infrastructure will be able to handle the information demands and needs of the future. Mr. Quello certainly recognizes and appreciates these priorities.

We are very fortunate to have an individual of Mr. Quello's caliber serving in the Federal Government. I am pleased that the Senate has confirmed Commissioner James H. Quello to another 5-year term on the FCC.

In addition, our colleagues may be interested to read a speech Mr. Quello gave at the height of the recent gulf war. Commissioner Quello, who served as a battalion commander with the 180th Infantry Battalion of the famous Thunderbird 45th Division in Europe in World War II, has some important insights into the role of the media during the gulf war. I ask unanimous consent that Mr. Quello's speech appear in the RECORD.

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

REMARKS BY COMMISSIONER JAMES H. QUELLO BEFORE THE OKLAHOMA ASSOCIATION OF BROADCASTERS, TULSA, OK, FEBRUARY 8, 1991

"You Can't Be the Land of the Free Without the Home of the Brave."—President George Bush

I'm always glad to visit Oklahoma and Oklahoma broadcasters, particularly at this agonizing time with our nation at war. Oklahoma is the proud home of the famous "Thunderbird" 45th infantry division. Your division was officially designated by U.S. Military Historian, General S.L.A. Marshall, as the best infantry division in Europe during World War II. As some of you older veterans may recall, it was the only infantry division that produced two distinguished Corp. Commanders—Lt. General Troy Middleton and his former artillery division commander, Lt. General James McClean.

As I have reminded everyone I have ever known from Oklahoma, I served in the 180th infantry regiment of the 45th Division as an infantry battalion exec and battalion commander during 1944 and 1945. I believe World War II was the last military engagement where a patriotic American public wholeheartedly supported our troops and war efforts. I believe this type of public support is absolutely essential for the effective conduct and successful conclusion of any war—but more about that aspect later. (In the meantime, please notice my lapel pin with the Thunderbird insignia between the American and Oklahoma flags.) Incidentally, Oklahoman Dawson "Tack" Nail, venerable executive editor of Communications Daily and TV Digest, won a bronze star in Korea as an artillery forward observer with the 179th infantry regiment of the 45th.

It's also a special pleasure to appear before a state broadcasting association. As many of you know, I don't have to search for any mutuality of interest. I was a Michigan broadcaster for 27 years and a former president of the Michigan Association of Broadcasters. As president, I proposed the annual (now highly successful) Congressional dinner 34 years ago. Thirty four years ago! Should I even admit it! I feel much too young to be that old—and I find myself comforted when a good old friend says "Remember, the sweetest music is played on the oldest violins." Another benefit of senior citizenship is a kinder, noncompetitive treatment you receive from your associates and others. There is even increased recognition for your contributions. I appreciate what I humorously refer to as my "preposthumous" awards.

In my numerous appearances before educational, communications and public groups, I usually update and personally evaluate major FCC regulatory issues. However, I'm asking your special indulgence today. Our war in the mideast transcends regulatory issues in importance and future impact. All else pales in comparison.

I'm asking that you indulge this veteran Thunderbird hawk in a departure from your normal convention expectations.

At a recent National Religious Broadcasters breakfast, President Bush, himself a distinguished air combat veteran, left an indelible impact on my mind with a memorable statement "You can't have the land of the free without the home of the brave." I thought it should have been headlined and repeated over and over again. I missed seeing or hearing it in the press.

I don't believe we can effectively implement "the home of the brave" without overwhelming support on the home front. That means understanding the inescapable casualties, confusion, and mistakes of ground and air combat. To achieve such support, I believe it also entails sensible wartime restraints as to reporting on troop locations, military equipment and even the number and cause of casualties. I want to see the positive attitude and support I knew in Africa, Sicily, Italy, France and Germany with the Ninth Infantry and 45th Infantry Divisions. We need the positive spirit and press support of World War II, not the kind of adversarial reporting of Vietnam that over-zealously discredited the government and military of our own country, and undermined our efforts. It caused an inglorious, unnecessary defeat of American forces for the first time in the proud history of our nation. I believe the negative reporting on "a Vietnam deception," the Tet offensive, and on General Westmoreland represented shoddy, inaccurate, sensationalized journalism. The reports distorted and discredited our efforts and disserved the nation. This subject was fully treated in my "Press Under Fire" speech in March 1985.

Undoubtedly, my attitude on public support and press restraint have been shaped by my wartime experience. I believe combat veterans can understand the confusion, local disasters and casualties which are an integral part of combat. I think veterans understand the necessity of censoring locations, troop movements, casualties and losses—any information that may lend encouragement to the enemy.

Even with the positive, supportive press and protective censorship of World War II, reporters around the headquarters of combat units often represented an inconvenient intrusion. I admit that I enjoyed talking briefly to the famous Ernie Pyle and an AP reporter in Africa and Sicily. But even genial Ernie, who was the leading proponent of the now coveted combat badge and $10.00 monthly extra in World War II for soldiers in combat, asked in Africa "What's holding you up from taking Bizerte?" I impudently replied "We will be glad to follow you in." No sooner had I spoken when we saw a jeep frantically racing and zigzagging toward our wooded area with two German 88s zeroing in. Fortunately, the jeep reached a covered wooded area. Normally Ernie's syndicated writings empathized with the frantic, dangerous, life of the frontline dogfaces. He was universally revered. I was delighted when the VFW presented me an Ernie Pyle plaque after the war for distinguished service to veterans.

I have many vivid memories of World War II—some pleasant, some inspiring and some tragic. Among the more inspiring was General Patton's very first profane fight talk to the entire Ninth Division before embarking for overseas. (Recite if time and interest permit.) As an aside, the phrase "We are going to kill their men and debase their women" was omitted from future fight talks. We didn't know whether George was officially censored or just caught hell from his wife. Probably both.

Among other vivid memories was the German bombing and strafing during the initial months of the African campaign. We defined our air superiority as "for every plane the Germans have in the air, we have two on the ground." As one who temporarily experienced the effect of air bombing and strafing, there is no way the large Iraqi army can prevail against overwhelming allied air superiority. Every Iraqi truck, tank and troop movement will be subject to devastating allied air attack day or night. Another memory: our confused opposed crossing of the Rhine at Worms, Germany—Three days earlier we could have crossed unopposed. Reporters could have had a field day with that situation—not realizing that we had to wait for other troops to secure our flanks before crossing.

The most tragic memory was seeing the inhumanities of Dachau immediately after its capture, the emaciated stacks of bodies, ashes, bones in the furnaces and a carload backlog of corpses. I will carry with me for life a horrible mental photograph of that scene. It gives me a greater appreciation for the desperate stake Israel has in guaranteeing its own security against hostile surroundings and particularly against Saddam Hussein, the Hitler of the 90s. A little Hitler perhaps, but with the same grandiose designs and brutal demeanor.

I also remember the house-to-house fighting in Nuremburg and particularly the leaflets the discerning Mayor, Karl Holtz, had distributed throughout the city. The leaflets read "We Must Fight to the Last Man against Russian savagery, British arrogance and American irresponsibility." He had us figured.

My most vivid memory was the last big battle of World War II involving the 45th Division. I was the Battalion Commander of the First Battalion, 180th infantry that drew the unfortunate and surprise assignment of taking the German SS College in the Northern outskirts of Munich. I have attached a clipping from the 45th Division paper of May 13, 1945 that substantiates the story. I'm grateful to Nancy Carey, then Commissioner Washburn's legal assistant, who found the story after a month of research. As veteran war stories tend to get more heroic with each passing year, I'm glad to have this prima facie evidence of my battalion involvement in this historic struggle. In summary, we took the SS College late at night after a hectic battle. Every company commander was wounded, four officers in one company hit, 80 Germans killed, many more wounded.

After 32 months overseas experience in WW II with friendly, though at times intrusive, war correspondents and enjoying complete support from a patriotic home front, it was difficult for me to understand the adversarial press in Vietnam. I could not accept what I perceived as a frantic zeal to discredit the military and the government of our own country, destroy morale and undermine national will.

I am concerned again with what I initially sensed as an adversarial press attitude in the Middle East. I noticed negative, sometimes ludicrous probing questions at official briefings. Fortunately, there is good news: the American public has maintained its perspective during this crisis. As evidence of this, a recent "Good Morning America" poll on press coverage of the war received over 62,000 calls from across the nation. Of those responding, 82% said that the press is not doing a responsible and fair job of reporting the way. Only 17% felt that the press is being responsible and fair.

As a former broadcaster and newscaster, I have consistently supported full first amendment rights. I usually prefer to be on the journalists' side. I condone press restrictions reluctantly, but find it necessary in wartime and particularly in combat conditions. But the Supreme Court historically has held that in "exceptional cases," the government can restrict the dissemination of such information as "the sailing dates of transports or the number and location of troops." The Pentagon's press guidelines fall squarely in this category.

I want to emphasize that I am not ignoring the right of dissent in a free society. President Bush acknowledged as much in his State of the Union address. And there has been no shortage of dissent. But America's brave young men and women are currently committed to a struggle for a just cause in which their lives are on the line—a commitment that began only after our nation went through the democratic process of congressional debate. In my view, once we have troops in the field, we must give them wholehearted home front support.

I'm delighted that current public opinion polls strongly support the President, our national commander-in-chief, and also the military briefings of the press. According to a recent Times-Mirror poll, for example, 8 out of 10 Americans support the Pentagon's restrictions on journalists covering the Persian Gulf war. The majority of our responsible citizens and thousands of old veterans (like me) are opposed to another Vietnam-type press. A more discerning and sophisticated TV public seems more capable than ever of reaching independent judgements on issues of vital national interest. The public will no longer believe an adversarial press emphasizing the negative, trivializing our military efforts, questioning our reason for military involvement and headlining and repeating every casualty, accident or human error to prove their point and thus inadvertently giving comfort to the enemy.

Casualties, confusion and errors are inherent to all parties in combat. Even without combat, any area containing over 400,000 troops will have the usual accidents and noncombat conflicts.

As for me, I can't understand adversarial attitudes when America is committed to a just cause that is strongly supported by an unprecedented coalition of other countries.

President Bush rejected Saddam Hussein's attempt to characterize the conflict as a religious war. He told the National Religious Broadcasters "This war has nothing to do with religion per se. It has, on the other hand, everything to do with what religion embodies—good versus evil, right versus wrong, human dignity and freedom versus tyranny and oppression."

We must not give comfort or aid to a ruthless enemy dictator whose principal objective is to divide American public opinion and undermine America's will. In fact, it seems his only hope of winning at this time is headlining our casualties, repeating body counts, showing anti-war demonstrations, and emphasizing our errors. These are all morale boosters for Saddam Hussein who has complete control over his press.

I hope Hussein saw the Giant's all pro linebacker, Lawrence Taylor, tell the nation on TV "This is no time for protest demonstrations. It's time to support our troops in the Middle East and support our country." I also hope Hussein saw the American patriotic fervor at half-time during the Super bowl game and the many pro-American demonstrations. A solid, united America is exactly what is needed to convince Hussein of the hopelessness of his position.

In this time of national need, I hope Oklahoma broadcasters can emulate the patriotic fighting tradition of your distinguished Thunderbird division. Anyone who has had the privilege of serving in the 45th fully appreciates that Oklahoma is the home of the brave.

All Americans, in our own way, must support our troops and our country in a war against a deceitful, tyrannical dictator with ambitions (now shattered) for world domination who possesses the brutal, genocidal, anti-humanitarian instincts of Adolf Hitler.

In the process, let us keep the highest priority on winning the war and secondly, on disseminating detailed press information. We can learn from the security systems in force in Great Britain, Saudi Arabia, Turkey, Egypt, Kuwait and Israel, the countries most experienced in Middle East intrigue and intelligence capabilities. This will include practical wartime press limitations. We should especially notice the effective security and censorship system of Israel, a country with a desperate stake in survival and a courageous people vastly outnumbered by surrounding enemies and potential enemies.

I'll be glad to discuss Washington communications developments in DAB, HDTV, regulatory enforcement cable effective competition, fin/syn (limited), telco-cable, MFJ, etc. with you at an informal post-reception or dinner gathering.

Please forgive this unabashedly patriotic Thunderbird veteran for allotting the highest priority to our present wartime commitment and for lauding citizen support of our efforts. Our cause is just. With superior fighting men and technology, dedicated, appreciative allies, strong support from a patriotic home front, we will win the war and hasten the longed-for peace. We will prove to the world and to ourselves that America, the land of the free, is truly the home of the brave!

[From the 45th Division News, May 13, 1945]

LAST BIG FIGHT PITTED 180TH INF. AGAINST SS MEN

When most of the rest of Munich had been occupied and other troops were beginning to take it easy, 1st Bn., 180th Inf., was starting the toughest fighting it has seen since the Siegfried Line.

G-2 reports told them there were two battalions of SS men holed up in the old SS college and the only way to approach it was over 1,000 yards of open ground. To make the first battalion bitter was their recollection they had passed through the 3rd Bn. the day before, and the 3rd had rounded up a thousand prisoners with practically no trouble.

The SSers were prepared to fight for their old alma mater. They had dug nice dugouts in the open field, where they could sweat out the shelling, then come out into trenches to fire on the advancing Americans. Their defense consisted of rifle, burp gun, machine gun and 88 fire at close range.

To assist A and B Companies in the assault, the 20th Armored Division contributed about a dozen tanks—and the men in them were in their third day of combat.

The morning's attack got under way with fire from our artillery, our 60 and 81 mm mortars and chemical mortars from 2nd Chemical Bn. The fire was not precisely adjusted, and the attack got nowhere. Observation hadn't been good.

First Bn. tried it again that afternoon.

"We showed them a powerhouse", reports Maj. James H. Quello, Detroit, Companys A and B were behind and between the tanks. Two hundred yards behind came the armored infantry and half tracks. Co. C tailed the armored infantry.

"Then we got the best artillery support I've ever seen", continued the major, "They were dropping smoke and HE just 100 yards in front of the tanks. The mortars, as usual, were right on the money."

Tanks and infantry went forward, firing to beat hell. The SS men lay in their holes until the tanks had passed, then got up to fire at the backs of the infantrymen.

Co. B went into the barracks and started mopping up, and Co. A outflanked its opposition, going through to B's right, where it belonged.

Some of the stalwart SS men had taken off when they saw what was coming, but many stayed. Seventy-five were taken prisoners and 80 killed.

One of the prisoners had been run over by a tank, covered with dirt, and just his mouth and nose were showing. He walked away with his captors, which might indicate how tough the 1st's opposition were.

The fight was filled with incident. Pfc's Homer Bearden and William Trimmler, Co. D heavy .30 MG men with Co. A, set up their gun to find they were directly across from a German 88 set far away. A dual ensued between 88 and MG. The 30 obviously couldn't hurt the gun, but Bearden and Trimmler kept the lead running for an hour, all through the fighting, and kept the 88's crew flat on their bellies, their gun out of the fight.

First Lt. William F. Jennings, New York City, took over one of the companies after four of its officers had been shot, reorganized it on the spot, and led it in the attack.

Capt. Edward L. Kerker, Shawnee, Okla., jumped into a hole to get out of sniper fire, found five SS men there, and took them prisoner.

The CO of Co. B led his men after he had been hit in the hip, and didn't quit until he was shot a second time.

Apparently, this was the last tough battle the 45th was to fight in the European war.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Symms amendment No. 377, to impose capital punishment for drug-related homicides in the District of Columbia.

Helms amendment No. 378 (to amendment No. 377), to amend title VII of the Civil Rights Act of 1964 to prohibit employers from using preferential hiring practices on the basis of race.

Mitchell (for Graham) amendment No. 379, to provide for reform in habeas corpus procedures.

Hatch/Thurmond amendment No. 380 (to amendment No. 379), in the nature of a substitute.

AMENDMENT NO. 380 TO AMENDMENT NO. 379

The PRESIDING OFFICER. Under the previous order there will be 1 hour of debate on the pending Graham amendment (No. 379), and the Hatch second-degree amendment (No. 380). The time is equally divided and controlled by Senator BIDEN and Senator HATCH.

Mr. HATCH. Mr. President, I would like to illustrate how the proposed habeas corpus reforms might work in an individual case. One from my home State of Utah.

The individual who has spent the longest time on death row appears to be a Utah prisoner, William Andrews. He committed his crime 17 years ago and was sentenced to death in the same year. But despite 27 separate appeals of his death sentence, he still has not been executed; 27 separate appeals at a tremendous cost to society and a tremendous cost to the families of the victims that were murdered.

On April 2, 1974, two men—Pierre Selby and William Andrews—entered a hi-fi shop in Ogden, UT, and approached the clerk behind the counter as if they were just customers. When they fled hours later, they left five people dead.

But it is too clean and antiseptic to describe their crime in these cold statistical terms. Before committing the murders, Andrews and Selby first tortured their bound and helpless victims. Three unsuspecting teenagers, who just happened to be shopping in the popular store, were forced to drink cups of poisonous liquid drain cleaner. The father of one of these young people was even forced to pour the deadly Drano down his own son's throat. He courageously refused, at gun point. Incensed that the father would not assist in the torture, Selby wrapped an electrical cord around his throat and attempted to strangle him to death. Then, while the father struggled for breath, Selby repeatedly kicked a sharp ball point pen deep into his ear.

When Andrews and Shelby had finished with these grisly amusements, Selby methodically shot each of his bound victims—one by one—in the head. Michelle Ainsley, however, was not even granted a swift end to her tortures. Before she was fatally shot, Selby dragged her into a backroom and raped her.

For obvious reasons, it is difficult to continue this description. I leave it to the imaginations of each of my colleagues how these innocent victims must have writhed in agony as Drano was poured down their throat. I leave it to the imaginations of my colleagues how they must have pled for mercy as they heard the fatal gunshots coming closer and closer to their own head. I leave it to the imaginations of my colleagues what young Michelle felt as she was dragged toward the back room.

We simply cannot begin to imagine the agony of mothers and fathers, wives and husbands, brothers and sisters whose lives were permanently marred by Selby and Andrews. We cannot begin to imagine the permanent damage done to countless lives. I personally know many wonderful people in Ogden, UT, whose lives have still not completely healed more than 17 years later.

The tragedy in this case is the heinous murders of innocent victims—five shoppers who were tortured to death. Before we get lost in the abstractions of habeas corpus law, before we wear out our hands wringing them over the supposed constitutional rights of vicious murderers, we need to understand the real consequences of this case—the deaths, the shattered lives of those left behind, the families who must go on without a father, or without a member of the family.

When Selby and Andrews came to trial, they were given a long and careful trial before a fair jury. It was the judgment of the court that both defendants should be sentenced to death. In 1987, 13 years after his crime, Pierre Selby was executed. William Andrews, on the other hand, continues to appeal his sentence, and has so far succeeded in delaying his execution for 17 years.

How is this possible? How has it happened? I think that the Andrews case is one that should be studied, that must be studied, by anyone who wants to know truly what is the crisis in death row habeas corpus in America. The system has broken down for one simple reason: Because the Federal habeas corpus statute is flexible enough and broad enough to allow anyone to manipulate it to their own ends.

And why is our criminal justice system hampered with such a statute? Because Congress has repeatedly lacked the courage to face up to its responsibilities in this area, despite the introduction of literally dozens of bills on this subject—several in each Congress.

Before I go into the specifics of the Andrews case, two important points deserve to be mentioned. One is that the Andrews case is in many ways a typical case—its procedural history is in no sense unusual. Andrews has simply taken advantage of every opportunity for appeal open to him. But he has lost every one of them—all four trips to date to the U.S. Supreme Court have been unsuccessful as have been every one of his numerous appeals to the Utah Supreme Court and to the lower Federal courts.

It is quite common in this area of the law to encounter cases where the long delay between sentence and punishment can be explained in part by various remands for new sentences or by remands to accommodate relevant changes in the law. None of this pertains to the Andrews case. This is a clean record of appeal. It shows what can happen—how long a death row inmate can delay his sentence even if he has not one single meritorious issue on appeal.

A second observation is in order.

Although Andrews may be the senior resident of death row, and although 17 years may seem to be an unbelievable number of years to intervene between commission of the crime and ultimate punishment, his case is not unusual, and it is only through a historical quirk that we are not now dealing with far worse cases. That is, there is an outside limit—of approximately 17 years—that anyone could have been on death row in 1991, because it was only in 1976 that the Supreme Court first approved any of the death penalty statutes now in effect.

Had the Court not emptied every State's death row in 1972, it is easily imaginable that Charles Manson would now be in the 23d year of attempting to delay his death sentence, and Richard Speck in the 24th year of delaying his. I guarantee this Senate that if it does not act, and act now, to end this senseless and absurdly repetitious Federal review of State death sentences then future Senators will be asking on this floor why the hillside stranglers and other notorious criminals of our own time have not been executed though their crimes may be decades old.

I want to show this particular chart on the Andrews case. I would just like to illustrate a few highlights of this 17-year case by means of this chart. This simple chart lists each stage of review that has been afforded to William Andrews by the State of Utah and by the Federal Government. This one case has been reviewed on 27 separate occasions. The unshaded entries are the 11 separate reviews of sentence that the Utah Supreme Court, the Utah district court, and the Utah board of pardons have undertaken in this case. That fact alone, in this typical death penalty case, should dispel the notion sometimes heard that the State courts are somehow unavailable to death row inmates to relitigate further claims.

The gold-shaded entries indicate, on the other hand, each of William Andrews' 16 separate reviews of judgment in the Federal courts. That's 16 Federal appeals. Even though Andrews has been successful in obtaining State review on 11 different occasions, the Federal courts have still undertaken to provide additional, usually duplicative review on an additional 16 occasions.

I hope that this simple listing will preclude anyone from stating, as often happens, that Federal habeas corpus is about giving prisoners a second bite of the apple. That frankly never occurs. Federal habeas, particularly in capital litigation, is about giving prisoners a 10th bite of the apple, even a 20th bite of the apple. If only the problem were as simple as a second bite of the apple.

As I stated previously, the crime here was committed in 1974, the trial was held in that year, and the appeals have

been underway ever since. Legally speaking, the criminal case of the State of Utah versus William Andrews terminated on February 27, 1978, when the Supreme Court of the United States denied his petition for writ of certiorari, thus, refusing to review the conviction and sentence against Andrews. At that point, the criminal case ended; there has been no subsequent criminal prosecution of William Andrews by any government.

Why is it, then, that this 1975 conviction and sentence has still not been carried out? Because of subsequent civil suits brought by the prisoner against his jailer seeking to have his sentence reviewed.

The prisoner is entitled to do this under Utah law, and Andrews availed himself of this opportunity for further review by filing a petition for State habeas corpus review in 1978. The petition was denied.

Then Andrews turned to Federal court where he has been, with few intervals, ever since. It has been 11 years—11 years—Mr. President, since the courts of the United States first began to review the death sentence of William Andrews, and yet, a Federal stay of execution still prevents the State of Utah from proceeding to carry out the sentence of the jury in this case.

Please note an important thing revealed by this chart. Not one of William Andrews' 20 appeals of his sentence has resulted in his sentence being modified in any way, in the granting of any of his compliants, or in the reversal of any previous court's ruling. Each complaint, each review, has turned out to be unsubstantial, or frivolous, if you want to use another word. Each has accomplished only one thing: the delay of justice, and excessive cost to the taxpayers of America.

Need I repeat, at this point, the well-known epigram that "Justice delayed is justice denied?" Our colleague from Alabama, Senator HEFLIN, has spoken eloquently on this subject:

> There is no doubt that the problems of finality and integrity in State court judgments * * * have an acute effect on the enforcement of our criminal law. This is not a recent phenomenon. The Bible well describes the tendencies of human nature when it states in Ecclesiastes 8:11: "Because sentence against an evil work is not executed speedily, the heart of the sons of men is fully set to do evil."

At hearings on S. 653, Subcommittee on Courts, Senate Judiciary Committee 2, November 13, 1981, is where he gave that statement. As the Bible so often teaches us in the area of crime and punishment, the fundamental issues of justice do not change.

I wish, Mr. President, that the problems illustrated by a review of the Andrews case where isolated or rare. They are not. I could also discuss the Florida case of John Spinkellink, who—after escaping from prison—murdered his traveling companion by shooting him in the back as the victim lay sleeping. Although Mr. Spinkellink was the white murderer of a white victim, he still appealed time after time attempting to show that courts discriminate against the murderers of white victims as opposed to murderers of black victims. Before Spinkellink was ultimately executed, he had succeeded in having his death sentence reviewed on 24 separate occasions. (National Law Journal, Dec. 22, 1980, p. 22.)

I could also discuss Frieda Mueller, Esther Sepmeyer, and Charles Biebel, each of them aged, infirm middle-American farm residents of rural, central Illinois. Each of them had his or her life ended, in separate incidents, by Girvies Davis and Ricky Holman, two murderers who specialized in robbing isolated farms and did not want to leave any witnesses behind. Before his murder, Charles Biebel was an 89-year-old gentleman, confined to a wheelchair, in his Belleville, IL mobile home. He was no threat to anyone. Though Girvies Davis confessed to his crimes, was twice sentenced to death, and requested execution over 10 years ago, Federal courts have repeatedly delayed the carrying out of his sentence.

The tragedy in each of these cases is, in fact, the heinous murders of innocent victims: five individuals who were tortured before death in Utah, a sleeping traveler in Florida, and retired farmers in central Illinois seeking to live out their lives in peace. Before we can understand the constitutional dimensions of this question, we need to understand that the real consequences of these cases: the deaths and shattered lives of those left behind.

At least in the cases discussed above, we know who the victims were. Their families at least know of the fate of their loved ones. That can't be said of at least a dozen of the victims of John Wayne Gacy, the infamous killer clown of northern Illinois. At his trial for murdering 33 young men, it was not even possible to identify many of the victims; they were simply referred to as victim A, victim B, et cetera. Although Gacy received 11 death sentences, it was only in 1989—14 years after his first crime and 9 years after his trial—that he finished his State appeals. He is only now beginning his Federal habeas remedies. If William Andrews in Utah can stretch out his Federal remedies for over a decade, one can be certain that a case as complicated as John Gacy's will not be terminated more quickly.

As Chief Judge Paul Roney of the Eleventh Circuit Court of Appeals reminded the Judiciary Committee in 1989, it took a Florida trial court only a single week to try and convict Ted Bundy of the crime for which he was ultimately executed. Yet, it took a decade of Federal court litigation for the State of Florida to obtain Federal permission to carry out its law.

Mr. President, since 1976, over 3,000 persons have been sentenced to death row, yet only slightly more than 100 of these sentences have been carried out. I am continuously asked by Utah citizens, in letters too numerous to count, what is going on here? What is wrong with our criminal justice system? Well, I think this chart and the other evidence with which each of us is familiar clearly tell us what's wrong; it's the Federal habeas corpus system. We all know what's wrong; we all know how to fix it. I hope, Mr. President, that enough of my colleagues will finally resolve this Congress to do what must be done, so that I may finally provide a favorable answer to my constituents, an answer which will finally tell them that Congress has acted to end this absurdity.

In conclusion, I would like to ask my colleagues again to come with me to Ogden, UT, and explain to the mother of Michelle Ainsley what interest the Federal Government has in allowing William Andrews to continue to appeal his death sentence, perhaps into his third decade of appeals. Would any of us seriously contend that the protections of the Constitution cannot be guaranteed by a procedure lasting less than 17 years? Would someone like to try and explain that to the murdered girl's parents?

Would someone like to show Michelle's parents where in the Constitution is the guarantee of endless appeals for the animal who dragged their daughter into the back room and killed her? Who wants to try and explain why 17 years of constant appeals is not enough to satisfy our legal system that Andrews' sentence should be carried out?

I submit that there is no one in this chamber, and no one in this country, who can adequately explain the travesty of the Andrews case.

Before voting, I hope every Senator will be prepared to explain to Michelle's mother and the countless other mothers who will wonder why the Senate of the United States has voted to expand, not limit, the endless appeals that have made a mockery of our criminal justice system.

I can go on and on. I have used enough time of our half hour. Let me just say this: Only the Hatch amendment will actually reduce, not increase, the number of frivolous and repetitious habeas corpus petitions in Federal Court. Only this amendment guarantees that fewer dangerous criminals are prematurely or mistakenly released from prison and returned to the streets. That is why virtually every State attorney general supports it, Democrat and Republican alike.

Federal habeas is not a second bite of the apple. It is a fifth, sixth, 10th, even a 25th bite of the apple for every pris-

oner. Only this amendment provides a true statutory limit on the number of times the prisoner may plead to Federal court with such petitions. It provides a 1-year limit for habeas, generally, and a 6-month time limit for appeals. It requires courts to dispose of death penalty habeas cases within 6 months. Only this amendment preserves finality of the criminal case. With other proposals, criminal convictions that have already become final in issues set up for years and decades will be constantly reopened.

This is the only way to solve this problem. The other proposals will not do it.

I yield the floor.

Mr. BIDEN. Mr. President, I continue to marvel at my good friend from Utah. As I have said before, he is one of the brightest and one of the best debaters in the Senate, who has absolutely, absolutely, without any question, refined to an art form the non sequitur.

He has done it so well that sometimes I seem to begin to believe what he says.

Let me give you an example. Let me start off, first of all, on that chart that you saw there if the Biden bill passed on habeas corpus, Andrews would be dead, he would have been dead 17 years ago. If the bill of the Senator from Florida passes, Andrews would have been dead 17½ years ago.

You know what it is like, this debate, in listening to my friend from Utah for whom I have great respect and affection, is a little bit like—let me make an analogy. Let us assume the debate we were having here today was not about the death penalty but about how to employ the death penalty, when someone was convicted of a capital offense and ordered to be put to death.

Let us assume the debate were about whether we do it with lethal injection, hanging, or the electric chair. Let us assume that was the debate.

Let us assume, by way of analogy, that the Senator from Utah believed it should be done by the electric chair, and let us assume that the Senator from Delaware thought it should be done by lethal injection.

Let me tell you how that debate would proceed on this floor between the Senator from Delaware and the Senator from Utah. The Senator from Utah would come to the floor and he would look up to the gallery and he would say, now let me tell you all these grisly murders and he would lay out for you nothing having to do with the issue, all these grisly murders, about how 2-year-old children were shot point blank, how women were raped and dismembered, about how people were lying in their bed and shot in the back of the head, all of which happened, and by this time, the Press Gallery and everyone else up there would go, "Oh, my God, he is for doing something about getting rid of these horrible people," putting the person in the position of standing up to debate him appear at first blush to be defending that conduct.

Then he would say, and furthermore, before I sit down, I want you to know only by electrocuting these people will justice be done. That is the only way.

Then he will sum up, I promise you, he will sum up by once again trotting out cases that have nothing to do, zero to do, with whether or not someone should be put to death by lethal injection, by hanging, or by the electric chair. For the issue before the Senate in that circumstance would not be the death penalty, it would be how.

We all agree there should be a death penalty. The issue is how should it be imposed?

Let us look at the case here. What is the issue? The issue is not whether or not Andrews from Utah, or Gacy or that idiot Manson should be dead now. If you support the death penalty as I do, as the bill does, the issue is how and under what circumstances?

Let us look at what the debate is really about, what it comes down to. The Senator from Utah, speaking on behalf of myself and the President says, hey, look, this habeas corpus thing. It is not such a hot idea. The concept is 800 years old. It has been applied the way it is applied now for a long time but we do not like it. So let us tear up that, the way we proceed now, and then show you a chart—by the way, if I had the chart here, I would show you the chart and point out to you. It makes my case, by the way. I will get back to that in a moment.

OK, that is what he says, tie it up, finish it, speed. Justice denied is justice delayed. I wish they felt that way about everything else about the application of justice.

Now my friend from Florida comes along and says, hey, look. I do not want to tear this thing up. I just want it to be exhausted within a year. You have 1 year, not 17 years, like that chart says. And my friend from Florida says 6 months, to be more precise. He says 6 months, you have 6 months to file this and finish it. And if in 6 months the court has not found a reason to buy your case that your rights have been violated or you are innocent, then you get the lethal injection, hanging, or the chair.

The Senator from Delaware says 6 months is not practical, it should be 1 year, but at the end of 1 year—over. The debate here is one shot, 6 months, or 1 year.

But listen to my distinguished friend from Utah—and it is compelling. I get caught up in these cases, too. I sit there and I listen about this guy Andrews and my instincts are truly the first time he did it in the committee, I suspect I would have the same reaction as everyone—I was ready to push the button; I was ready to volunteer. I mean it is grisly. I think of a Charles Manson and all the worst aspects of human nature come out in me, what I wish to see happen to Charles Manson. I am not proud of those instincts but they are there.

But I say to Senators, keep your eye on the ball. This has nothing to do with anything the Senator from Utah has spoken about, as eloquent as he is. It has nothing to do with what he talked about. And it is a boldfaced, unintentional misrepresentation to say only the President's amendment, that amendment would end this ridiculous circumstance. Not true. Simply not true.

The last point I will make about the chart that is put up there and all the cases he has cited is it makes my case. No. 1, none of those appeals were granted, none of them. The Federal court and the State court said repeatedly no, there is no merit to this petition. That being the case, by definition, if Senator BIDEN's bill were law, they would be dead, dead. If the Senator from Florida's proposal were law, Andrews would be dead.

So what are we talking about? Keep your eye on the ball here. Do you want to have the Federal writ of habeas corpus, a concept which is 800 years old in our jurisprudence, to continue, or do you want, in an emotional disgorging of passion, to take that writ and throw it out in the name of correcting that aberration which every one of the proposals corrects?

At the outset I think it is real important we understand what the debate is not about. First, we are not talking about abusive or repetitive habeas corpus petitions. The Graham bill and the Biden bill would limit a prisoner to one single petition. One time that petitioner gets to slide that note through the bar and say, look me over, one time. In the case of the Senator from Florida, he has to do it within 6 months. In my case within 1 year.

Second, we are not talking about delaying the execution of prisoners on death row. Prisoners have 6 months to file a petition under Graham, the same time period that Senator THURMOND proposes, with strict limits on judges which will further speed the decision and the same time limits included in Senator THURMOND'S bill as in the Graham bill.

Third, we are not talking about letting inmates currently on death row file habeas corpus petitions every time a new Supreme Court decides a new constitutional issue. Prisoners may file one petition within that short period of time. If that petition has been filed then that is it, period.

And the heinous criminals that Senator HATCH has referred to, like the Andrews case, get no help from the Graham bill, none, none.

So what are we debating today? We are debating fairness and we are debat-

ing justice and we are debating what we believe, as Americans, is the essence and core of our English jurisprudential system. What Senator GRAHAM proposes will rid us of abuse while adding fairness to the habeas corpus process. But what Senators THURMOND and HATCH propose will rid us of abuse but at the same time at the very high price of endangering our constitutional rights.

(Mr. LIEBERMAN assumed the chair.)

Mr. BIDEN. For example, Senator GRAHAM'S bill requires that the State provide death row inmates with competent counsel. It is shocking, but it is true, that one-fourth of all Kentucky death row inmates, one-tenth of all of Alabama's, 13 percent of all of Louisiana's death row inmates were represented at the time they got the death penalty by a lawyer who was either disbarred, disciplined, or put in jail. Justice denied is justice delayed. Justice unable to be articulated is justice abused.

Without competent counsel, these prisoners do not get a fair shake. And guess what? For every case he can give you, one that is grisly, I will give you one, and I gave you one before, where the person is convicted and found to be innocent, starting with the Leon Frank case, which generated the notion of habeas corpus as we now know it. A Jew in Atlanta in 1913 was accused of killing a Christian. There was literally a lynch mob. Leon Frank said, "Federal court, you people who are not elected, you are there for life and have some insulation; look at my case." Federal court said, "No. Let the State take care of it."

The State took care of it all right. They executed him. They literally dragged him from his cell and hung him until he was dead. And guess what? After the rage and antisemitism had died down, a witness came forward who completely cleared Leon Frank—after he was dead.

But one aberration does not make a rule. The only point I wish to make is for every aberration of delay of justice without Federal habeas corpus there is such a speedy imposition of justice in emotional circumstances denying the Federal court the right to look at the Federal Constitution as applied by State court judges elected to office that the Federal courts decided, hey, in the Congress, we have to put in some protection.

All the Senator from Florida wants to do is to say give this guy or woman one chance, one chance. And they have to do it in a certain time limit of 6 months.

My friends, well intended, are saying, hey, look, if the State has executed their proceedings full and fair—and that is clip, clip, clip, they went right down the line procedurally—whether or not they actually applied the Federal Constitution properly is irrelevant.

What have we come to here? What is this Chamber looking for? Do we want blood to drip from the walls here? Is that what will satisfy us? Maybe we should have the death penalty for jaywalkers.

They provide for no competent counsel.

Look, the Supreme Court, the Powell Commission, they said, "Hey, look, we are going to speed this process up so those cases cannot drag on for 17 years." That is what the Senator from Delaware says, the Senator from Florida says. They said, "I will tell you what, State, in order for us to say the Federal courts are only going to take one look at you, we have got to make a deal here. You can speed up justice. The way you can do it is you can promise us at the front end you are going to have competent counsel."

I say to my friend, the Presiding Officer, a former Attorney General: Guess what? In seven of the States that have the highest death penalty, in six of those seven there is no public defender system. Does that not ring true?

I support the death penalty. This is a ridiculous argument.

The issue here is how do we give, within a 6-month period, 6 months, a man or woman the last chance to make their case before a Federal judge to say, "Hey, look at me." Probably 90 percent of them will be guilty and the court will turn it down. But maybe 1 in 10, maybe only 1 out of 100 will be innocent. And what does society pay? Having the Federal court able to look at that within a 6-month period. My goodness.

The Thurmond bill and the Hatch bill preclude a prisoner from evoking any Supreme Court decision that is handed down, even one decided a single day after the prisoner is convicted.

Let us take this back. If this were the law in this country, what they are proposing, 40 years ago, 25 years ago, 15 years ago, and the Court came along and said, "Hey, guess what? If you have a black man on trial you cannot allow in the State the prosecutor to say 'I will not let any black people sit on the jury.'"

Do any of you think that is fair? Well, that is what used to be done. That is what used to be done.

And what happened? The Supreme Court came along, late in the day, and said, "Hey, that is not fair. You have to let black people otherwise qualified to sit on the jury just like white people."

Now, what would have happened if you have a black man or a black woman convicted of a celebrated crime that everybody is up in arms about, everybody is looking for someone to be convicted for, because the cops were on the line, the prosecutor is on the line, the Governor is on the line, and they get convicted because they do not allow a black man to sit on a jury? And then the day after they are convicted, the Supreme Court finally says, "Hey, that is not fair," And they say, "Guess what? Your constitutional rights have been violated. Go back there and be tried again, but this time allow black people as well as white people to sit on the jury."

Under this law that they are proposing, and the President, that would be too bad. If that decision came down one day after that person was wrongly convicted, they would say, "Tough. Procedures, you know." In a very republican way: "We are going to move things along very quickly. Let us have this thing go on. Order is what we want, so we will have order. Put him to death." The guy says, "Hey, wait a minute, the Supreme Court just said I did not get a fair trial." They would say, under this law, "Well, that is a retroactive application of a Supreme Court decision. This is a circumstance that will result in delay. And justice denied is justice delayed. And this will deny justice by slowing it up for a 6-month period because it allows a Federal court to go back and determine whether or not this Constitution was properly applied to that black man. Therefore, in the interest of justice we are going to put this man to death that the Supreme Court just said did not get a fair trial." That is what their law would do.

And what does the Senator from Florida try to do? He is not saying that man should get off. He is not saying that man should not have his case adjudicated within 6 months. He says, within 6 months make a decision. "You get one shot, man, to go before a Federal court and if a new Supreme Court decision comes down of consequence that applies to you, you get one shot to say to that Supreme Court, 'Look, it is me, too; me, too. Give me a fair trial along the lines the Supreme Court now says constitutes a fair trial.'"

Do you all think that is fair? Do you think that is reasonable?

If you listen to the argument my friends make, they would balance that off and say: "Well, it is better than 17 years' delay. We are not talking about 17 years' delay. We are talking about 6 months; one shot."

There is so much more to say. This is such an important vote. There is so much more to say.

Again, I think it is important to understand what we are not debating today.

First, we are not talking about abusive or repetitive habeas corpus petitions. The Graham bill would limit a prisoner to a single habeas petition—a single petition in 6 months time.

Second, we are not talking about delaying the execution of prisoners on death row.

Prisoners have 6 months to file a petition—the same time period that Senator THURMOND proposes. And strict time limits on judges will further speed

the decision—the same time limits included in Senator THURMOND's bill.

Third, we are not talking about letting inmates currently on death row file a habeas petition every time the Supreme Court decides a new case—prisoners may file on petition within a short period of time. If that petition has been filed—then that is it. The heinous criminals that Senator HATCH has referred to—like the Andrews case—get no help from the Graham bill.

So what are we debating today? We are debating fairness and justice. What Senator GRAHAM proposes will rid us of abuse, while adding fairness to the habeas corpus process; what Senators THURMOND and HATCH propose will rid us of abuse but at the very high price of endangering our constitutional rights.

For example, Senator GRAHAM's bill requires that States provide death row inmates with competent counsel. It is shocking, but true, that one-fourth of Kentucky's death row inmates, one-tenth of Alabama's and 13 percent of Louisiana's were represented by lawyers who have since been disbarred, suspended, or imprisoned.

Without competent counsel, these prisoners do not get a fair shake in the first place and end up filing endless postconviction appeals because the quality of representation was so poor. Wouldn't you file an extra appeal if your trial lawyer was later disbarred, suspended, or imprisoned?

More important, the Graham bill eliminates, and the Thurmond/Hatch bill leaves in place, an arbitrary feature of the current habeas corpus system.

Under the Thurmond-Hatch bill, if two prisoners commit the same crime, on the same day, and they both go to trial on the same day—one might end up on death row when the other would not.

Why? Because the Thurmond/Hatch bill precludes a prisoner from invoking any Supreme Court decision that is handed down—even one decided a single day after the prisoner's conviction becomes final. All it may take is for one jury to take a few days longer than another for one coconspirator to be executed, while his accomplice is spared.

Finally, and most important, the Thurmond-Hatch proposal invites injustice by barring habeas corpus in any case that has been fully and fairly litigated in State court.

Make no mistake: Last year's Thurmond/Hatch bill is not this year's Thurmond/Hatch bill. Just as the administration's exclusionary rule reform proposal was expanded this year, so too was its habeas reform proposal.

This year's habeas reform proposal poses a dramatic threat to our constitutional rights. It means not one bite at the apple, but no Federal habeas review; no bite at the apple.

Had the full and fair rule been in effect: The courthouse door would have been shut to Joseph Brown, even though the prosecution deliberately withheld evidence showing that he did not commit the crime; even though he was hours from execution. A Federal habeas petition saved his life.

And the courthouse door would have been shut to Rubin Carter, who was convicted even though the prosecution concealed reports showing that the key witness placing defendant at the scene of the crime had failed lie detector tests.

Without filing a habeas petition, Carter never would have been released, and the prosecutor never would have dropped the charges.

The full and fair rule undermines the very reasons the Congress has consistently protected the writ.

As Justice O'Connor wrote last year:

> The threat of habeas corpus serves as a necessary additional incentive for trial and appellate courts throughout the land to conduct their proceedings in a manner consistent with established constitutional standards.

Under a full and fair rule, there is no incentive for elected State court judges to comply with "established constitutional standards." Instead, State judges will have the final say on what the Constitution means.

We have already seen what will happen if we stake our constitutional rights to the political fortunes of State court judges under a full and fair rule. The results were tragic.

For a brief period at the turn of the century, the Supreme Court adopted the rule the administration now proposes—that full review by a State court precluded a Federal habeas corpus petition.

Leo Frank, an innocent man tried by an anti-Semitic mob, died because the Supreme Court refused his habeas petition. Frank was charged with the rape-murder of a Christian woman in Atlanta in 1913.

The trial was so violent, the judge ordered Frank and his lawyer out of the courtroom for their own safety. Years later, an eyewitness intimidated by the mob came forward to clear Mr. Frank's name, to establish his innocence beyond doubt.

But before the witness could come forward, and after the Supreme Court had ruled, Mr. Frank had been executed—lynched by a mob who wrested him from death row.

Before we vote for a bill that—had it been in effect, would send future Leo Franks to their death, let us remember the legacy of our forefathers.

As Chief Justice Marshall wrote:

> The Constitution imposes on Congress the obligation of providing efficient means by which this great constitutional privilege—[the writ of habeas corpus]—should receive life and activity.

Today, let us take that obligation seriously and let us ask ourselves whether we want to shed blood so badly that we will deprive the citizens of this Republic their constitutional rights, so badly that we would bar the Federal courthouse door to those with valid constitutional claims.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Delaware has 8 minutes and 32 seconds.

Mr. BIDEN. Mr. President, I see a man who knows a great deal more than I, and I apologize because I took a great deal more time than I meant to. I yield the rest of my time to the Senator from Florida.

But please understand, this is not who is tough on crime. Every one of these people who are filing habeas corpus petitions are off the street already. The issue is how to fairly and swiftly administer justice.

The Senator from Florida does it. What they do is they eliminate the prospect of a Federal court being able to determine whether or not it is fair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, as our colleague just said, the issue is not whether, as a matter of policy, you are for or against the death penalty. I believe everyone who has spoken this morning on this subject is personally in favor of the death penalty as an appropriate punishment, sanction, or deterrence, in our society. In my judgment, the greater threat to the death penalty is if the public loses confidence in its essential justice. That confidence can be lost in two directions.

One, it can be lost if we continue in the current pattern of the way in which Federal habeas corpus is administered, which results in charts such as the one the Senator from Utah has presented us: These egregious delays, the gamesmanship, the misuse and abuse of the system in order to avoid a pursuit of truth and a conclusion of justice.

It is to that abuse that the amendment which I have offered is directed.

But that is not the only basis upon which the public could lose confidence in the death penalty and demand its repeal. If we were to have a series of cases in which the public were to be shocked in its conscience at the application of the death penalty; if they were to feel as if the death penalty was being applied in an unjust, inappropriate, biased manner; if the cases like the Frank case of 75 years ago were to recur: then I think we would have an outcry for repeal of the death penalty based on our sense of fairness.

It is to that issue that I believe the difference between the amendment offered by the Senators from South Carolina and Utah, and that which myself and our cosponsors proposed, goes. There are many similarities in our amendments.

We both say you must bring your case within 6 months of the exhaustion

of State remedies. We both say the Federal courts must give an expedited consideration of these cases within 6 months after filings. We both have tight restraints on successive petitions so as to encourage all issues to be brought and considered in one full and fair Federal habeas corpus. Those are some of the similarities.

These are three principal differences between the second-degree amendment as offered by Senator THURMOND and the first-degree amendment. And those are, briefly: One, the Thurmond amendment has a provision called the full and fair consideration. Essentially it says that if the Federal court finds that the State court, in its disposition of the case, dealt in a full and fair manner, the Federal court is precluded from any further consideration. The Federal court cannot apply its accumulated knowledge and wisdom of Federal constitutional and legal standards if it makes that threshold determination that there was a full and fair determination at the State court.

In my opinion we have effectively repealed Federal habeas corpus once we have adopted that standard. We have denied what is an essential element of our Federal-State dual judicial system with the recognition of the primacy of Federal courts in their interpretation of Federal constitutional law and rights.

Second, the amendment offered by the Senator from South Carolina relative to successive petitions says that even if you can meet the very tight screening, the high thresholds necessary to be able to bring a successive petition—you can show that the Supreme Court of the United States has adopted a new constitutional standard, and provided it would be applied retroactively, or you can show that there is new evidence that could not have reasonably been discovered prior to the bringing of a successive petition—those are the types of thresholds that would have to be met—even if you could do all of those things, under the amendment of the Senator from South Carolina you could not attack the appropriateness of the sentence. You would only be able to go to the issue of guilt or innocence.

The fact is in most of these cases, the issue raised on habeas corpus is not whether the person is guilty, but whether the death sentence was the appropriate sentence to be applied. Some of the basic cases in the area of Federal habeas corpus go to questions such as were appropriate standards of mitigation and aggravation placed before the trial judge and jury? Those are the fundamental issues that are raised in Federal habeas corpus. Those are exactly the issues which would be precluded, denied, not allowed to be brought in a successive petition even after having met those high thresholds under the Thurmond amendment.

And third is the issue of competence of counsel. Since the Gideon case, a case that came out of my State of Florida, there has been no more fundamental concept of justice than that a person who is charged with a serious offense, who is typically poor, uneducated, ill prepared to defend himself or herself, should have counsel to represent them.

Under the Thurmond bill, the appointment of counsel in these very technical, collateral appeals is at the discretion of the court, assumedly the trial court. And there are no standards, if the trial court elects to use that discretion, as to who shall have to be appointed.

Our bill will require that in capital cases, there be counsel at all stages: at the trial, at the appeal, and at the collateral consideration; and that there would be standards established within that State. In the Presiding Officer's State, it would be either the State legislature or the highest tribunal in the State of Connecticut that would be responsible for establishing the standards that would be used in the selection of those individuals who would serve as counsel at all of those levels.

There is nothing that will more fundamentally assist in the pursuit of truth and justice, and in the expedition of these cases, than having competent counsel at all stages. There is probably no single basis raised more frequently in collateral appeals than that of incompetent counsel.

So we will be making a great contribution toward all the goals we seek if we assure that there are competent counsel at each stage of a case which could result in the execution of a human being.

We, all of us speaking on both sides of this issue, support the death penalty. We believe it is an important tool, an important means of carrying out society's ability to punish and to deter in the most serious of crimes. But we believe it must be done with essential fairness and justice, and with due process.

I believe the amendment which I have offered will accomplish those dual objectives. I believe the amendment of the Senator from South Carolina fails.

The PRESIDING OFFICER. All time allocated to the Senator from Delaware has expired. The Senator from Utah has 15 minutes remaining.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from California.

Mr. SEYMOUR. Mr. President, I rise in support of the amendment introduced by the senior Senator from South Carolina. I have listened very closely to the debate, and some of the words I am hearing are "justice" and "fairness" and "equity." And I am hearing words on the part of those who propose this amendment, words to describe their position as if theirs is very close to what Senator THURMOND has offered.

I have a differing view. I am not an attorney, but I rely on the words of Abraham Lincoln when he said more rogues than honest men find shelter under habeas corpus. And that is what this argument is all about. It is not an argument of justice for brutal murderers; it is an argument of justice for the victims.

I heard the distinguished Senator speaking on behalf of the criminals who have been convicted. Who is going to speak on behalf, Mr. President, of the victims and the families, in over 250 cases in my State of California? When are they going to have justice?

I think there are some very large differences between these two proposals, and that is why I support Senator THURMOND's and Senator HATCH's proposal, because it will tighten it up, and the bottom line of all of it is that it will provide justice for victims and their families and, in fact, create a real death penalty, one that has meaning and teeth in the law.

Yesterday, this body took an important and historic step in fighting violent crime by expanding the Federal death penalty. If enacted, we will send a strong message to thugs ranging from racist skinheads to drug kingpins that we intend to strike back against their heinous crimes to the fullest extent of the law.

I am a new Member of this august body, but the leadership demonstrated by the distinguished Senator from South Carolina and the distinguished chairman of the Judiciary Committee is not new to this body, and I commend the two managers of this bill for their tireless efforts to achieve a bipartisan solution on the Federal death penalty.

We have demonstrated tremendous support for expanding the Federal death penalty to various violent crimes. We have also stated that our States should have the ability to fully and effectively dispense justice against violent criminals, but our words, our actions will amount to nothing unless our actions will amount to nothing unless we demonstrate an equal resolve to reform the Federal habeas corpus system. And the votes we will make today will determine whether we intend the death penalty to be merely a tool of campaign rhetoric or a serious instrument of tough and effective justice—an instrument that restores public faith, integrity, and meaning to the phrase "criminal justice."

Abraham Lincoln once said: "More rogues than honest men find shelter under habeas corpus." Well, this statement is certainly applicable today, but the rogues involved here are the worst kind: Violent criminals on death row. And the statistics show why these murderers are the only Americans with any reason to have faith in our current habeas system.

According to the Department of Justice, the average time between the imposition of a capital criminal's death sentence and execution is 6½ years. And since the constitutionality of the death penalty was restored by the Supreme Court 15 years ago, just 3 percent of those on death row have received the sentence as prescribed by law.

Three percent, Mr. President.

After 15 years, 97 percent of those sentenced to death wait patiently to meet their fate as justice prescribed. But, I'm sad to say an even more glaring statistic comes from my own State of California, where more than 250 of the most ruthless murderers ever assembled await the death sentence, but not one single individual has been executed. Clearly, habeas corpus is offering more than just shelter to a capital criminal. It's providing a permanent, safe, and secure shelter.

One of these beneficiaries is Robert Alton Harris. Either him or his crafty attorney deserves a Ph.D. for their abuse of the habeas system and avoidance of the death penalty.

In 1979, Harris was sentenced to death by a California Superior Court for shooting two young boys in cold blood. Today, 12 years later, Mr. Harris is little closer to the gas chamber than the day he was sentenced. Thousands of taxpayer dollars and countless days have been expended in hearing frivolous and repetitious petitions. That is the essence of the problem: A shrewd attorney identifying several potential bases of appeal, but only bringing each appeal one at a time, taking one trip after another to Federal court, with each trip through the system taking years to resolve.

All this time, all this effort, for a man who has admitted his crime not once, but six times. A vicious murderer willingly admits to brutally cutting short two young lives—lives filled with expectation and promise and our system can't hold him accountable. Where is the justice, Mr. President, in a system which accommodates such a bloody and violent criminal?

Where is the justice in a system that extends the pain, the agony, the nightmare for the living victims.

Where is the justice, Mr. President?

Now, I am not a lawyer, Mr. President. I do not profess to have the technical legal background exemplified with eloquence and skill by my distinguished colleagues from Utah and Pennsylvania or by the distinguished chairman of the Judiciary Committee. But it doesn't take a lawyer to recognize that the habeas system needs reform now.

Indeed, after reading and hearing of countless, decade-long abuses of this time consuming process, I have come to believe that habeas corpus is Latin for "endless delay."

Well, it's time we changed this definition of habeas corpus to mean "effective justice." It's time we restored public faith, integrity, and finality in a justice system that has been nothing but a never-ending story.

In short, the most common cause of death for a capital offender like Robert Alton Harris should not be old age.

Mr. President, the distinguished Senator from Utah and the senior Senator from South Carolina have offered a workable proposal for habeas corpus reform in capital cases. It will bring an end to needless habeas petitions, and bring much needed relief to our Federal courts, and restore much needed integrity to State criminal proceedings.

This proposal allows death row inmates, with few exceptions, one round of Federal appeals—one trip through the Federal system. That's it. No longer will these murderers be able to dull the sword of justice with an unending flurry of repetitive legal memoranda.

This proposal represents the best of previous reform initiatives, including reforms introduced by Senator THURMOND and passed by the Senate in 1984 and 1990, as well as the recommendations of the reform commission chaired by former Supreme Court Justice Lewis Powell.

But don't just take my word for it, or the views of my friends from Utah and South Carolina. Listen, as well, to those whose very livelihoods are dedicated to protecting the freedoms and safety of law-abiding citizens. Listen to the National Association of Attorneys General; listen to the State district attorney associations across the country, including my own State of California; listen to law enforcement organizations, such as the Fraternal Order of Police. They all support the Hatch-Thurmond amendment.

But most importantly, listen to the living victims who simply want to put an end to the nightmare of violent crime.

Mr. President, I am honored to have had the opportunity, in my first year as a U.S. Senator, to participate in some very historic votes. In my first vote, I stood by our President in his efforts to restore the sovereignty of a peaceful Nation.

And now, I take part in another vote of historic proportions, but it will only truly be historic if we send a tough and effective crime bill to the President's desk for his signature. Nothing would make me more proud than to say that in 1 year, I helped strike a blow against ruthless murderers who have waged violence in neighborhoods from Kuwait city to Kansas City, from Riyadh, Saudi Arabia to Redding, CA.

The Hatch-Thurmond amendment most effectively breathes life back into State and Federal enforcement of the death penalty. It sends a message to Americans that we intend to be victors, not victims, of crime. And it sends a message to Americans that we intend to be victors, not victims, of crime. And it sends a message to the Robert Alton Harris' of the world—their days of abusing the system are at an end. The time has come for them to answer for their crimes.

I yield back the remainder of my time.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my distinguished colleague from Utah.

Mr. President, I intend to support the amendment offered by Senator THURMOND and Senator HATCH to the bill. If it is not adopted, I have a substitute measure to be proposed later today. If the President's bill is adopted, there are certain amendments which I will offer after the adoption.

The thrust of the concern which I have, Mr. President, is that all pending bills do not move with sufficiently expeditious treatment after giving the defendant an opportunity to a fair trial with competent counsel. When the distinguished Senator from Delaware [Mr. BIDEN] talks about only one time and within 6 months, his legislation does not have a tight timetable for consideration by the U.S. district court or by the circuit court or by the Supreme Court. None of the bills, except the one that this Senator has introduced, deals with a delay on repetitious proceedings in State habeas corpus. This is illustrated by Senator HATCH's chart which shows on its face multiple appeals to the supreme court of Utah.

The legislation which I introduced last year in collaboration with Senator THURMOND and with the backing of Senator HATCH, Senator SIMPSON, and others provided that there would be Federal court habeas corpus jurisdiction after the first appeal to the State supreme court. The State should fashion procedures to encompass all the pending issues, including, if they choose, as California has done in its unitary procedure, the issue of competency of counsel. In any event, after the State supreme court has ruled on one occasion, then it goes to Federal court without bouncing around in the State for 5, 6, 7 years.

Once it gets to the Federal court, Mr. President, the legislation which I propose would give a Federal court jurisdiction to take up the issues and decide them. This rubric about a full and fair consideration is so complicated and involves so many remands that it accounts for this long chain on Andrews and it accounts for innumerable delays on other death penalty cases.

There is, realistically viewed, no way to structure a Federal court system where Federal courts are not ultimately going to deal with the merits of the case, nor do I think there should

be. But the long litany of Supreme Court cases—and I will discuss later today illustrative cases like Castille versus Peoples—shows that a case just bounces back and forth. If the Federal court on one occasion considers the issues, the factual and legal issues, and comes to a conclusion under tight time limits, then I think it is possible to have a complete adjudication, after a jury imposes the death penalty, within 2 years, competent counsel for the defendant, and an appropriate disposition so that we will reinstate once and for all the death penalty in a fair and timely manner.

I thank the Chair and yield the floor.

Mr. GRASSLEY. Mr. President, I want to take just a few minutes here at this time to speak to the point of the habeas corpus provisions of S. 1241 and particularly to my support for the President's language and how I felt and do feel about the shortcomings of the language that is in the bill.

I have no amendment to offer on this subject. I know that we have probably two or more modifications of the habeas corpus provisions that were already submitted. So I want to take this opportunity to tell of my reasons for the position I have taken on this in committee, and also on the floor, in my support of the Thurmond amendment.

Everyone knows that since 1867, the Federal Government has by statute allowed certain prisoners confined in State facilities to challenge their convictions or sentences by means of a civil application filed in district court.

Although the remedy is popularly known as habeas corpus relief, it is not the same as the writ of habeas corpus mentioned in clause 2, section 9, of article I of the Constitution.

The habeas corpus remedy provided by the Constitution affords persons detained before conviction with the right to know the charges on which they are being held.

The Federal statutory habeas corpus remedy was originally limited to jurisdictional challenges and was gradually expanded to allow challenges based on constitutional claims.

Congress can change these procedures that were established in 1867, and I think they can be changed, without doing violence to any right already guaranteed to individuals under the Constitution.

The present Federal habeas corpus statute has fostered a system that no longer seems to be interested in the factual guilt or innocence of a defendant.

The present system allows a State prisoner to relitigate virtually every aspect of his or her confinement, from pretrial through post-conviction proceedings, an unlimited number of times throughout their term of confinement.

The elevation of procedure over substance deprives the criminal justice system of a crucial element of deterrence, which is swiftness and certainty of punishment.

Particularly in capital cases, the present habeas corpus system undermines the effectiveness of the death penalty as both a deterrent and as a legitimate expression of society's moral outrage concerning the most abominable of intentional killings.

Consequently, the death penalty laws of 36 States are not being enforced.

Because of my strong belief in federalism and my preference that the States make their own decisions in most areas, I have supported habeas corpus reform since the beginning of my service in the Congress.

Pointless and duplicative relitigation of claims that have already been fairly considered and decided by State courts at both the trial and appellate levels must be put to an end.

A reasonable and rational habeas appeals system will not allow claims to be raised in successive Federal habeas corpus petitions that have nothing to do with the question of defendant's factual innocence or guilt.

We need to keep in mind four basic goals as we go about trying to reform the Federal habeas corpus system:

First, a State defendant's capital case should be afforded a full and fair series of appeals—both directly and collaterally—based upon the prisoner's guilt or innocence and the procedures followed during the State's criminal trial proceedings.

Second, when the capital defendant has exhausted his State remedies, he should be afforded another series of equally full and fair appeals in the Federal courts.

Third, once a State capital defendants conviction and sentence are found to be appropriate, judicial proceedings should be concluded.

Fourth, Federal habeas corpus relief should remain an extraordinary remedy which should upset a State conviction only where necessary to redress a fundamental injustice.

We must strive to create habeas corpus reform which will establish more finality and restraint upon the operation of the Federal habeas corpus system rather than preserve the status quo under the guise of reform.

I believe that that is the situation with the underlying legislation, which I think has been dramatically improved at this point. I hope that subsequent modifications or attempts to modify do not detract from what has been done at this point.

I would like to explain in some detail why I support this amendment and not S. 1241.

First, S. 1241 allows a capital defendant 365 days to file a Federal habeas corpus claim, with a possible extension of up to 90 days for good cause.

S. 1241, however, prevents this time limitation from being counted against the capital defendant while any appeal is taken from State postconviction rulings.

Under current law, a capital defendant can already appeal his trial, conviction, and the disposition of any claims he may make—while his case is undergoing Federal habeas corpus review.

Since the Supreme Court rarely grants review of state postconviction rulings, it seems as if preventing the 365 days from being counted against a capital defendant while an appeal is taken from State postconviction rulings has been added for the sake of delay only.

If S. 1241 were enacted into law, its 1-year period with periods of suspension would do nothing more than codify the existing average period of delay that it takes a capital defendant's case to move from State postconviction proceedings to Federal habeas corpus proceedings.

This is hardly reform in any meaningful sense.

Second, S. 1241 allows a defendant to raise Federal claims that—due to the defendants or his attorneys ignorance or negligence—he did not raise during State court proceedings.

Because capital litigants will have an incentive to ignore a State's procedural rules for the prompt and orderly presentation of claims in State courts, I believe that very few States will decide to adopt the habeas corpus regime in this bill.

If they do not, then of course, the present unworkable system of death penalty appeals will remain in effect.

Under S. 1241, a Federal district court would be required to consider a claim which—according to a State's procedural rules—had not been properly raised in State court due to "the ignorance or neglect of the capital defendant or counsel or if the failure to consider such a claim would result in a miscarriage of justice."

The Supreme Court of the United States, in Wainwright versus Sykes in 1977, held that a Federal court should not entertain a claim in Federal habeas corpus proceedings that would not be entertained by a State court due to the failure to raise the claim in accordance with State procedural rules.

The Court determined that if a defendant could show a persuasive reason for his failure to raise the claim in a timely manner and that an alleged constitutional error was so fundamental as to infect the entire proceeding, then, and only then, would the Federal district court have to entertain the claim.

The Supreme Court ruled that to decide otherwise would possibly breed contempt for State court proceedings. This could result in sand-bagging on the part of defense lawyers, who might take their chances on a verdict of guilty in the State trial court, with the intent of raising their constitutional claims in Federal habeas corpus proceedings.

I believe very strongly that this bill's abandonment of well-settled law regarding the deference that State procedural rules should be given is very troublesome.

No litigants have a greater incentive to withhold claims for use in later proceedings than capital defendants, for whom delay results in effective abridgement of their sentences.

If claims can be heard in Federal habeas corpus proceedings because of the ignorance or neglect of the capital defendant—even though he was represented by counsel during trial, appeal and State postconviction proceedings—the provision in this title is an invitation to abuse.

While present law allows capital defendants to raise the claim—in a Federal habeas corpus proceeding—that his counsel's ineffectiveness was the cause of the procedural default, the habeas corpus provision in S. 1241 simply introduces more uncertainty in the death penalty appeals system and provides further incentive for delay.

Third, related to this issue, S. 1241 overturns two 1989 Supreme Court decisions, *Teague* v. *Lane*, 109 S.Ct. 1060 and *Penry* v. *Lynaugh*, 109 S.Ct. 2934, that held new Federal court decisions will not be applied to State capital cases that have received direct review and that are now undergoing collateral attack.

In other words, under the current system, the law applied in reviewing a case in a Federal habeas corpus proceeding is the law that was in effect at the time the judgment became final.

Unlike the 1989 Supreme Court decisions that provide a workable standard on which both State courts and capital defendants can rely, S. 1241 creates an ad hoc approach that will impede the goals of fairness and finality in capital cases.

S. 1241 treats similarly situated capital defendants differently by allowing them—depending on the timing of a particular Federal court decision—to point to the most trivial changes in Federal court precedent as grounds for successive habeas corpus petitions.

As I understand S. 1241, it will allow new law to be used in reviewing a State's final judgment if this new law announced by the Supreme Court of the United States represents a sharp break with precedent.

Sharp break is not defined in S. 1241 and we are left to flounder with the intended meaning of this perplexing intangible in countless litigation for every defendant sentenced to capital punishment.

By enacting S. 1241, we would frustrate State courts who have faithfully applied existing constitutional law, only to have a Federal court discover—during habeas corpus proceedings—something new in the Constitution that forces the State to go back and apply it retroactively.

S. 1241 establishes the dangerous assumption that only by depriving the States of procedural bars and defenses—such as the contemporaneous objection rule; procedural default; and the exhaustion of remedies doctrine—and expanding the scope of Federal habeas corpus review and the role of Federal courts, can there be any assurances of adequate constitutional review of capital cases.

This makes no sense and its enactment would make bad policy.

Fourth, and perhaps one of the most troublesome provisions of S. 1421 allows a capital defendant to allege—after all of his claims have been exhausted—that his capital sentence cannot be carried out in order to prevent a "miscarriage of justice."

This term is also undefined in S. 1421.

This term in particular is so open-ended, that it undoubtedly will be abused in successive habeas petitions, considering that there is no limit to the number of times a defendant can seek its refuge.

Worse, the term itself will ultimately become the subject of repetitive lawsuits and challenges by capital defendants.

This free-floating standard is ripe for abuse. It practically guarantees that capital defendants will be treated unequally, as different courts attempted to flesh-out a meaning for the term "miscarriage of justice."

Finally, S. 1421 sets specific and rigid standards for the kind of experience required of counsel in capital cases.

Generally, a capital defendant would be represented during all criminal trial, direct appeal, and collateral appeal proceedings by counsel having been a member of the bar at least 5 years. In addition counsel would have 3 years of felony litigation experience in particular courts in which the case is being adjudicated.

These competence standards are based on similar provisions included in the death penalty for drug-related killings title of the 1988 Anti-Substance Abuse Act.

However, we all know how that legislation was put together. I am not persuaded that its provisions are guideposts that this body should follow in this—or any other future—debate on Federal criminal procedure reforms.

For one thing, the collateral review section of the United States Code, section 2254 of title 28, Judiciary and Judicial Procedures, generally provides remedies for those in the custody of State courts.

In fact, section 2254 has one volume of the code devoted exclusively to cases specifically related to its interpretation.

If we assume that competent counsel is essential and indispensable to a just criminal trial and appeal, where is the problem in the present system?

Someone must be bringing these cases for capital defendants presently cited within the volume on section 2254.

Mr. President, we need to focus on what actually happened during a particular criminal proceeding, rather than on counsel's background or compensation.

I believe that we should be more concerned with the impact of the habeas system on American citizens and on the victims of the crime—actual or potential—rather than being concerned with its impact on American lawyers.

It seems to me, that if we are really interested in serving the public by insuring that capital cases will not be delayed because of—among other reasons—a lack of qualified counsel, S. 1241 should not be enacted as written.

Consequently, rejecting a State court's determination in a capital case is completely unreasonable.

Because some choose to give little or no deference to State criminal trials, appellate, and postconviction proceedings or just because of a counsel's inexperience or undercompensation.

What we need and what we are here for, is to reform the Federal habeas corpus system. Perpetuating the present system of duplicative relitigation of claims that have already been fairly considered under the guise of reform is unacceptable.

It is for these reasons that I support this amendment to S. 1241.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 5 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND.

Mr. THURMOND. Mr. President, today, I rise to reiterate my strong support for the President's habeas corpus proposal contained in the pending amendment offered by myself and Senator HATCH. Without question, this vote is the most important vote we will take on this crime bill. It will determine whether the Congress will do what the American people are demanding—that we put an end to endless appeals in death penalty cases.

As I stated during debate on this amendment last night, the President's habeas amendment embodies what is, without a doubt, the toughest and most effective habeas corpus reform proposal before the Senate. It will minimize Federal judicial interference with State criminal convictions and deal with common abuses typical of habeas prisoner petitions, particularly in death penalty cases.

The pending amendment curbs the abuse of Federal habeas corpus proceedings by establishing a more appropriate role for the Federal courts in habeas cases by according deference to the results of State collateral adjudications which are full and fair when resolving issues of Federal law. Further,

each death row petitioner would be entitled to only one Federal habeas petition with a subsequent petition only allowed when the new claim addresses the underlying guilt or innocence of the defendant. Strict time limits would be placed on the time for consideration of habeas petitions by Federal district courts and Courts of Appeals. Finally, the measure also requires that these cases be made a priority over other cases by all Federal Courts.

Unfortunately, the Graham habeas proposal, which the President's proposal amends, is troublesome and just as unacceptable as the Biden bill. It would overturn major Supreme Court decisions which have had the effect of limiting habeas abuse. Simply stated, the Graham amendment expands the rights of death row inmates.

For example, the Graham proposal reverses the landmark case of Teaque versus Lane which recently clarified the complicated area of law surrounding the retroactivity of law in habeas cases. It reverses this decision by allowing a prisoner to take advantage of interim changes in the law—no matter how insignificant. This provision ignores the fact that every prisoner will file a petition which will claim that he or she would benefit from the new law. This change alone, according to the Attorney General, would fully restore the chronic problems of unpredictability and lack of reasonable finality of judgments that existed prior to the Teaque decision.

Mr. President, I have just received a letter from the Attorney General which states that the President will veto this bill if any provision which seeks to overturn Teaque is in any habeas corpus reform legislation. The Graham proposal contains such a provision. It makes no sense for Congress to pass a habeas corpus reform proposal which expands death row inmates' rights and which will result in a veto by President Bush.

In summary, if the Graham habeas corpus proposal were to become law, the only people who would be celebrating in this Nation would be death row inmates. It is a death row inmate's wish list. The adoption of the President's proposal, however, will significantly enhance the fairness to the States, the victims of crime, and the prisoner while still providing for counsel in habeas cases.

As I stated earlier, I received a letter from a majority of the State attorneys general which opposed the provisions contained in the Graham bill and supports the President's proposal. In this letter, the Attorneys General wrote:

> The only issue before the Congress is whether Congress will change the present [habeas] system in a way which will assist or further hurt the States' ability to enforce their valid State [death sentences].

They urged Congress to pass meaningful reform.

Only yesterday, the attorneys general met, and they endorsed the proposal that Senator HATCH and I offered today. They are opposed to the Graham amendment. They are opposed to the Biden amendment. They say it will not get results. Only yesterday they met and acted on this matter.

Mr. President, the question now before the Senate is—Does Congress want to pass real, meaningful habeas reform? If so, support the President's proposal. If not—if you wish to expand the rights of death row inmates—vote against the President's proposal. The Attorney General, a majority organizations, and victims' organizations all support the President's bill and they oppose the Graham proposal. A vote in favor of this amendment is a vote for real reform. A vote against this amendment is a vote for death row inmates and a votes to veto this crime bill.

Mr. President, I ask unanimous consent that a copy of the letter from the Attorney General be printed following my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, I want to say in closing, again the Attorney General of the United States, who represents this Government, favors this bill. He is against the proposal by Senator BIDEN and Senator GRAHAM. I want to say the attorneys general of the States of the Nation are for our bill and against those proposals. The prosecutors, that is the district attorneys of the Nation, have endorsed this proposal. They are against the Graham and the Biden proposal.

I want to say further the Fraternal Order of Police, the National Troopers Coalition, the National Sheriffs Association endorse this bill. They are opposed to the Graham and the Biden proposals. And the victims groups, those who have suffered from crime and criminals, and their families endorse this bill. They are opposed to those proposals that I mentioned by Senator GRAHAM and Senator BIDEN.

EXHIBIT 1

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, June 26, 1991.

Hon. STROM THURMOND,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing to express the categorical opposition of the Department of Justice to the habeas corpus provisions of S. 1241 (Title XI). As we have explained in our earlier statements on this proposal (formely Title X of S. 618), it is a regressive measure that would systematically overturn the existing rules that limit delay and litigation abuse in habeas corpus proceedings, including the decisions of the Supreme Court in McCleskey versus Zant (1991); Teague versus Lane (1989); and Murray versus Carrier (1986).

We have equally fundamental concerns regarding a new amendment that combines an earlier bill introduced by Senator Graham (S. 620) with features of Senator Biden's proposal in S. 1241. Members of Congress should clearly understand that this is not a viable "alternative" or "compromise" measure, but simply another proposal that would aggravate existing problems of delay and abuse. If either current Title XI of S. 1241 or the new Graham-Biden provision were included in a crime bill presented to the President, the Department of Justice would recommend a veto.

Unlike the habeas corpus provisions of the President's violent crime bill, the Graham-Biden provision does not provide for deference to full and fair state court adjudications of a prisoners claims, and included no measures to curb the abuse of habeas corpus in non-capital cases.

The Graham-Biden provision does include the most alarming and harmful feature of the current provision in S. 1241: it would overturn the "retroactivity" rules adopted by the Supreme Court in Teague versus Lane, and freely allow criminal judgments to be attacked and overturned on the basis of later judicial decisions. This would vastly enlarge the opportunities for prisoners to obstruct the execution of death sentences by raising supposedly new claims and re-cycling essentially old claims in repetitive habeas corpus filings on the basis of alleged "changes in the law." It would also seriously jeopardize the integrity of criminal convictions in the noncapital cases.

The "optional" litigation procedures for capital cases in the Graham-Biden provision are fundamentally flawed. It rejects the central recommendation of the distinguished committee headed by Justice Powell to limit second and successive habeas petitions in capital cases to claims going to the prisoner's factual guilt or innocence. This means that unquestionable guilty murders could continue to raise alleged technical defects in their capital sentences in a second, third, fourth, or even later federal habeas corpus petition.

Permitting claims unrelated to guilt or innocence in repetitive habeas filings also means that the proposed procedures would offer no sufficiently significant improvement over the existing rules to make election of the proposed procedures worthwhile for the states. While it is reasonable to expect that states will broaden the right of capital defendants to appointment of counsel to obtain the strong safeguards of finality proposed in the President's bill, it is wholly unrealistic to suppose that they will do so to obtain the application of the Graham-Biden procedures.

Hence, the capital litigation procedures in the Graham-Biden provision would be a dead letter on enactment, and would do nothing to improve the representation of capital defendants or curb the rampant litigation abuse that has thwarted the use of state death penalty laws.

The Graham-Biden capital litigation procedures suffer from many other serious flaws. For example, unlike the corresponding provisions of the President's bill, they do not limit the raising of new claims in federal habeas corpus proceedings to cases where cause is shown for the failure to raise a claim in state proceedings. Unlike the President's bill, they do not authorize the federal habeas corpus court to avoid the delay involved in sending a case back to state court by completing the record for review. Unlike the President's bill, they are not applicable to states with "unitary review" systems, and hence could not be used in states like California that do have "unitary review" systems in capital cases.

In sum, the Graham-Biden amendment, like current Title XI of S. 1241, would aggra-

vate problems of delay and abuse and jeopardize criminal judgment in both capital and noncapital cases by overruling the Supreme Court's decision in Teague versus Lane and adopting new retroactivity standards of unprecedented breadth. The capital litigation procedures of the Graham-Biden amendment are illusory, since they would not be used by the states.

We strongly urge Congress to reject these unsound measures and enact the real habeas corpus reform proposed by the President.

Sincerely,

DICK THORNBURGH.

The PRESIDING OFFICER. The time allocated to the Senator from South Carolina has expired.

The Senator from Utah has 4 minutes 20 seconds remaining.

Mr. HATCH. Mr. President, I would like to make a couple of points here. First of all, the pending amendment is not a partisan amendment. It is a bipartisan amendment that is supported by virtually all law enforcement people from prosecutors to Governors to attorneys general—Democrats and Republicans across the board.

The Biden amendment does not limit the number of times a State prisoner can come into Federal court. It actually increases it, because it has "miscarriage of justice" language in there. Any time you allege there is a "miscarriage of justice," you can have another habeas appeal and that just is nebulous as can be.

There is no reason why the Federal courts must hear every claim in every case at any time. It is a enough that a prisoner can bring his claim in Federal court once and State court thereafter, which is what we provide.

The Biden bill overrules at least three leading Supreme Court decisions which created reasonable limitations, including Wainwright versus Sykes, which enforces procedural defaults.

I have to say that the Biden and Graham bill retroactivity provision is unprecedented. It allows cases that are filed to be reopened whenever a new Supereme Court decision is handed down. There are at least 30 criminal decisions decided by the Supreme Court every year. That means there is a potential of 30 new habeas corpus petitions every year. If there is only 5, that is still 5 more than they had. It means that appeals can go on ad infintium every time the Supreme Court decides a relevant criminal court decision. Their amendments allow a single Federal district judge to overrule the Supreme Court's holding that a new criminal rule will be prospective only if the district judge believes it to be just.

Let me close by saying that Ted Bundy, notorious murderer, again connected with Utah, was on death row for over 10 years before his sentence was finally carried out. It took only 1 week for a Florida court to try and convict him for the murder of Kimberly Leach, yet it took over 10 years for the Federal courts to detemine that his sentence could be carried out. But this 10-year period was brief compared to the time Bundy would have served under death row under these two amendments if the retroactivity provision that they have in their amendments had been in effect in 1988.

Shortly before his execution, Bundy filed a final, unsuccessful habeas petition in Federal district court and his claim for relief was simple. A new Supreme Court case handed down the provisions week allegedly gave him new rights with respect to the cross-examination of psychiatric witnesses.

Had their amendments been passed, Bundy would have had a new rights since that time. The petition was summarily denied in 1988 because the new Supreme Court decision was not given retroactive effect and no Federal judge in 1988 had jurisdiction to second guess the Supreme Court of the United States of America, which their amendments would do.

Senator BIDEN's or Senator GRAHAM's bill would change all of this. It would give the Ted Bundys of the world a chance to argue before Federal district judges that they should be given the benefit of any new Supreme Court decision and a right to appeal on the basis of that through habeas corpus, even though the Supreme Court has already concluded otherwise.

Whether the prisoner is right or wrong as applicable to the new cases is entirely beside the point. Under the proposed new rule of nonfinality that Senators BIDEN and GRAHAM propose, the death row inmate's essential purpose in delaying sentence will be accomplished ad infinitum.

There are 27 appeals in one case. I have to say there would be others older than that if their death sentences had not been removed by the Supreme Court. I am confident that far more vicious murderers will die natural deaths of old age than face the consequences of their murders, should either of these two amendments be passed.

The PRESIDING OFFICER (Mr. BAUCUS). The time of the Senator has expired.

Mr. HATCH. I ask for the yeas and nays on the Hatch amendment.

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

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, was leader's time reserved this morning?

The PRESIDING OFFICER. The Senator is correct. The Senator may proceed.

Mr. DOLE. I believe that many people listening to these legal arguments and theatrics and loud noises coming from this Chamber might be a bit confused about what we are all about here today. I doubt that many people, unless they are specialized in this particular area, really understand all these theories and all the legal niceties of habeas corpus. Let me just try to in a few minutes give you a set of facts—I think American people understand facts. They may not understand what we do here. Maybe we do not understand it ourselves fully all the time—a set of facts which proves that the habeas corpus system is broken and needs to be fixed.

In 1978, while on parole from a jail sentence in California for voluntary manslaughter, Robert Alton Harris decided to steal a getaway car to use in a bank robbery.

He and his brother approached two teenage boys, aged 15 and 16, who were sitting in a car eating hamburgers, and forced them at gunpoint to drive to a rural area.

When they arrived, Harris told both boys he would not hurt them if they walked away from the car, and agreed not to identify him.

As they walked away, Harris shot one boy repeatedly in the back. After a chase, Harris found the other boy crouching and screaming in the underbrush, begging for his life. He shot this boy four times, returned to the first boy and shot him several more times.

Harris then returned to the car, ate the dead boys' hamburgers, and proceeded to rob a bank later that day.

Harris and his brother were soon captured and arrested, and both men repeatedly confessed to the crimes.

Harris had a jury trial, at which he was afforded all the requisite constitutional protections. He had a lawyer. He had a psychiatric examination. He had an opportunity to bring mitigating evidence to the attention of the jury in an effort to persuade them not to impose the death penalty. He testified at the trial, as was his right.

The jury convicted him on March 6, 1979. At the sentencing, Harris again confessed to the crimes, and he was sentenced to death. In 1981, the California Supreme Court affirmed the conviction and the sentence of death.

Ten years have now passed since the conviction and sentencing were upheld. In that 10 years, Harris has filed eight State habeas corpus petitions, and three Federal habeas corpus petitions. On various occasions, Harris' taxpayer-funded attorneys have argued that the California death penalty statute was unconstitutional, that the penalty was applied so as to discriminate against males, that Harris was denied effective counsel, that Harris had been denied proper psychiatric evaluations.

Not one of these claims has been found to have any merit.

The facts on which Harris based his latest Federal corpus petition have been known to his lawyers for years. Yet this new claim was not presented until 8 days before his scheduled execu-

tion, thereby ensuring the longest possible delay.

Mr. President, everyone is entitled to their day in court. Robert Alton Harris, who confessed to brutally murdering two teenage boys, has now so perverted the system that there is no end in sight to his days in court.

How much longer should the victim's family have to tolerate the thought that the defendant escapes his punishment by filing repetitive appeals? Ten more years? Twenty? Fifty? How much more should law-abiding taxpayers tolerate having to pay for the State to go to court on these matters, even though the question of guilty or innocence is not at issue? Should we spend $100,000? $500,000? $1 million?

Mr. President, nobody denies that the distinguished Senator from Delaware [Mr. BIDEN] and the distinguished Senator from Florida [Mr. GRAHAM] are unaware of the violations of the habeas corpus process.

They say that their proposal will cut down on the delays. In fact, the proposed Graham amendment will do exactly the opposite. By introducing retroactivity into the process, it will allow convicted felons to seek new delays 30 or 40 years after their sentence has been handed down.

The proposal that truly reforms the process, that truly will eliminate delays, is the President's proposal, as offered by the distinguished Senator from Utah. It has been endorsed by law enforcement organizations and State attorneys general—both Democrat and Republican—from across the Nation.

Let us not allow the Robert Alton Harrises of the world to continue mocking the justice system. Let us not allow the Robert Alton Harrises of the world to continue mocking us.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. FOWLER). The Chair is informed that all time has expired.

The question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

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

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—58

Bentsen	Bumpers	Cochran
Bond	Burns	Cohen
Boren	Byrd	Craig
Breaux	Chafee	D'Amato
Brown	Coats	Danforth
DeConcini	Jeffords	Reid
Dixon	Johnston	Roth
Dole	Kassebaum	Rudman
Domenici	Kasten	Seymour
Durenberger	Lieberman	Shelby
Ford	Lott	Simpson
Fowler	Lugar	Smith
Gorton	Mack	Specter
Gramm	McCain	Stevens
Grassley	McConnell	Symms
Hatch	Murkowski	Thurmond
Hatfield	Nickles	Wallop
Heflin	Nunn	Warner
Helms	Packwood	
Hollings	Pressler	

NAYS—40

Adams	Gore	Moynihan
Akaka	Graham	Pell
Baucus	Harkin	Riegle
Biden	Inouye	Robb
Bingaman	Kennedy	Rockefeller
Bradley	Kerrey	Sanford
Bryan	Kerry	Sarbanes
Burdick	Kohl	Sasser
Conrad	Lautenberg	Simon
Cranston	Leahy	Wellstone
Daschle	Levin	Wirth
Dodd	Metzenbaum	Wofford
Exon	Mikulski	
Glenn	Mitchell	

NOT VOTING—2

Garn Pryor

So, the amendment (No. 380) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 379, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Florida.

The amendment (No. 379), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I support the bill as it is now put together, just amended by an amendment adopted here on the floor, and hopefully we will be able to oppose any sort of other reforms that are going to detract from this and set us back further, because we need finality, and I think we are in a situation now where we are going to have greater finality and greater justice and the unclogging of the court system.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 381

(Purpose: To modify the exhaustion requirement for habeas corpus petitions in capital cases)

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to offer an amendment with respect to habeas corpus. Debate on the amendment will be limited to 1 hour, with no amendments to the amendment in order.

The Chair will inquire as to whether or not the Senator from Delaware, the distinguished chairman of the committee, is opposed to the amendment?

The Senator from Pennsylvania is recognized to offer the amendment, and the time will be allocated to a Senator opposing the amendment after the amendment has been offered.

Mr. BIDEN. Parliamentary inquiry. I apologize because I was on another issue.

Who is in control of the time in opposition?

The PRESIDING OFFICER. Under the previous order, there is 1 hour on the amendment after it is introduced, and time will be equally divided. Thirty minutes in opposition to the amendment will be allocated to the Senator from Delaware, provided the Senator from Delaware is opposed to the amendment.

Mr. BIDEN. Mr. President, continuing my parliamentary inquiry, the Senator from Delaware does not know what the amendment is, but the prospect is he will be opposed.

Mr. SPECTER. Mr. President, might I suggest on this subject that Senators hear the amendment, including the distinguished chairman, the floor manager, because it may well be that there will be agreement with the amendment.

At this time, Mr. President I send the amendment to the desk, and I know that immediate consideration has already been provided for under the unanimous-consent agreement.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 381.

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

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

The amendment is as follows:

At the appropriate place, insert the following section:

SEC. . AMENDMENT TO SECTION 2254 OF TITLE 28.

Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he

has exhausted any right to direct appeal in the State.".

At the appropriate place, insert the following:

"§ . Habeas corpus time requirements

"(a)(1) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any petition for rehearing en banc within 20 days of the filing of such petition unless a responsive pleading is required in which case the court of appeals shall decide the petition within 20 days of the filing of the responsive pleading. If the petition is granted, the time limit of paragraph (A) shall apply.

"(3) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

Mr. SPECTER. Mr. President, this amendment has been tailored to fit the situation which the Senate now confronts with the adoption of the amendment offered by the distinguished Senator from Utah [Mr. HATCH]. It targets a very narrow area on which I believe there will be wide agreement in the Senate. I do not want to assert that too positively, because you never know.

This amendment seeks to expedite the process in two important respects. It is tailored after an amendment which was offered last year by this Senator, in collaboration with the distinguished Senator from South Carolina [Mr. THURMOND] and with the support of Senator HATCH, Senator SIMPSON, and others.

I believe that it may well be that the provisions will not be objected to by the manager, the distinguished chairman, but I will outline them succinctly.

This amendment provides that after the first appeal to the State supreme court, the Federal court will then have jurisdiction. This is designed to stop multiple habeas corpus proceedings in the State court.

Mr. President, this is a subject that I had considerable experience with both as an assistant district attorney and as district attorney of Philadelphia. What I found in the regular course of events was that after the jury imposed the death penalty, the case would then go to the State supreme court, which would affirm, and then there would be habeas corpus proceedings in the State court, which would raise many of the same issues, sometimes all of the same issues, that had been raised on the first appeal to the State supreme court.

These cases would sit in the trial court for weeks and months and would be customarily affirmed, and then the case would go to the State supreme court, and it would be affirmed again. But this process could take several years.

There is one additional issue after the jury verdict, Mr. President, which is frequently raised and that is the issue of competency of counsel. California has a system, the so-called unitary system, where there is a proceeding after conviction and after the imposition of the death penalty, where there is a determination of competency of counsel before the State supreme court passes on the case the first time. I had considered requiring the unitary system, which had been present in an earlier draft. There had been considerable opposition by State attorneys general to that provision, so there is no such requirement in the current amendment. The States would have the latitude to adopt the unitary system, which California has, to provide for review of competency of counsel before the case gets to the State supreme court—or not. That would be up to the State supreme court, the State procedure, to make that determination. But Federal court jurisdiction for habeas corpus would attach as soon as a State supreme court affirms the death penalty. The Federal courts would then take up a consideration of the issues raised in Federal court habeas corpus.

I believe the drawing of a line on what is full and fair review is an extraordinarily difficult task, which the courts have not really been able to deal with. It has resulted in an enormous tennis game of bouncing these cases back and forth from Federal court to State court, then the appellate process, then back to the Federal court.

So that the thrust of this amendment is to let the Federal court review the case in accordance with the other provisions of the Hatch amendment so whatever the provision is as to full and fair review, so be it. But if any issues have not been comprehended by the State within that initial review, the Federal court will have jurisdiction. It is my submission, Mr. President, that the tradeoff here is very much in society's interest, to see to it that the Federal court hears the case once and for all and decides all of the issues.

There has been some concern raised by State prosecutors, and the testimony of Attorney General Lungren, from California, was illustrative when he raised a concern about the State having the first right to review, according to the professionals in his office who raised that concern. But the advantage is that the case will not be delayed and go through a lengthy process in the State court where frequently other decisions will come down from the Supreme Court of the United States which will add new rights, cause new hearings, and cause a very repetitious system. So that, in sum, I believe it is in the interests of the prosecutor and I believe it is in the interests of the system, once having assured that there is adequate counsel.

The second aspect of this amendment provides for a time limit on consideration within the Federal system. It provides that there would be an appeal taken within 90 days after the final action on the State proceeding which, really, is twice that long because after the State supreme court has affirmed the death penalty, as a practical matter it is determined that that is the status of the case and there is at least another 3 months while the Supreme Court of the United States denies certiorari. Ninety days after that denial of cert is the time limit for filing this action in the Federal district court. The amendment then provides for 20 days for the filing of papers, 90 additional days by the district court to determine the case, with the statutory requirement that this be the priority item before the district court.

In taking a look at the 1989 death sentences, some 249 in number, with the currently authorized Federal judgeships in the 36 States which have the death penalty—there are some 486—a Federal judge would have 0.51 of these death sentences to consider each year. Illustratively, in Pennsylvania, there were 15 death sentences in 1989 with 30 authorized judgeships. In California there were 29 death sentences with 54 authorized judgeships; Texas, 29 death sentences with 50 authorized Federal judgeships. So I think it would not be burdensome on any district judge to give priority attention to the case which he would have, which would be about half a case a year.

We have extensive hearings in the Judiciary Committee on testing out these time limits, and the consensus was that, if you give priority attention to these cases, they can be decided within the parameters set forth. If there is an extraordinarily difficult problem, the statute has leeway for an additional period of time on a showing of cause if the court cannot decide the case within the 110 days in the district

court or within the 90 days within the court of appeals or within the 90 days in the Supreme Court of the United States.

There has been a good bit of comment on the floor by those who have argued about Federal habeas corpus that there is agreement that the death penalty ought to be maintained. My experience as a district attorney has convicted me that the death penalty is a deterrent. I know there are many who disagree with the application of the death penalty on grounds of conscientious scruples, and I respect that. But the current procedures for the imposition of the death penalty make absolutely no sense, when some 36 States have the death penalty, and some cases languish in the courts for as long as 17.5 years, with the average time being 8.5 years.

The death penalty and the whole judicial system are really the laughingstock of the criminal element in this country because, succinctly stated, the death penalty is not carried out in any rational way, with more than 2,500 people being on death row. It is true that if the time passes, these lengthy delays are, in effect, a way to defeat the imposition of the death penalty. But I suggest that does not make any sense in terms of a rational criminal justice system.

The European Court on Human Rights recently concluded that such delay raised an issue of cruel and unusual punishment. In the Soering case, that court found cruel and unusual punishment when somebody was on death row for many years, as in the U.S. system, contrasted with no finding of cruel and unusual punishment for the actual imposition of the death penalty.

My amendment is based upon the experience which I have had, handling these State habeas corpus cases; experience as an assistant district attorney and the district attorney on Federal court habeas corpus cases and also in the Federal courts of appeals.

Mr. President, I inquire as to how much time I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 19 minutes remaining.

Mr. SPECTER. I thank the Chair. At this point I reserve the remainder of my time.

Mr. BIDEN. Mr. President, speaking to the managers on the Republican side, I think they are opposed to this as well. I am not sure. I do not want to take all the time in opposition.

Mr. President, I understand what the Senator from Pennsylvania is attempting to do. Last year, under the President's other habeas corpus bill, his approach had some merit, in my view, arguably. But what we just did is we just agreed to a habeas corpus amendment that effectively eliminated Federal habeas corpus because of this provision called full and fair.

Now my friend from Pennsylvania will, by definition, be redefining what full and fair is because he will effectively eliminate State habeas corpus because there is what he says, and he is right, by the way: The States, not the Federal Government, the States have a long process. You get convicted of murder, after the conviction of murder, you appeal the murder conviction to the first appellate court in your State—I do not know what it is in Tennessee, but in Delaware you go straight to the supreme court of the State of Delaware. In the State of New York, you go to the, I think it is the supreme court next and then the court of appeals. I do not know. Each State has a different court system. But you appeal through the State as to whether or not the original decision by that jury was correct.

Then after that decision is affirmed by the highest court in the State, that is the time in most States when you are allowed to file your first habeas corpus petition in the State.

What my friend from Pennsylvania is suggesting is that what in the past has occurred is that you go through the whole State process in the State habeas corpus appeal, which eats up a lot of time. Then, after the State is all finished—and it is almost always denied—you get to the Federal level and then you go through the whole Federal system as it was before. You go to the district court and you go to the court of appeals and then you go to the Supreme Court, et cetera.

We have just set time limits down—we would have set them down as well in the Biden amendment and the Graham amendment. We have a time limit of 6 months from the time you finish up in the State. OK, everything is finished in the State. There is nothing more to do in the State. Six months from that time, and only 6 months, you have to file in Federal court your habeas corpus petition.

But the amendment we just agreed to says that if you have gone through all the chairs in the State, you do not get a chance to do that because the court will say you had a full and fair hearing in the State court. So you do not even get a chance to go to Federal court. But on the chance that you can prove you did not get a full and fair hearing in the State court, you get to file that appeal, whatever that habeas corpus petition.

So we have greatly constricted the time, which I wanted to do. We greatly constricted the circumstances under which you can exercise that time, which I did not want to do. And now my friend from Pennsylvania, if I understand him, is saying we are going to greatly constrict, as a practical matter, your ability to even exercise your State habeas corpus rights because he says that the clock starts to toll.

I realize this is a pretty complicated issue for people who do not follow it, or nonlawyers, but that button gets pressed and the clock starts to run 90 days from the time the Supreme Court of the State of Delaware said you were rightly convicted in the superior court. From that time you press that button, you have a chance to file a petition in the State court. But if you use that 90 days, if you file in State court, you are going to use up all your 90 days. Very few State courts will resolve that in less than 90 days, so the clock is ticking.

After you get that one shot now in your State on habeas corpus, all your time is up. You are finished. So now you do not have any access to Federal court and you have only had that one shot in your State court. So even in the circumstances where maybe there was not full and fair proceeding, as I understand it, you are out of luck because you chose to try it in the State court.

On the other hand, if you do not want to do that, you can bypass the State court. The clock ticks, you press the button and 90 days starts to run and you can try to go directly to Federal court within that 90-day period, if I understand the Senator correctly. At that point, Federal court is going to say to you, in all probability, well, look, you got a full and fair hearing in the State court. You exhausted all your remedies. You had the right to file your habeas corpus petition. You did not. You tried us, and you had the right to appeal your case, which you did. So from our standpoint, Federal court, we look at it and it looks like you got a full and fair hearing in your State proceedings. So, sorry, we are not going to hear your Federal habeas corpus petition.

The 90 days will have run by the time Federal court says that, and now you go back and say, wait a minute, you would not hear my petition, but let me try it in my State court. Let me get one shot somewhere, anywhere on habeas corpus. Am I right or wrong?

Mr. SPECTER. Will the Senator yield? Wrong.

Mr. BIDEN. Tell me how I am wrong. I may be because I have only just seen this amendment now, as I recall.

Mr. SPECTER. The amendment provides that in Federal court there will be an opportunity for the petitioner to raise the facts, legal issues, which were not decided in the State court.

Mr. BIDEN. Can I stop the Senator, it will help me not to argue but to be enlightened.

Mr. SPECTER. Sure. I appreciate that.

Mr. BIDEN. But under the President's amendment, or the Hatch amendment which was just agreed to, you are not going to get a chance to raise those factual issues if Federal court concludes that in the State court

you got a full and fair hearing. You are not even going to get a chance to raise it. You do not even get a chance to do that.

Mr. SPECTER. You would in the Federal court.

Mr. BIDEN. How?

Mr. SPECTER. Illustratively on the issue of competency of counsel, assume you have a State that does not have California's unitary approach. The State may provide for a hearing after the death penalty is imposed on competency of counsel which would then be comprehended in the first appeal to the State supreme court or it might not.

If the State does not adopt, say, the California approach, and there is a question on competency of counsel which has not been raised in the State court prior to the State supreme court affirming the death penalty, then that issue can be raised factually and legally in the Federal court.

Mr. BIDEN. If the Senator will yield on that point, Mr. President, as I understand it, the testimony before our committee by the administration and the experts who came to oppose it say, no, that is not true because the State will have made a judgment that there was competent counsel and if it was not raised, then it is waived at the State level. And if you waive it at the State level, in fact, you cannot raise it and it is affirmed as having sufficient counsel, then it has also been adjudicated and it is not appropriate at a Federal level because it is full and fair hearing at a State level.

Mr. SPECTER. That would not be the case under this amendment because if the State did not have a California unitary procedure, there would not be an opportunity to raise competency of counsel before the State supreme court affirmed the death penalty.

The State may cure that or may provide for a procedure to raise competency of counsel.

If I might illustrate it further for my distinguished colleague from Delaware, there are a variety of issues which come up in the course of a trial. There may be an issue on search and seizure. There may be an issue on confession. There may be an issue of perjury. Those issues are considered by the State courts; defendants take an appeal and that is the conclusion of it.

The only one issue which customarily or frequently is not raised in the course of the trial on those issues which are known to counsel would be the question of competency of counsel, because a lawyer is not about to say that he was incompetent during the course of the trial itself.

California provides a procedure where competency of counsel can be taken up after the jury verdict but before the time the case goes to the State supreme court, and then there could be a determination of competency of counsel.

If a State does not provide for that kind of a procedure, then the defendant, the petitioner may raise that in Federal court and may have a determination, there has not been a determination in the State court.

Mr. BIDEN. If the Senator will yield, I more clearly understand his position now and it appears he is raising the competency of counsel, but that is the only issue. In every other issue that a defendant would have an opportunity to raise relative to the constitutionality of the proceedings, the sentencing or the fairness of the proceedings generally, in every other issue, what the Senator is asking the Senator from Delaware and others to vote on is, you say, OK, here is what we are going to do. If the issue is other than competency of counsel, we have now eliminated your Federal and we are now going to eliminate your State, as a practical matter, habeas corpus. Because what we are going to say to you is if it is a matter of whether or not blacks have been unfairly, the Batson case the Senator likes to refer to a lot. I mean that rightly, or a more egregious violation where it is clear that they just factually would not let blacks sit on the jury, but the State court reviews that and says fine, it is OK; you are properly convicted, under the amendment the Senator is proposing, the defendant would be in a heck of a spot. The defendant knows he is not going to get reviewed by a Federal Court because of full and fair—he is likely not to—and he knows now he only gets one shot within 90 days to try it in the State. He has to gamble: Do I go into Federal court, roll these dice and go into Federal court and make my case that full and fair was not met because they denied any black from sitting on the jury in Pocomoke County where I was convicted, or do I not do that and go straight to State court. But the clock ticks. Bang. The button is pushed.

Mr. SPECTER. If the Senator will yield, I would make this suggestion, that where you have an issue such as a line-up or confession, and that issue was raised at trial and was denied by the trial court, and then that case goes to the Supreme Court, illustrative, of Delaware, then Delaware looks at the case and affirms, and then you come back and raise that issue on habeas corpus collaterally and argue it again in the trial court, I have seen dozens, hundreds of them, and they are summarily dismissed because the State supreme court has already considered it, and then an appeal is taken to the Supreme Court which has already passed on that issue and it is affirmed summarily. It is a rare circumstance where there was something presented in a State habeas corpus proceeding which brings something new to light other than that which had already been considered in the initial trial. I would suggest that if you have that kind of a situation, you will have relief in the Federal court.

Mr. BIDEN. How, I ask the Senator?

Mr. SPECTER. Because the consideration in the State court would not have been full and fair. If you are going to have the State supreme court change its mind on a State habeas corpus proceeding, I submit that the circumstances would have to be sufficiently egregious that it would bring review in the Federal court. What happens virtually always is that when these issues are relitigated in the State court, the result is the same.

Mr. BIDEN. Mr. President, so what the Senator is practically saying is any time the State supreme court affirms, it must be right. How about the situation where there is an allegation that fails to be raised, the defense is failed to be raised that, let us say, the prosecution withheld evidence or evidence that would go to the innocence of the——

Mr. SPECTER. If the Senator will yield, I am not saying that the State court is always right. I am just saying they are not going to change their mind on the same facts within the course of a reasonably brief period of time.

Mr. BIDEN. What I am suggesting to the Senator is if you now eliminate my Federal right and I am innocent, even though the State supreme court was wrong once, I do not want to give up the prospect that I may be able to convince them the second time, especially since what you have done to me in this bill you have voted for is eliminated my right to raise that right at the Federal level.

Mr. SPECTER. If the Senator will yield, Mr. President.

Mr. BIDEN. Yes.

Mr. SPECTER. Taking up the illustration which the Senator started with where some evidence had been withheld, if that issue had not been raised in the State court, under my provision you would have the right to raise it in a Federal court.

Mr. BIDEN. How?

Mr. SPECTER. Because the issue had not been considered in the State court. This would be the same as the issue of competency of counsel.

Mr. BIDEN. Mr. President, if I may ask, so the Senator is saying to me he is amending the President's bill to say, the President's bill now says if you did not raise it, you lose it. If you did not raise whatever it was in the State court within the time period that was called for, you lose the right to raise that in a Federal court because you have gotten a fair and full hearing and you waived your right to do it. We are big on times now. We are big on efficiency now.

Is the Senator saying to me he is going to amend that provision of the President's bill to say that if I did not

raise an issue of competence, an issue that goes to my guilt or innocence, or an issue that goes to the constitutionality of my sentence, if I did not raise it in the State court and I am convicted, and I go through the whole process which is being streamlined in the State court, and I can then raise it in the Federal court and argue that, notwithstanding I received a full and fair hearing at the State court level, notwithstanding that I waived it by failure to raise it at the State court level, I can now raise it federally? Is that what the Senator is saying to me?

Mr. SPECTER. I am saying that.

Mr. BIDEN. I might be for this then.

Mr. SPECTER. I am saying that, because if you can attract the Delaware State Surpeme Court to change its mind within a short time span, from the time they affirmed the death penalty on the State habeas corpus, you would have the kind of an argument which would be raisable in Federal court habeas corpus.

I would submit this to the Senator from Delaware, that the facts of life are that however you articulate a full and fair opportunity to raise an argument—and Justice Powell himself testified to this in hearings before our Judiciary Committee—that there was a miscarriage of justice or there were facts which did not come to light, without a very technical standard for what could have been raised at an earlier time, the Federal courts hear those issues.

What you have today in the State courts on habeas corpus is the State courts affirm summarily, not that they are always right, but they are not going to change their mind without some very strong showing, and occasionally they do. But if you have that kind of a case where the State supreme court is going to change its conclusion within a relatively brief time period, that is the kind of a case I comprehend with an opportunity for being raised and decided in the Federal habeas corpus proceeding.

Mr. BIDEN. If the Senator will yield, Mr. President.

Mr. SPECTER. Yes.

Mr. BIDEN. I think the Senator has a much more generous view than our President does of what constitutes full and fair. I might note for the record Justice Powell opposed the President's bill, the one we just voted for in this body, because of the full and fair provisions. And the Federal court judges opposed this bill, by the way. But anyway, it is now passed, or at least it is in the bill. Now, the Senator suggests that if in fact a time limit within which to raise an issue passes and it is an important issue, somehow the Supreme Court will say, Federal courts will say, by the way, that goes to full and fair, and therefore lets you raise it now.

The Supreme Court just ruled that notwithstanding the fact that there was an incompetent counsel, notwithstanding the fact that the counsel failed to file the habeas corpus petition that the defendant wanted filed and did it 3 days late, this Court, the Supreme Court, said sorry, Charlie, you are out—notwithstanding the fact that your counsel made a mistake and let the statute run—of luck, regardless of what your claim is, period. You are out of luck. You cannot raise it now.

We have amended a full and fair provision in here which means that you cannot fathom the Supreme Court making a judgment as saying that the State doing the same thing that the Federal court does where we just ruled somehow does not constitute full and fair.

I say to my friend from Pennsylvania for whom I have great respect, and I mean that sincerely, and who is a first-rate lawyer, I think that maybe the Senator wishfuly thinks, with all due respect, that full and fair means fair, like he and I mean fair—different than all the experts that testified before our committee on this full and fair provision as stated. Everyone else thinks, the administration thinks, the administration says, the managers of the bill say, the witnesses said full and fair means if the State court, even if they apply the Constitution wrongly, if they did it in a fair procedure, they were procedurally proper, although they were stupid, that that is OK. That meets full and fair. All it says is a dumb person just has to be fair, give the guy a chance to make his argument, be dumb, make the wrong conclusion, and that meets full and fair.

What we just codified here is the ability for judges to be stupidly fair. That is a nice thing we just did. We just say judges are incompetent, State courts—they are not incompetent: State court judges. But if they were, they make an incompetent ruling, if they did it fairly, even though the court, Federal court, would say they misinterpreted the Constitution, that meets full and fair. That was the testimony I say to my friend from Pennsylvania. That was the testimony before our committee.

So if the Senator's view of full and fair were really what full and fair meant, were really what the legislative language says, were really what the experts testified, were really what the administration meant, then we have a different story. But full and fair means you do not have to be right; you only have to think you were right, and do it fairly.

Mr. SPECTER. If the Senator will yield.

Mr. BIDEN. I yield. Excuse me. Parliamentary inquiry. I assume the time each of us speak is being charged to each of us.

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware was recognized and has the floor, and the colloquy which has been ongoing has been charged against the time of the Senator from Delaware. The Senator from Delaware has 6½ minutes remaining, and the Senator from Pennsylvania has 18 minutes and 15 seconds.

Mr. BIDEN. Mr. President, if I can point out, I have just demonstrated what I mean by stupidly full and fair. I have just demonstrated that. I was completely fair—and as the Senator will yield me time; I know he will—but that is a perfect example. I went through a procedure here that everyone up here would assume that we would be doing this by each of us having the time charged against ourselves since we are limited. But the Chair did exactly what was right.

Under the rules, the rules say whoever has the floor the time gets charged against. Now no one up there I think would think it was equitable that I be out of time, notwithstanding the fact that the Senator from Pennsylvania talked half the time. They will not think that was equitable. But it met the precise definition of a Senate rule. Procedurally we were right.

Mr. SPECTER. If the Senator will yield.

Mr. BIDEN. This is on my time. I will yield in just a moment. I know he is going to yield me time. That is not my point here. My point is to illustrate what full and fair means. This is a perfect example of it.

Any court looking at the rules of the Senate would say, notwithstanding the fact that it is not fair, any reasonable person who did not know the precise rule would assume, that the time would be split. But, nonetheless, the Senate, the court of the Senate, adhered to their procedures. They went through the procedure properly. Justice did not result, but procedurely we were precise. That is what full and fair means.

That is why the Supreme Court, the district court, the circuit court are never going to get a chance to find out whether or not, notwithstanding the procedure is right, whether the persons applying the procedure happened to be dumb, happened not to understand the Constitution, happened to wrongly apply the first, the second, the third, the fourth, the seventh, the sixth amendment. That is the travesty we just committed in this bill.

I will yield now my time—I yield the floor, not my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had sought early on to assure my colleague from Delaware that I would share that time.

Mr. BIDEN. I know.

Mr. SPECTER. I will do that. I listened to his last presentation because——

Mr. BIDEN. Because that would be fair.

Mr. SPECTER. And full; this is the only time that I vitally disagree with my good friend from Delaware because my being willing to share the time in a good faith manner is an illustration of my argument as to what full and fair does.

When JOE BIDEN and ARLEN SPECTER do business together, we will work it out. That is the thrust of my amendment—to give hearing in Federal habeas corpus when there has not been a consideration of the issue in the State court.

Mr. President, as I listened to what the chairman of the Judiciary Committee has had to say about full and fair, and the Supreme Court's rulings, I have to agree with him that they are virtually impossible to understand. And there is a case which came out of Pennsylvania, Philadelphia, captioned Castille versus People, where the State superior court, an intermediate appellate court, had upheld a conviction. The State Supreme Court denied a allocatur which was discretionary. In the allocatur petition, the defendant had raised issues of constitutional magnitude.

The case went to the district court which ruled that there had not been adequate consideration in the State court, and the Supreme Court of the United States reversed the court of appeals, all on a minuscule argument as to whether the State supreme court in its discretionary review had considered the merits of the defendant's claim.

There was more time spent on building castles in the sand in that case as there is in so many, many cases. And perhaps what really needs to be done is to further refine what the U.S. Supreme Court has defined as stated to be full and fair because the adoption of the amendment by the distinguished Senator from Utah on full and fair is not going to put this issue to rest. This bill has a long way to go between now and the House of Representatives, and the conference. Even if full and fair is defined as it is in the text, it is going to be subject to more interpretations and reinterpretations with more time lost in the appellate courts and dancing around procedural rules which make the old common law pleading rules look simple.

So this may be a subject which we are going to have to address, really, in much greater detail.

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

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Delaware.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unimous consent that upon the disposition of the Specter amendment, the Helms amendment No. 378 and Symms amendment No. 377 be temporarily laid aside, and that Senator D'AMATO then be recognized to offer an amendment requiring the death penalty for firearm murder, on which there be 90 minutes of debate equally divided and controlled in the usual manner, with no amendments to the amendment in order; further, that when all time is used or yielded back, the Senate proceed, without intervening motion or debate, to vote on or in relation to the D'Amato amendment, and that no motion to recommit the bill be in order during the pendency or the D'Amato amendment.

I am told this is cleared by the Republican leader, as well as the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, parliamentary inquiry. I suggest the absence of a quorum, and I ask unanimous consent that the call of the quorum be charged against neither the Senator from Delaware or the Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, the distinguished ranking member of the Judiciary Committee, the distinguished Senator from South Carolina, has been in touch with members of the administration and has asked for an opportunity to discuss certain parts of this bill.

The distinguished Senator from South Carolina has not yet taken a position, and I think it would be useful to have those discussions on certain issues which have been raised; and the extent of the discussion that Senator BIDEN and I have had have eliminated some of the complexities of full and fair consideration.

After having discussed the matter with the chairman and the ranking member, I ask unanimous consent that my amendment be set-aside and that the proceedings outlined under the unanimous-consent agreement requested by Senator BIDEN take place, and Senator HELMS have an opportunity to pursue his amendment, and then my amendment recur later in the day.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I ask unanimous consent that we now proceed to the consideration of the D'Amato amendment under the conditions that were stated in the previous unanimous-consent order.

The PRESIDING OFFICER. Without objection, the Senator from New York [Senator D'AMATO] will be recognized for 90 minutes for the purposes of offering an amendment.

Mr. D'AMATO. Mr. President, first, let me thank the distinguished manager of the bill, Senator BIDEN, and my good friend, Senator THURMOND.

Let me take this time to thank Senator THURMOND and his staff for having worked with us not only in the preparation of this legislation but over the years, and particularly when I think we have made a very significant contribution as it relates to the death penalty for the drug kingpin, notwithstanding that there may be a limited number, I think one prosecution of a drug kingpin at this time. Indeed, even one who deserves to be prosecuted and the death penalty sought for horrendous acts that have been brought is one more than there would have been had that legislation not passed.

AMENDMENT NO. 382

(Purpose: To provide for the death penalty for homicides involving firearms)

Mr. D'AMATO. Mr. President, at this time I send an amendment to the desk on behalf of myself, Senator THURMOND, and Senator MACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. THURMOND, and Mr. MACK, proposes an amendment numbered 382.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

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

SEC. . Chapter 51 of title 18, United States Code, as amended by this Act, is further amended—

(a) by adding at the end thereof the following section:

"SEC. . MURDER INVOLVING FIREARM.

"(a) OFFENSE.—Whoever has been found guilty of causing, through the use of a fire-

arm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228 shall apply.

"(b) JURISDICTION.—There is federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting murders involving firearms that have moved in interstate or foreign commerce that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under State law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice."

And (b) by amending the section analysis to add:

" . Murder Involving Firearm.

Mr. D'AMATO. Mr. President, let me again say that I do not claim that the death penalty amendment which I am offering is going to eliminate violence in our urban centers, eliminate the crime wave, or stop the epidemic of killings that have been taking place. But I will suggest, and particularly in those States, in my State, the State of New York, where there is no death penalty, where tragically we have made this a debate forum, where tragically notwithstanding that 75 plus percent of the people believe that there should be a death penalty, where tragically the murders continue in unabated manner to escalate, where the use of guns today has outpaced, in homicides, anything we have ever seen before, where fully 70 percent of those people killed last year in the city of New York, over 2,000 homicides and growing, were killed as a result of a gun.

Let me suggest to you I am not going to question the intent of those who say the Brady bill, with all of its improvements and all of its deficiencies, may not be some form of control and may make people feel good. But it is not going to stop the carnage in New York. It is not going to stop the criminal element, the drug gangs, and, yes, even the youngsters who have guns today from using them. It provides nothing to stop them, nothing to say that if you walk into a school yard, as they are doing now, or in a social club, and open up with wanton disregard, that there is something that you have to fear.

And, indeed, they will tell you after they shoot down someone, after they have a holdup in a grocery store, "I have nothing to fear. You could not give me anything more. You could put me in prison." And what is the average length of the prison stay? Seven years for a murder in this Nation. Seven years if you take a life. So what you are really doing is encouraging people to say, "I will eliminate a potential witness. There is nothing you can give us. Prisons are overcrowded. We will be out in no time."

And what about the execution of our police officers? We have a tragedy in this Nation. If we could refer to the statistics as it relates to the number of officers over the years who have been gunned down, it is incredible. People shoot them down. This is a decade of shoot the police officer. "Well, what are you going to do to us?"

So we have a situation nationally, homicides, 206,000 in the past decade. Law enforcement officers, who would believe it, 866 law enforcement officers in the last decade. It used to be that the word was no one ever, ever would turn on a police officer. It was the unwritten rule of the street, in urban areas, suburban areas, rural areas. That is no longer the case. "We have this fire power, we may as well use it. What are you going to do? We will get 7 years in prison." Out of the 866 law enforcement officers who were killed, 791 were by way of the use of a gun—791.

So let us really get down to it, because it seems to me what we have to be saying is not that we are going to take the honest, law-abiding citizen who registers, who does whatever you want, who does not use his gun to go around committing crimes; a vast 99 percent of them, never; 99.9 percent. We may have some feel good. You want people to feel good. We are going to stop. You do not have to register 7 days. So, if a person comes in and registers 7 days, what do you do? You do not even have the facility to be able to detect whether that person has a criminal record, is mentally unstable, is a drug addict. That is fine. But you do not have that sometimes. Oh, we have it on the books. That is going to stop all the carnage. It is not. It is absolutely not. It makes people feel good. Fine.

What we need is some penalties for the people who use guns. If you kill somebody with a gun, if you planned it, a planned execution, if it is wanton disregard for other people's lives and you come into a neighborhood and you open up—death penalty. Let us be subjected to it.

Let me tell you something. In my State, and I single it out, we desperately need it.

What my bill will do, Mr. President, is give an opportunity for the death penalty to be applied by a Federal prosecutor in these kinds of cases. Use a firearm that has been transported, manufactured, come across the line of a State—and 96 percent of those come by way of interstate commerce and pursuant to the commerce clause—that is the basis by which we will have jurisdiction if that gun is used in the commission of a crime and results in the death or the killing of someone. And our U.S. attorneys will have the ability to seek the death penalty.

In the State of New York, I believe it will be a very powerful tool. Are they going to use it indiscriminately? Are they going to usurp the local district attorney? No. As a matter of fact, I suggest over the years it has been proven, where there used to be a tremendous battle between the locals and the Federal authorities, that we have cross designations that we see regularly—local district attorneys being designated by the Federal prosecutors and vice versa. I think it will be used to complement the law enforcement efforts of State officials, both those who have the death penalty and those who do not.

As it relates to conspiracy to kill, or conspiracy theories generally, the Federal law gives to the law enforcement agencies a much greater ability to bring cases and convictions they might otherwise not have. So there are advantages that this will give to local prosecutors even in those States that have the death penalty. They may choose to go to the Federal prosecutor to seek his cooperation, his help.

As it relates to my State in particular, it relates to the 55 officers in New York State who were killed with firearms over the past decade. It would have given authority in those appropriate cases where there was a wanton disregard, where it was malicious, where they were execution styles. I think of the case of Matthew Byrne, a 22-year-old police officer who was executed. The fact is, had we had this law on the books they could have gone after those who ordered the execution, those who actually carried it out, and sought the death penalty. A very powerful message is not being received in my State and in other areas. It is a very powerful addition, this tool.

Mr. President, every year 14,000 people in this Nation are killed, homicides by way of guns. In our hospitals, and particularly our urban centers, not just New York, we find in emergency rooms one of the latest specialties is the treatment and removal of bullets from pregnant women. How will we do that in a manner that will preserve the life of the child and/or the mother?

Unfortunately, it has come to a situation where some of these battles have no regard, when they are fighting over turf, for people who may be in their homes, people who may be walking down the street, who may be in the parks. So we have this alarming new

thing in terms of emergency rooms picking up these kinds of expertise.

The firearm death rate? My colleagues want to know why we should have a death penalty for those who use a gun in the commission of a homicide. I suggest very few of these murders would be eliminated, as well intentioned as it is, by the Brady bill. But the death rate for teenagers in the United States of America exceeds the total from all natural causes of death, that death rate as a result of firearms.

The Department of HHS in 1988 said there were 16,000 teenagers and young adults who were killed with a gun; 16,000. How many may not have taken place where there is a view that there is a punishment that will take place if in wanton disregard you come in and start your shooting?

These killings deserve, I suggest, in many cases, the death penalty. Is it going to stop the ravaging of our streets? No. But it does bring about a sense that we are serious.

I am going to offer later, when I have the opportunity, when the business of the floor permits, another amendment to augment this. So it should not be said, well, the Senator is taking a simplistic solution. In that amendment—I am only going to explain it for several minutes—what I will be doing is seeking mandatory minimum sentences for the use of a firearm. If a firearm has come across State lines and is used in the commission of a crime, there will be very, very strong penalties attached to it.

If we want to begin to bring domestic tranquility, then we have to see the law is enforced and that we have a law that makes sense and sets a real penalty; which says if you use a gun in the commission of a crime—and it does not have to be a Federal crime—minimum 10 years, if that gun has come across a State line. And most of them have.

The Brady bill is not going to do that. It is not going to increase any penalties. We are not going to go after the people who use these guns. Ten years, that is an answer the people need. It is not a political answer. It says if you use a gun in the commission of a crime, if you hold up somebody, put them in fear: 10 years. Discharge the firearm: 20 years. And, if you use a firearm that has any kind of silencer device—now we are talking about the hired killer, the assassin: 30 years. Under the legislation that is pending at the present time, you kill someone: Death penalty.

Why do I say we need real mandatory sentencing? Because, unless we have this we have the plea bargain, and I will go into those statistics when I present the other amendment on the floor. They are shocking.

In my State we have the toughest law, the Sullivan law, as it relates to the possession of an illegally received pistol, or pistol that is not registered—we have the law. The average sentence in New York City is something like under a year—under a year. As a matter of fact if you are arrested for the first time I think now they have something like a mandatory 6 months. But with time off for good behavior and whatnot, they are literally right out on the streets.

If we begin to effectuate a policy of enforcing the law with no exceptions, then we are going to begin to bring about a curtailment of that kind of illegal activity. You want to get guns off the streets so they are not going to be used for unlawful purposes? Then you make sure there is a real penalty and you make sure it is going to be followed up. That is how you have a chance of curtailing the carnage that is taking place.

We should stop passing laws that make people feel good but do not do anything. That is going to be the supplemental part of my effort. It is not going to be just a death penalty, but if you use a gun in the commission of a crime, real punishment. That is what we need. We certainly need it in my State and I cannot think we do not need it in other States.

Senator BIDEN made clear on Thursday in his opening statements, he said about the crime bill, maybe there will be a total of a half a dozen people who would fall within the purview of it under the death penalty provisions under the bill. I believe that may be the case. And in order to stop the slaughter which is taking place I say we have to expand that jurisdiction.

The amendment I am proposing today says our present law is not sufficient. Our amendment authorizes the death penalty for homicides committed with a firearm. So that instead of a potential of maybe six defendants being tried, we will cover a potential for literally thousands who today escape prosecution, that should be prosecuted and should have the possible punishment of the death penalty.

Again, I am not going to oversell this amendment, but I think in most instances murder prosecutions would continue to be carried out by local district attorneys' offices, except in those 14 States, one of them being my State, the State of New York, that has no death penalty. For the most aggravated crimes, the creation of a Federal jurisdiction will be an important complement to State and local law enforcement efforts.

Even the most innocent of all, our children, are victimized. In New York last year, 75 children were murdered. Of these children, 39, more than half of them, were shot; 10 children were killed by stray bullets, including Veronica Corales. She was 9 years old, shot as she slept in the front seat of her father's car.

And Rayvon Jamison, 9 months old. He was shot to death in his walker when a bullet tore through the family's apartment. Here is a youngster who was in his apartment.

Under my amendment for the first time Federal jurisdiction would exist to prosecute homicides committed with a gun, if the homicide was committed in the course of some other Federal crime or if the firearm involved in the crime had moved at any time in interstate or foreign commerce.

Since the firearms used in the commission of murders have, in most instances, been manufactured in a different State and transported at some point over a State line, this has the practical effect of extending Federal jurisdiction over homicides committed with firearms, as a practical matter.

We are told by the Justice Department 95 to 96 percent of the firearms fall within this category.

The average sentence in State court for a murder today is less than 7 years. My amendment will not solve that problem completely, but it certainly will help.

No longer will the availability of the death penalty for a depraved firearms killer be dependent on the ability of overburdened district attorneys and county attorneys to investigate and prosecute a capital case.

This amendment will make the resources of our U.S. attorneys offices and Federal investigative agencies available to ensure that the ultimate punishment, where necessary, where appropriate, at least can be sought and obtained.

In States that lack the death penalty under their own laws, Federal prosecution may be the only manner by which to obtain the appropriate justice if there is wanton disregard for the victim.

Also, in many cases, there may be problems which States will have as a result of the law in not having the kind of tools that we and Federal prosecutors have made available to present a better case, to offer evidence that will be more complete. It would be my hope that the local district attorneys and Federal people working together will be able to provide for the people of our country, the law-abiding citizens that which they deserve, and that is domestic tranquillity. We are losing that domestic tranquillity.

Mr. President, under Federal law, a criminal gets no bail. His danger to the community is, therefore, greatly reduced while his trial is pending in Federal court.

We have seen that in my State. So where you have someone who uses a gun in the commission of a murder or, as I propose in legislation that I will be submitting, violent street crime, using a weapon, what that will mean is that person will be taken off the street.

Under my amendment, the death penalty can be considered if the offender causes the death of a person "inten-

tionally, knowingly, or through recklessness manifesting extreme indifference to human life, or * * * through the intentional infliction of serious bodily injury."

The offense under my amendment would be committed if an offender, acting with that state of mind, used a firearm to kill another person.

In conclusion, I would like to cite the following homicide statistics from the Justice Department's 1991 report on violent crimes in the United States. Firearms were used to commit 62 percent of all homicides in 1989. For criminals convicted of murder or nonnegligent homicide, the average expected time to be served was only 6 years and 7 months. If we are going to talk about a deterrent, I suggest that what is taking place today is not a real deterrent in terms of the criminal who is committing these murders.

Between January 1, 1977, and December 31, 1989, there were only 120 executions carried out by 13 States.

Mr. President, our communities, our cities, our towns, are being ravaged and Government has failed in its primary responsibility. Anyone at any time innocently minding their own business, doing their own job, even in their own homes, can be the next victim. The people are entitled to protection.

I believe it is time for us to get serious. I believe it is time for us to put violent criminals where they belong, take them off of our streets, to stop the revolving door and to see to it that those killers who manifest such a depraved standard of conduct should be properly prosecuted and be subjected to the death penalty.

Mr. President, I am going to hold off asking for the yeas and nays because I do not believe we have sufficient numbers to obtain them, but I will do that.

Mr. President, since there are no other Members seeking recognition at this time, I will touch on the issue of States' rights and prerogatives of local prosecutors so that we establish a congressional intent.

First, there is no interest here in replacing State enforcement. This amendment clearly provides:

> It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of State and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under State law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a State or local prosecutor has in prosecuting the defendant under State law.

So we are not attempting to usurp State jurisdiction. We are really looking to complement, to aid it, and in those States where there is no death penalty and where the local prosecutor and Federal prosecutor may deem it appropriate to seek it to give them that option which they now do not have.

Second, gun homicides are not a purely local matter. They make a mockery of the Constitution's promise of domestic tranquillity. Not so long ago, it was said that street-level drug dealing was a local and not Federal matter. Yet, in recent years, Congress has recognized the need and has changed Federal law to bring street-level drug dealing under Federal jurisdiction. As a result, thousands of street-level drug dealers have been arrested by Federal agents. Like the drug epidemic, the national epidemic of gun-related homicides requires increased Federal attention, expanded Federal jurisdiction and increased use of Federal law enforcement resources to punish depraved killers using firearms.

Finally, the Commerce Clause article I, section 8, clause 3 provides as follows:

> The Congress shall have the power * * * to regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes.

The Supreme Court in *Brooks* v. *United States*, 267 U.S. 432, 436–437:

> Congress can certainly regulate interstate commerce to the extent of forbidding and punishing the use of such commerce as an agency to promote immorality, dishonesty, or the spread of any evil or harm to the people of other States from the State of origin. In doing this, it is merely exercising the police power, for the benefit of the public, within the field of interstate commerce.

That was reaffirmed in United States versus Darby, according to the Congressional Research Service's 1987 analysis of the Constitution, at page 159:

> The Commerce Clause power has been exercised to protect the public against evils both natural and manmade." *See Perez* v. *United States*, 402 U.S. 146.

Mr. President, at this point, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. D'AMATO. Mr. President, I will respond later.

Mr. THURMOND. Will the able Senator yield to me?

Mr. D'AMATO. I certainly do yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to support the amendment of the Senator from New York. This amendment provides that murders committed with firearms may be subjected to the death penalty under Federal law. Gun-related homicides have increased to such an extent that they pose a serious threat to every American.

This amendment improves the pending bill by federalizing every murder committed with a firearm. Yet, it makes it clear that it is not the intent of Congress to supplant State and local efforts. In other words, States rights are not infringed by the amendment. Rather, it encourages the State and Federal authorities to work together to prosecute, convict, and appropriately punish brutal murderers.

This amendment, I think, improves the bill. For these reasons, Mr. President, I urge my colleagues to support this amendment as it complements the State efforts. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, again, as I indicated, I intend, when given an opportunity in connection with my colleagues, to offer legislation which I think is even more comprehensive and more important. Let me tell you why I believe it is more important. I will give the statistics in terms of not only the homicides but the crimes that are committed. I hope we will be able to do that when I offer that amendment.

The thousands of vicious crimes that are committed and the fact that guns are being used in the commission of these crimes I think is absolutely scandalous if local jurisdictions who want to complain about this do little or maybe they lack the sufficient prison space, resources, et cetera. I do not want to see an abdication of local responsibility to Federal but nor do I think that those of us who have a basic responsibility and recognize it that much of the crime that takes place is drug related. Seventy-five percent of the murders that take place in the city of New York, for example, are either directly or indirectly drug related. Those statistics are not too much different in most of our urban centers.

In our rural communities, we will begin to find increasing episodes of this kind of violent behavior. While the murder rates have soared, the street crime, the vicious crime, the holdups, the burglaries, all of that attendant have increased also, significantly to the point that people are afraid, in many cases, to leave their homes, to do business, to use their parks, to use mass transportation.

The fact of the matter is that the predator has taken over increasingly vast areas of our urban centers. It is the predator who rules and only in the past 2 days one of our local newspapers, the New York Post, has done a story on one of those predators whose name they call Benji.

Benji talks about how he and his compatriots prey on people, innocent people, when they see them walking. Benji is not, by the way, a street addict. He uses guns. He has admitted to shooting a number of people. It gives him a great sense of power when he has that gun. Benji is, unfortunately, too typical of what is taking place not only in New York but in many places.

Benji should have to understand—and those who would follow in his footsteps—that if you carry a gun and you are about to commit a crime, you are not going to be out in 6 months or a year; that you will be put away for a minimum of 10 years; if you actually discharge that gun, 20 years; if you kill somebody, that there is a likelihood

you can be prosecuted for the death penalty. That is how we are going to begin to turn this around.

If we have to build more prisons, then we should build them and stop this debate about we need more in the way of education. Of course, we do. Of course, we have to do better with education. But you cannot permit the predator to take solace and comfort while the great debate about whether we need more treatment for addicts supplants the business of seeing to it that there remains a criminal law that is applied, because there is a scarcity of resources so we do not build the prisons so a murderer who should be incarcerated for life or for 20 years is out in 6 years and 7 months or 7 years and 6 months. So someone who has a pistol who breaks a law is back out on the street in 6 or 7 months, and that is what is taking place.

So I suggest that it is very nice, and we may not want to be mandating that local governments do various things, but I wonder how we can say we are meeting our responsibilites when we recognize so much of this urban violance that takes place is drug-related and yet the Federal Government abdicates its responsibility by saying that is a local matter.

I think the drug-related crimes, the robberies, where there is the use of a firearm by way of interstate properly lies within the jurisdiction of the Federal Government, particularly in those areas where there is anarchy. And in New York City we have near anarchy. I think this will give us an opportunity to test our own mettle. If it means we have to take some of these closed Air Force bases and Army bases and other centers and help local governments convert them for use in getting the predator off their streets, convert them into prison systems, we should be doing that.

By the way, I am conscious of the rights and the obligations to our society to meet the needs of the underprivileged or the homeless and others, and I see that we give first option for these bases to relocation or developing housing for the homeless.

I have to tell you something. I think our priority is wrong. It is wrong because the working, middle-class stiff who pays his taxes, tries to send his kids to school, is a good citizen, is victimized day in and day out. He is fearful not only for himself, but for his family. He is fearful for his children. He does not have domestic tranquillity. He is a prisoner. He has to watch how he goes to work. His recreational activities are curtailed. He has to worry about his kids.

I have to tell you, while I am not unconcerned about the plight of the homeless, what about the working middle-class guy, what about the working fellow who is just about making it? What about the high-income guy who is paying his fair share, who wants to be a good citizen, who makes his contribution to society, and sees his family victimized regularly? And where does he go? He leaves. Today it is impossible. Where do you go?

With some of the harm that comes from these base closures, maybe we can bring about some benefit, maybe we should and can be using one of our primary opportunities to see to it that there is sufficient space for violent criminals to be incarcerated at some of these facilities where they can be much more easily—and some of them are vast and take in thousands and thousands of acres—converted as detention centers and maybe if we use some of our vast resources and, yes, go to the source that brings most consternation to people, and that is the violent crime that takes place, that we can ease the burden some.

I will be offering later, Mr. President, an amendment dealing with mandatory sentencing of those people who use firearms in the commission of crimes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair advises the Senator from New York, if he puts in a quorum call, the time will be charged against the Senator from New York.

Mr. D'AMATO. I thank the Chair.

I will suggest the absence of a quorum, but it is my intent, before I formally do that, Mr. President, to provide anyone with an opportunity that they might wish to address this issue and move it to a vote when we have sufficient representation to ask for the yeas and nays.

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

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

Who yields time, may I ask the Senator?

Mr. D'AMATO. May I inquire of the Senator how much time he seeks?

Mr. PELL. Whatever needs to be filled.

Mr. D'AMATO. Does the Senator need 15 minutes?

Mr. PELL. Fine.

The PRESIDING OFFICER. The Senator from New York at this point controls just over 9 minutes.

Mr. D'AMATO. I will give to my distinguished friend 8 minutes.

Mr. PELL. Fine.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 8 minutes.

Mr. PELL. I thank the Senator from New York. I ask that my words be delivered as if in morning business.

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

ROBERT STRAUSS: AN OUTSTANDING CHOICE FOR MOSCOW

Mr. PELL. Mr. President, I rise to commend President Bush for nominating Robert Strauss to be our next Ambassador to the Soviet Union. Mr. Strauss is no stranger to public service, having served as the Special Trade Negotiator and as special envoy to the Middle East during the Carter administration. He performed extraordinarily well in those difficult positions, and the negotiating experience he gained will serve him well in Moscow.

Mr. Strauss is a personal friend of the President, and he is well known in the Congress and in business circles. These connections uniquely equip Mr. Strauss to explain to the Soviets what is and what is not achievable in the evolving new United States-Soviet relationship. In this latter connection, Soviet leaders have made known their desire for American help in achieving market-oriented economic reforms, and President Bush has indicated that his administration is prepared to be of help in certain ways and under certain conditions. Mr. Strauss' considerable knowledge of the American economic system will be of great help in developing a new economic relationship between the United States and the Soviet Union.

When Mr. Strauss' nomination was first announced, I was quoted in the press as saying that "he lacks Russian, which I regret." As a general rule, I do believe that Ambassadors should be appointed from the ranks of the career Foreign Service and that they should speak the language of the host country. But with every rule there are exceptions, and Robert Strauss would bring so much talent and relevant experiences to the Moscow ambassadorship that he deserves to be excepted from the general rule.

In this regard, Philip Terzian wrote an excellent column that appeared in the Providence Journal on June 17, 1991. I commend it to my colleagues, and I ask unanimous consent that the full text of the article be printed in the RECORD.

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

MISSION TO MOSCOW

(By Philip Terzian)

The nomination of Robert Strauss as ambassador to the Soviet Union has rekindled the ancient debate about political diplomats: Namely, why send ambitious campaign contributors abroad when the Foreign Service furnishes consummate professionals? Political appointees are sometimes disastrous, and the senior Foreign Service is demoralized by the practice.

It's a fair argument, and often holds true. But I did happen to witness a dialogue last week that demonstrates, as usual, that the exception proves the rule. After dinner at the Council on Foreign Relations, a persistently obnoxious questioner wanted McGeorge Bundy to explain why American

ambassadors shouldn't be required to speak the language of their hosts.

Mr. Bundy, smiling between clenched teeth, explained that while in principle he agrees it is a Good Thing for ambassadors to India to speak Urdu, these are brilliant linguists who make a terrible impression, and English-only diplomats who do quite well.

In any case, this is an odd controversy to surround Strauss, who is rather more than a well-heeled amateur, and is likely to perform quite brilliantly in Moscow. A smooth, expansive, fast-talking Texan, and consummate negotiator, he is destined to get on famously with the Russians. Once upon a time he was Jimmy Carter's special trade representative, and later special envoy to the Middle East: Not exactly comfortable sinecures. And at 72, having sought for two decades to counsel his fellow Democrats in winning national elections (and being persistently ignored), Bob Strauss has surely earned himself a plum.

In a sense, his appointment really does signify the end of the Cold War.

The last time the United States harbored any cooperative feelings toward the Soviet Union—just before and during the Second World War—Franklin Roosevelt dispatched two friends to Moscow. The first, a wealthy Midwesterner named Joseph Davies, was a catastrophe: An unabashed admirer of the Soviet regime, he is best remembered today for his brief marriage to Marjorie Merriweather Post, and his memoir, *Mission to Moscow*, later made into a camp movie classic starring Walter Huston as Davies and Manart Kippen as Stalin.

FDR's other friend, of course, was W. Averell Harriman, who combined a polo player's *panache* with a plutocrat's harsh acumen. Ambassador Strauss is likely to follow the Harriman model.

But in the deep freeze of the Cold War, the Soviet Union was a State Department preserve. Britain, France and Italy still went to amenable millionaires—Providence's Winthrop Aldrich went to London in the Fifties—but serious business was transacted in Moscow. The greatest of the Kremlinologists was an Eisenhower appointee, Charles Bohlen, whose commission was very nearly derailed by Senator McCarthy. The worst was the sainted George Kennan: His indiscreet chatter infuriated Stalin, who unceremoniously kicked him out of the country. (Imagine if an amateur had suffered such disgrace!)

In the intervening years, the embassy has been graced by a succession of professionals, the latest of whom, Jack Matlock, has guided American policy through Gorbachev's labyrinth.

Now, the President intends to engage the Kremlin, and Strauss's amateur status is significant in itself. If any American representative can be said to enjoy the confidence of George Bush—that is, may speak to him as a friend as well as a subordinate—it is Robert Strauss. And if anyone is better equipped to argue that *perestroika* and communism cannot coexist, it's Citizen Strauss.

Or as Mac Bundy might put it: Bob Strauss may not speak Russian, but they'll understand his language.

BRINKMANSHIP IN YUGOSLAVIA

Mr. PELL. Mr. President, yesterday the Republics of Croatia and Slovenia declared their independence from Yugoslavia. Both republics, however, have stopped short of secession, and have expressed their hope that a negotiated settlement on shaping a new Yugoslav union may be achieved. I welcome Slovenian and Croatian statements of their intention to continue a dialog with the Federal Government and the other republics. I share their hope that a peaceful settlement can be reached and, above all, that violence can be averted.

Already, in response to the independence declarations, there have been reports of ethnic clashes and violence, and apparently, both the Slovenian defense force and the Yugoslav Army are in a high state of combat readiness. I am very concerned by these reports, and I would hope that cool heads will prevail.

While Croatia and Slovenia have dominated this morning's headlines for their bold actions, too little mention has been made of Serbia's destructive contribution to the current crisis. Serbian President Slobodan Milosovic's strong-arm tactics, his blatant disregard for the constitutional system, and his cultivation of dangerous nationalism have in many ways, encouraged the Croatians and Slovenians to take steps to disassociate themselves from Serbia and the Yugoslav federation.

Last month, for example, Serbia, Yugoslavia's largest republic, blocked the election of Croatia's representative to the federal presidency. Under normal rotation procedures, Stipe Mesic, the Croatian representative on the country's eight-member collective presidency, was scheduled to assume the presidency for the next year. However, the outgoing President, Borisav Jovic, who represents Serbia, used the four votes that Serbia controls to block Mesic's installation as the new President. All indications are that Milosovic was behind his power play, which has thrown Yugoslavia into a union-threatening constitutional crisis.

Last month's action was just one example of the tactics that Milosovic has been employing to assert greater Serbian control over the federation. On the economic front too, Milosovic has tried to assert Serbian power by undermining plans for market-based reform. In addition, during last December's election, Milosovic dipped into the federal treasury to finance his campaign. Not surprisingly, in response, Croatian and Slovenian leaders have opposed granting the Federal Government additional economic powers for fear that Serbia would dominate the Federal Government and gain additional control of the economy.

Last year's elections too, provide a glimpse of the gulf between Serbia and the other republics. While reform-minded governments were elected in Croatia, Slovenia, Bosnia-Hercegovina, and Macedonia, Communist parties or their successors were victorious in Serbia and Montenegro. International observers generally agree that the elections were fair in most of the republics. The notable exception, of course, was Serbia, where the official media was blatantly biased in favor of Milosovic.

Finally, Mr. President, I would point to Serbia's repression of the ethnic Albanian majority in the Province of Kosovo, as yet another example of its unacceptable nationalist campaign. In that province, during the past year, several hundred deaths and other casualties have occurred due to ethnic unrest.

Mr. President, while I continue to hope that the six republics of Yugoslavia can work out a negotiated settlement, I am realistic enough to see that we may soon have to alter our concept of Yugoslavia. I do hope, however, that whatever the result, that negotiation—and not unilateral action or violence—will be the process.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, I claim the control of the time in opposition to the amendment of the Senator from New York. I do not, Mr. President, plan myself, at this moment, to speak in opposition to the amendment. But I believe there may be some Senators who wish to do so. So I want to preserve as much of that opportunity for them as possible.

I am going to, while we are putting in a whip call to see if anybody wishes to come and speak in opposition, suggest the absence of a quorum, knowing full well it runs against the time of the Senator from Delaware.

The PRESIDING OFFICER (Mr. SANFORD). 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, what is the situation with respect to the time agreement on the D'Amato amendment?

The PRESIDING OFFICER. The Senator from New York has 3½ minutes; the Senator from Delaware has 13 minutes.

Mr. HELMS. As I understand it, we are now in a morning period; is that correct?

The PRESIDING OFFICER. Consent was granted for that.

Mr. HELMS. Beg pardon?

The PRESIDING OFFICER. Yes.

Mr. HELMS. So the time is not running on the D'Amato amendment?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. The Senate is being delayed on a vote that should have oc-

curred last night but did not, and now we are being delayed again and later on we are going to hear about how we must move along the business, otherwise we are not going to do this, or that, or the other thing. But I guess that is the way the Senate operates, certainly on this occasion.

I thank the Chair. 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 (Mr. DIXON). Without objection, it is so ordered.

AMENDMENT NO. 382

Mr. HELMS. I call for the regular order.

The PRESIDING OFFICER. Regular order is amendment No. 382. Who yields time on amendment No. 382?

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

The PRESIDING OFFICER. The distinguished senior Senator from Delaware suggests the absence of a quorum.

Mr. HELMS. Reserving the right to object, I presume, if I can get this microphone unhooked, that the time will run during the quorum call charged equally; is that correct?

The PRESIDING OFFICER. Time is charged to the Senator who suggests the absence of a quorum.

Mr. HELMS. Very well.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I know of——

The PRESIDING OFFICER. I advise my friend, the distinguished senior Senator from Vermont, that all time on the amendment has expired. Does he want unanimous consent for a few minutes?

Mr. LEAHY. Mr. President, I ask unanimous consent—I see the proponent of the amendment on the floor—that I be allowed to speak for no more than 5 minutes.

The PRESIDING OFFICER. Is there objection to the request of the senior Senator from Vermont?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know how strongly the distinguished Senator from New York feels about crime, how opposed he is to it, as he was well before coming to the Senate. It is not a new position on his part. He has always been strongly opposed to crime. But I oppose this amendment for a number of reasons. I do not believe the death penalty is a moral recourse for a civilized society. It troubles me for another reason, too. Whether one is for or against the death penalty, I am concerned about prohibiting States from making their own decisions in the area of capital punishment for crimes that have been handled traditionally on the State and local level. I was a prosecutor for 8 years, and I prosecuted many murder cases. At least a couple of times, I was the intended victim of people that I ended up prosecuting. One came within, literally, minutes of killing me, my wife, and our whole family.

I do not come here with any illusions about what crime is. I feel that, for the most part, States ought to be allowed to deal with crime as they see fit. There are overriding issues, of course, like the assassination of a President or the murder of a Federal officer. But we are talking about basic crime as we know it in Illinois, Vermont, or anywhere else. For example, if somebody holds up a gas station and murders somebody, should this be investigated and prosecuted by the Federal authorities? Do we suddenly call the FBI at 2 o'clock in the morning, or does the chief of police prosecute it? As a Vermonter, with all due respect to the FBI, I think that in my State, our own police, who are extremely good, should be the ones to do that kind of prosecution. Otherwise, I think we start to feel that only the Federal Government knows how to do what, in my State, and virtually every other State, the State police, the local police, State prosecutors, and State courts know how to do very, very well.

States have a right, and they also have an obligation—as State constitutions say—to protect the health and safety of their citizens. I do not want the Federal Government to overstep that right and that responsibility. I do not want the chief of police, or local State attorneys—like my successor in office in Vermont—who is investigating a murder, to say: Before I start working on this, before we decide whether we should pick up the evidence, or anything else, we should call the FBI, because it is also their responsibility.

No, I do not want that. There are enough things that the Federal courts should be doing. The Federal criminal justice system is already overburdened. A lot of major cases cannot get heard in Federal court. Let them take care of their own backlog.

In a rural crime field hearing in Vermont we heard from the chief Federal parole officer in the State. He described the growing pressure in our criminal justice system as more and more criminals, who, when I was a prosecutor, would have been prosecuted in local courts, are now going through the Federal courts.

I understand the concern of my good friend from New York. He is one of the best friends I have in this body. I know his frustrations. I have heard him speak of crime running rampant in all parts of this country. I know how much he abhors it. But I am concerned that, in this mood, we could end up saying the Federal Government should take over our responsibility for us. I have been a prosecutor; I have been there. I have been in local law enforcement. People in local law enforcement can do this. There are areas only the Feds can do and do well and there are areas where it serves everyone for the State and Federal officials to work together. This is an area where we have traditionally, for 200 years in this country, handled most of these matters at the local level. Let us continue to do so.

I thank the Chair, and I thank my friend from New York, who, through his acquiescence, gave me time and, again, in showing his normal courtesy, allowed me to have a unanimous-consent agreement to speak and to speak against his amendment. It shows the sort of person he is.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I would like to express my support for the amendment offered by the Senator from New York. This amendment, in my view, will have a significant impact on violent crime involving the use of firearms.

I am aware that many will consider this a major intrusion on what has traditionally been the purview of State courts and that its net effect may be to further overload our Federal courts, since this has the potential to give rise to numerous new Federal criminal cases.

However, the Senator from New York has made it clear in his amendment that it is the intent of Congress not to supplant the efforts of State and local prosecutors to prosecute murders involving firearms and to give due deference to those efforts.

Mr. President, drastic circumstances call for drastic measures. Having acknowledged the legitimate concerns States may have, if we are truly serious about reducing the rising level of violent crimes, this amendment will be a step forward.

If we truly want to send a message that we are willing to impose the death penalty for serious crimes, this amendment will sound that message loud and clear.

Just as I believe this amendment will go a long way toward deterring the illegal use of firearms, so too do I believe that it is necessary to keep firearms out of the wrong hands in the first place. Though I support this amendment, I disagree with the assessment of the Senator from New York, that the Brady bill will only serve to make us feel good about stopping handgun violence, without having any real effect.

On the contrary, Mr. President, the evidence is strong that a 7-day waiting

period, with a background check, does work. One need only look at States with such waiting periods to see how many illegal handgun purchases have been prevented.

I support the Brady bill and this amendment, because in my view, strong deterrence and punishment go hand in hand with sound and reasonable preventive measures.

The PRESIDING OFFICER. All time has expired on the amendment offered by the distinguished Senator from New York State. The yeas and nays have not been requested.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

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

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—65

Adams	Exon	Nunn
Baucus	Ford	Packwood
Bentsen	Fowler	Pressler
Bond	Graham	Reid
Boren	Gramm	Riegle
Bradley	Grassley	Robb
Breaux	Hatch	Rockefeller
Brown	Helms	Roth
Bryan	Hollings	Sanford
Bumpers	Johnston	Seymour
Burns	Kassebaum	Shelby
Byrd	Kasten	Simpson
Coats	Kerrey	Smith
Cochran	Lieberman	Specter
Craig	Lott	Stevens
D'Amato	Lugar	Symms
Daschle	Mack	Thurmond
DeConcini	McCain	Wallop
Dixon	McConnell	Warner
Dodd	Mikulski	Wirth
Dole	Murkowski	Wofford
Domenici	Nickles	

NAYS—33

Akaka	Gore	Leahy
Biden	Gorton	Levin
Bingaman	Harkin	Metzenbaum
Burdick	Hatfield	Mitchell
Chafee	Heflin	Moynihan
Cohen	Inouye	Pell
Conrad	Jeffords	Rudman
Cranston	Kennedy	Sarbanes
Danforth	Kerry	Sasser
Durenberger	Kohl	Simon
Glenn	Lautenberg	Wellstone

NOT VOTING—2

Garn	Pryor

So the amendment (No. 382) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, regular order.

The PRESIDING OFFICER. The regular order has been called for. The regular order is the amendment by the Senator from North Carolina, offered to the amendment by the Senator from Idaho.

The senior Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, 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. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded on the condition this Senator may offer an amendment that is agreed to on both sides, which will take 5 minutes, and thereafter the quorum call will be reinstated automatically.

The PRESIDING OFFICER. The Senator is not entitled to condition a request to rescind the quorum call. But the Senator has made his request for unanimous consent, and we will see what happens. The Senator has requested unanimous consent.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to. It is my understanding that when the Senator from Pennsylvania has concluded his remarks and the disposition has been made by unanimous consent or by acceptance of that amendment, that the Senate will then be in a quorum call immediately thereafter.

The PRESIDING OFFICER. May I say to the Senator from Ohio, there can be no conditions or reservations on this type of a request. The Senator from Pennsylvania has asked unanimous consent that the order for the quorum call be rescinded. Is there objection?

Mr. BIDEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I did not understand the Chair, what did the Chair say?

The PRESIDING OFFICER. The clerk will continue to call the roll.

The bill clerk continued to call the roll.

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

Mr. BIDEN. I object.

The PRESIDING OFFICER. There is objection.

Mr. HELMS. Let me ask the distinguished Senator from Ohio, immediately——

The PRESIDING OFFICER (Ms. MIKULSKI). A quorum call is in progress, I must advise the Senator from North Carolina. May we have order in the Senate?

Mr. HELMS. I asked unanimous consent already. Let me ask one more time. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BIDEN. Madam President, I object.

Mr. HELMS. Oh, goodness sake. Do you not want to debate this thing?

Madam President, let us try again. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HELMS. And I am recognized?

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

Mr. HELMS. Madam President, I will answer the anxiety of the Senator from Ohio by saying that it is my intent to call for the regular order when the Specter amendment has been dispensed with, and I shall then suggest the absence of a quorum.

Mr. BIDEN. I thank the Senator.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 384

(Purpose: To require that any State or local law enforcement agency receiving amounts from the Department of Justice Assets Forfeiture Fund conduct an annual audit of such moneys received)

Mr. SPECTER. Madam President, I thank my distinguished colleague from North Carolina and the distinguished chairman. At this time, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Prior to the clerk reporting the amendment, the Chair asks: Is there an objection to setting aside the amendment offered by the Senator from North Carolina?

Without objection, it is so ordered. The amendment is set aside.

The clerk will now report the Specter amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 384.

Mr. SPECTER. Madam President, I ask unanimous consent that the reading of the amendment is dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following new section.

SEC. . AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(1) Section 524(c)(7) of title 28, United States Code, as amended by section 6072 of the Anti-Drug Abuse Act of 1988, is hereby amended by striking the existing language and inserting in lieu thereof the following:

"(7)(A) The Fund shall be subjected to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the

amount used for each use or expense and report the results of the audit to the Attorney General."

(2) Section 524(c)(6)(C) of title 28, United States Code, is hereby amended by adding at the end thereof the following new sentence:

"The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7)."

Mr. SPECTER. Madam President, I have conferred with the managers, the distinguished chairman, and the distinguished ranking member of the Judiciary Committee, and I believe that this amendment will be accepted. It provides for accounting by State and local law enforcement agencies for funds which they receive from Federal assets forfeiture.

Madam President, this issue was called to my attention by Councilwoman Joan Specter, of Philadelphia, who noted the very substantial amount of moneys coming to the city of Philadelphia and the question as to how those funds were being spent. Councilwoman Joan Specter then took the matter up with Senator BIDEN, chairman of the Judiciary Committee, and Senator THURMOND, ranking member of the Judiciary Committee, and has pursued the matter with a resolution in city council.

I believe this is a very important amendment which will require that State and local law enforcement officials specify how these funds are being spent.

Since 1985, when these asset forfeitures came into existence, Madam President, there has been $612,570,006 collected on these items and at the present time, they are not subject to accounting by the people who have the funds, which is a glaring oversight in the law which ought to be corrected.

In the city of Philadelphia alone since 1985, there have been $ 4,786,933 in cash and property and very substantial sums of money in other cities.

I ask unanimous consent, Madam President, that these figures be printed in the CONGRESSIONAL RECORD which will abbreviate the time necessary for this amendment.

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

ASSETS FORFEITURE FUND STATISTICS

(I) Moneys distributed to State and local law enforcement agencies:

Total since 1985 through FY 1990: $477.5 million in cash; $69.5 million in property.

Total through April 30, 1991: $612,570,006.

Total for FY 1991 (so far): $135,605,395.

In fiscal year 1990, over $200 million was distributed to State and local law enforcement agencies. This can be compared with the numbers for fiscal year 1986: $22.5 million in cash and property was distributed in that year.

TOP CITIES IN RECEIPT OF FUNDS

1. Eastern District of (Philadelphia): Total from 1985 through 4/30/91: $4,786,933.

2. Central California (L.A.): Total through 4/30/91: $134,790,098. To date FY 1991: $20,058,600.

3. Eastern District of New York (Brooklyn): Total through 4/30/91: $39,474,574. To date FY 1991: $9,416,032.

4. Southern District Texas (Houston): Total through 4/30/91: $29,663,553. To date FY 1991: $7,688,008.

5. Northern California (San Francisco): Total through 4/30/91: $27,317,648. To date FY 1991: $5,508,429.

6. Southern District of California (San Diego): Total through 4/30/91: $19,747,281. To date FY 1991: $6,059,650.

(II) Analysis of income received into the fund:

TOP FIVE DISTRICTS IN INCOME RECEIVED INTO THE FUND

	Since 1985	FY 1991 YTD
Southern New York (Manhattan)	$496,036,801	$205,303,224
Central California (Los Angeles)	215,487,885	23,529,480
Southern Florida (Miami)	143,516,007	22,123,165
Eastern New York (Brooklyn)	134,980,776	29,960,073
Southern Texas (Houston)	75,814,240	10,057,208
Total—All districts	2,013,885,420	469,097,102

Inventory of property seized: In 1985, the Fund had properties valued at $313.2 million. By the end of the fiscal year 1990, the inventory was in excess of 35,700 properties valued at more than $1.3 billion. This inventory included over 3,800 real properties and businesses as well as over 9,200 cash cases.

Comparison of fund over time: In 1985, the Fund stood at $27.2 million. In Fiscal Year 1990, Fund receipts approached $460 million, an increase of 28 percent over fiscal year 1989.

Mr. SPECTER. Madam President, on June 15, 1989, Councilwoman Joan Specter wrote to Senator BIDEN and Senator THURMOND, acquainting them with the problems of the lack of accounting of these funds.

I ask unanimous consent, Madam President, that a copy of Councilwoman Specter's letter, dated June 15, 1989, together with a response from Senator THURMOND, dated June 27, 1989, together with a response from Senator BIDEN, dated September 22, 1989, together with a response to Senator BIDEN's letter by Councilwoman Joan Specter dated September 27, 1989, all be printed in the RECORD.

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

CITY COUNCIL,
CITY OF PHILADELPHIA,
June 15, 1989.

Hon. STROM THURMOND,
Ranking Republican Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing regarding the startling lack of detailed information on how state and local law enforcement agencies are utilizing their respective allocations of Federal Justice Asset Forfeiture Funds.

As you know, the Justice Asset Forfeiture Fund Program was enacted in October 1984 under the Comprehensive Crime Control Act. This important law enforcement initiative became operational in Fiscal Year 1985 and currently is in its fifth year of operation. The monies accumulating each year in the fund increase significantly, which allows the federal government to provide necessary and additional assistance to state and local law enforcement agencies in fighting the war against drugs.

According to the U.S. Marshals Service, total income to the fund since its inception runs in excess of $650 million. In addition, approximately $250 million has been disbursed to more than 1600 local law enforcement agencies.

Despite the vast sums of monies flowing through the fund, the federal government neither performs nor requires an audit of these monies. The amount of unaudited monies, and the disparity in the allocation processes, point to the dire need for an audit. Over the past two years, for example, the City of Los Angeles received more than $22 million in forfeiture funds, and has another $27 million pending. New York City's figures are not even included in its budget document as a separate line item. In Philadelphia, the Police Department fails to adequately specify its intended use of the funds as required by federal law, and does not report its use of the funds to City Council.

Therefore, I am requesting that you and Senator Biden call on the General Accounting Office to undertake a comprehensive audit of how federal forfeiture funds have been and are utilized by state and local law enforcement agencies. Secondly, I am requesting that you and Senator Biden convene hearings of the Judiciary Committee to investigate this matter.

On the local level, I introduced a resolution into the Philadelphia City Council calling upon the City Controller to conduct an audit of federal forfeiture funds received by Philadelphia. The resolution, approved unanimously by City Council, prompted Federal Judge Norma Shapiro to order the city to conduct an audit of monies received in the past two fiscal years. However, I believe that we need an annualized audit process on the national level if we are to effectively utilize our resources in the fight against drugs.

Such vast amounts of money, and inadequate information about the uses of the money, create the opportunity for corruption and inefficiency.

In order for local legislatures to make responsible budget decisions, they must know how revenues are spent by local law enforcement agencies. As a local legislator, I feel it is my responsibility to call upon the federal government to correct a process that has such serious implications for local governments.

Thank you for your attention to this important matter.

Sincerely,

JOAN SPECTER,
Councilwoman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 27, 1989.

Councilwoman JOAN SPECTER,
City of Philadelphia City Council, Room 582-B, City Hall, Philadelphia, PA.

DEAR MRS. SPECTER: Thank you for your letter of recent date regarding the need for an audit of Department of Justice Asset Forefeiture Fund allocations to State and local law enforcement agencies. I have enclosed a copy of a letter I sent to Attorney General Richard Thornburgh requesting that he carefully consider this matter and provide me with the Justice Department's views on it.

Please be assured that I will promptly notify you of the Justice Department position when I receive it.

Thank you again for taking the time to write to me about this matter.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 22, 1989.

Hon. JOAN SPECTER,
Councilwoman-at-Large, Philadelphia, PA.

DEAR JOAN: Thank you for your letter regarding the Justice Asset Forfeiture Fund. I apologize for not getting back to you sooner.

Section 524(c)(6) of Title 28, United States Code, as revised by Section 6072 of the Anti-Drug Abuse Act of 1988, provides that within four months of the end of each fiscal year the Attorney General must transmit to Congress two reports on the administration of the Justice Asset Forfeiture Fund.

The first report must reflect the total value of property forefeited by the government but not deposited in the fund, and the value of all such property transfered to state and local law enforcement agencies.

The second report must reflect the beginning balance in the fund, the source of all deposits, the amount shared with state and local agencies, the net amount realized from the year's operation of the fund, the amount legally allowed to be carried over to the next year, any defendant's equity in property valued at $1,000,000 or more, and the year-end balance.

The law does not require any report on the ways in which the funds shared with state and local agencies are spent by those agencies, nor does it require a report on the expenditures from the fund by the Attorney General. As mentioned, only the "net amount realized from the year's operations" need be reported. As a consequence of section 6073 of the Anti-Drug Abuse Act of 1988, however, the fund is subject to an annual audit by the Comptroller General.

Moreover, the Justice Department has promulgated internal guidelines regarding the sharing of funds with state and local agencies. These guidelines are very detailed and require, among other things, that the agency applying for funds include "a statement of the intended use of the property, which shall be for a law enforcement purpose." The Justice Department has told my office that they regularly review the transfer of funds to state and local agencies to ensure compliance with these guidelines. A copy of the guidelines is enclosed for your review.

I very much appreciate your interest in this issue and hope that this information has been helpful. If, after reviewing the relevant guidelines and statutes, you feel that the Judiciary Committee should consider some supplementary legislative action, please feel free to let me know. The Judicary Committee will continue to monitor this issue in the course of carrying out its oversight responsibility.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Chairman.

CITY COUNCIL,
CITY OF PHILADELPHIA,
September 27, 1989.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: Thank you for the response to my letter regarding the Justice Asset Forfeiture Fund. The information you provided was useful, and I do understand that the General Accounting Office will be conducting an annual audit of the fund that goes beyond the current review procedures.

However, I do feel that Judiciary Committee hearings on the matter will help to clarify the appropriate use of the funds on all levels of government. While the regulations do limit the use of the funds to "law enforcement purpose(s)," the practical definition of a "law enforcement purpose" remains unclear. For example, the Commissioner of the Philadelphia Police Department has stated in public testimony that law enforcement purpose covers any type of expenditure made by the Police. In the past, the Department has used the forfeiture monies to wash police vehicles, and to purchase air conditioning equipment. I doubt that such purposes are what Congress intended when it passed the forfeiture law.

Furthermore, the safeguards that are currently in place to ensure appropriate use of the funds are inadequate. The guidelines require that the local agency applying for the funds state, on form DAG–71, the specific intended use of the monies. However, all federal monies received by the Philadelphia Police Department have been approved without this provision being satisfied.

Therefore, I feel that Committee hearings are necessary if we are to ensure appropriate use of the funds and effective utilization of our resources in the war against drugs.

Once again, thank you for your consideration.

Sincerely,

JOAN SPECTER,
Councilwoman.

Mr. SPECTER. Madam President, I further ask unanimous consent that a statement which was presented to the city council of Philadelphia on the merits of this issue by Councilwoman Joan Specter appear in the CONGRESSIONAL RECORD. It sets forth the reasons for this accounting process and will again shorten the time for presentation of this amendment.

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

STATEMENT BY COUNCILWOMAN JOAN SPECTER

FIGHTING THE DRUG WAR AND SQUANDERING OUR RESOURCES

Over the past several years, the legislative initiatives in the war against drugs have been impressive. Federal, state and local legislatures have committed tremendous resources to the fight. But as we spend more and more, the problem only seems to get worse. Why? Perhaps because many of our policies are "feel-good" policies. That is, policies that make us feel good about our efforts, but fail to do much good.

Take the Justice Asset Forfeiture Fund, for instance. The idea behind the fund is sound: The property and cash seized in drug arrests should be placed into a federal fund and turned into resources to combat the problem. The local police departments that participate in the arrests should receive a portion of the seized assets. The newly-appointed federal Drug Czar, William Bennett, should also be able to draw upon the fund. That is the feel-good part.

The reality, however, is that nobody knows where the money is or how it is spent. This is what we do know: Since Congress began the program in 1984, $660 million has come into the fund. Some of the money has gone to improve federal prisons; some has gone to the federal treasury; and a quarter billion has gone to the local police departments that helped seize the assets. In the past two years, Los Angeles alone has received $22 million from the fund and has another $27 million pending.

So, have local police departments spent this quarter billion to fight drugs in their cities? Or are they using the money for paper clips and overtime? Probably some of both. But the point is that these millions upon millions of dollars are unaudited. Congress, in its zeal to pass this feel-good law, apparently forgot to require an accounting of the money. The happy result for the police is that, every year, they get what can only be called drug slush funds. State legislatures, on the other hand, have largely recognized the need for accountability, and have required audits of the millions in state forfeiture monies that go to local police.

One only must look at the HUD scandal to see what can happen to billions of dollars when nobody is watching. The real irony is that while the Congress is screaming about HUD allowing fraud, that same august body has created a system—with the Forfeiture Fund—that actually invites it.

For local governments, the implications are even more serious than potential corruption. In large cities, where the drug crisis lives and breathes, resources are strained to the limit. Our residents have made clear that if cities are to remain at all liveable, drugs and crime must be better handled. So, local legislatures have made drugs and crime priority items, often at the expense of pressing social needs. Yet, local prisons are hopelessly overcrowded, courts are backlogged, and some neighborhoods have turned into war zones fueled by the drug trade. Bennett has said he will make blighted urban areas the focus of his national anti-drug strategy. Obviously, further resources are desperately needed.

In Philadelphia, which has received or has pending nearly $4 million in federal forfeiture funds over the past two years, the Police Department recently disclosed—in the broadest possible terms—what it did with the money. Of course, this disclosure was in response to a court order from Federal Judge Norma Shapiro, who demanded a specific and detailed accounting of the funds. Although the Department's report fails to conform to the court order, it does give us a good idea of the uses of the monies.

The uses included air-conditioning equipment, emergency postage, office supplies, overtime, and fringe benefit costs. In other words, the Department used the money for general purposes. That would be fine, except (1) the intent of the federal law was for the money to go back into the war against drugs, and (2) City Council made budgetary decisions based on incomplete information. Who knew that the Department would be getting more money for air-conditioning? Should the Department be entitled to that in light of other pressing needs, both within and outside of the Department? Who should be setting the priorities?

Judge Shapiro ordered the disclosure precisely because there are so many other pressing needs in the criminal justice system. For example, Philadelphia's chemical lab, where the drugs are analyzed, has a case backlog of more than 2,000. The backlog slows the entire system, causing trial continuances, delays in the plea bargain process, and prolonged incarceration of individuals before their trials. The Police Department has said that an additional $1.2 million would enable the lab to double its capacity. Compare that figure with the $4 million received or pending in federal forfeiture monies. Perhaps the funds that were used for employee fringe benefits would be of greater use in the lab.

Eventually, tens of billions of dollars will be collected by the federal fund and passed back to local police. The Supreme Court recently ruled that seized drug money may not

go toward attorney fees, which means that the fund will realize even greater sums. Local police are becoming more ambitious in what they seize, including homes of drug dealers. As the fund grows, the police slush fund will grow, the potential for abuse and waste will grow, and budgetary processes open to public scrutiny will be undermined.

Of course, when everyone is feeling so good, it is difficult to change things. But when "everyone" includes the drug dealer who laughs at our inefficiency, I find it difficult to feel too good.

Mr. SPECTER. Madam President, the final unanimous-consent request is that a copy of the resolution introduced in the Philadelphia City Council by Councilwoman Joan Specter which was approved on May 31, 1991, also be printed in the RECORD.

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

RESOLUTION

Whereas, under federal forfeiture statutes, any local law enforcement agency that participates in acts leading to a Department of Justice seizure for forfeiture may file a request for an eligible transfer of the property. This request must include a statement of the intended use for the forfeited property; and,

Whereas, unlike state statutes governing controlled substance forfeitures, federal statutes do not require an annual audit of forfeited property by the City Controller; and,

Whereas, the Philadelphia City Charter gives the City Controller the power to audit the financial affairs of officers, departments, boards, commissions and other agencies; and,

Whereas, according to Federal Drug Enforcement Administration statistics, assets from DEA drug forfeitures awarded to the Philadelphia Police Department between April, 1987 and April, 1989 totalled $1,364,416. Assets pending from this same period total $1,937,621; and,

Whereas, according to U.S. Customs Bureau statistics, assets from Customs Bureau drug forfeitures awarded to the Philadelphia Police Department between April, 1987 and April, 1989 totalled $42,315. Assets pending from this same period total $420,064; and,

Whereas, prudent fiscal and accounting procedures require that all revenue accruing to City departments be recorded and accounted for; and,

Whereas, in order to make responsible budgetary decisions, City Council needs a complete accounting of departmental expenditures; and,

Whereas, an audit of federal forfeiture funds received by the City of Philadelphia will help provide this complete account; therefore,

Resolved, by the Council of the City of Philadelphia, That we hereby call on the City Controller to audit all federal forfeiture funds awarded to the City of Philadelphia; and

Resolved, further, That a copy of this resolution be forwarded to the City Controller as evidence of the sentiments of this legislative body.

JOAN SPECTER,
Councilwoman.

Mr. SPECTER. Madam President, the essence of the reasoning is that there are very substantial sums of dollars which ought to be accounted for and specified by the State and local agencies which receive these funds, and that is a fundamental point of assurance that the moneys will be spent appropriately and for appropriate law enforcement purposes connected with the war on drugs.

I thank the Chair. I yield the floor.

Mr. BIDEN. Madam President, I am prepared to accept this amendment, but I want to make it clear that I, quite frankly, see less of a need for this than the Senator from Pennsylvania. Quite frankly, one of the battles has been, I think, the State and local law enforcement officers should get more, more of the funds forfeited than they are now getting. But I am prepared to accept the amendment.

Mr. THURMOND. Madam President, we have no objection to this amendment. It requires that only State or local law enforcement agencies receiving Federal forfeiture funds conduct an annual audit. This audit must detail how these funds are spent.

The Department of Justice has no objection to this measure. It would help ensure that forfeiture funds are properly spent. For these reasons, I am willing to accept the amendment.

Mr. SPECTER. Madam President, I thank my colleagues. I agree with what Senator BIDEN has had to say about the desirability of having more funds in the hands of State and local law enforcement officials.

I also agree with what Senator THURMOND has had to say, that once those funds are in their hands, the best practice is to have an appropriate accounting.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 384) was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 378 TO AMENDMENT NO. 377

Mr. HELMS. Madam President, I call for regular order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The regular order is the Senator's amendment.

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The clerk——

Mr. KENNEDY. Will the Senator withhold that request for a question.

Mr. HELMS. Sure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I was just wondering whether the Senator from North Carolina and the managers would at least indulge comments, general comments, on the Senator's amendment for discussion at this time. I do not want to, obviously, interfere with debate on it, but I welcome the opportunity to make a statement either now or later, if it is agreeable to the managers.

Mr. HELMS. I am always pleased to hear from the Senator. Perhaps the distinguished manager of the bill would like to propound a unanimous-consent request and we will consider it.

Mr. BIDEN. Madam President, at the invitation of my distinguished friend from North Carolina, I would propound the following unanimous-consent request: that the Helms amendment before us be open for debate purposes only, with no motions of any nature being appropriate for the next 30 minutes, and at the expiration of the 30 minutes we move to the quorum call.

Is that appropriate?

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, Madam President, and after the 30 minutes, what does the Senator have in mind?

Mr. BIDEN. That we move to a quorum call as we were going to do a moment ago.

Mr. HELMS. May I ask, and I do this respectfully, what is the delay in proceeding?

Mr. BIDEN. If I can be what is not always the way around here, characteristically or uncharacteristically blunt, what I am concerned about is the Senator from North Carolina doing what he did yesterday, which was fully within his rights to do, executing a procedural move that further ties up this crime bill in a way that I do not anticipate at the moment.

Quite frankly, the distinguished Senator always has with him at the ready Bob Dove, our former parliamentarian, and his staffers, who are very, very expert at this procedure.

No one is as expert on using the parliamentary rules to stymie action on this floor—or knows the parliamentary procedure; let me amend that—as well as the Senator from North Carolina except Senator BYRD, and possibly Senator METZENBAUM, and neither of them are here.

I know what I know, and I know what I do not know. I know when I see Bob Dove, who I refer to as Bob Hawk, and when I see the distinguished Senator from North Carolina on the floor, I have met my match parliamentarily, and what I want to do is make sure I do not have to worry about what the next shenanigans will be.

That is the reason, I say bluntly to my friend from North Carolina, in great respect.

Mr. HELMS. Madam President, still reserving the right to object, I have to take exception to what the Senator said, that I am tying up this bill. All I am asking is a vote on the important question which is on the minds of people.

The truth of the matter, is it not, I ask the Senator, is the fact that he does not want to deal with my amendment, he does not want to vote on it?

Mr. BIDEN. If the Senator wants me to respond, I will be delighted to.

Mr. HELMS. Yes.

Mr. BIDEN. Madam President, the truth of the matter is the Senator from Delaware worked—no harder than most, but extremely hard—to pass a crime bill which I have poured a lot of time and energy and personal commitment into, and which I feel is vitally important for the country.

I know full well, if this issue, which the American people are vitally interested in, and they are, is attached to this bill, it will vitally wound this bill. I also know that there are about a dozen other issues in which the American people are vitally interested.

I was thinking, as the ranking Democrat on the Foreign Relations Committee, of attaching the CFE treaty to this bill; the American people are vitally interested in that. I was considering attaching legislation to this bill relative to unemployment compensation for the tens of thousands of Americans who are out of work because of the Bush recession. I was thinking of a lot of things the American people are vitally interested in. But what the Senator from Delaware is vitally interested in is crime control.

I, quite frankly, think what the Senator is attempting to do in eliminating quotas is correct. I do not support quotas. I have not supported quotas. I do not support busing. I have not supported busing. I do not add those things, though, to this bill. If this is attached to this bill, at a minimum, the Senator from Delaware knows he will be tied up on this floor another several weeks, knowing full well that it would delay passage of a crime bill another several weeks, knowing full well there will be several thousand additional crimes committed that maybe otherwise could have been stopped.

That is why the Senator from Delaware objects to this vote being taken on this bill; because that Senator might win this vote, and this Senator's bill will go down that drain very rapidly. That is the reason.

Mr. HELMS. Further reserving the right to object, Madam President, I say respectfully again that the Senator wants it his way. I will point out to him that the Biden bill contained the so-called Racial Justice Act, an affirmative action plan for murderers.

This criminal quota act would invalidate 36 State death penalty statutes if there is any racial statistical imbalance on the State's death row. One need not show that there was intentional discrimination in the imposition of the death penalty; one needs only statistics. And that was in the Senator's bill.

Mr. BIDEN. I will be happy to respond.

Mr. HELMS. The Senator wants it his way. I want it the American people's way.

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

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

Mr. BIDEN. Madam President, I have just had a brief but enlightening conversation with my friend from North Carolina, and we have agreed that it would be useful for Members who wish to speak to this issue to have an opportunity to speak to the issue.

So I propound the following unanimous-consent request: that we be able to proceed for debate purposes only with no motions appropriate within the next 1-hour period while debate is taking place; that at the expiration of that 1 hour of debate only, that we go back to a quorum call automatically.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Not at all, Madam President.

The PRESIDING OFFICER. If there is no objection, the unanimous-consent request of the Senator from Delaware is agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Madam President——

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, I yield to the distinguished Republican leader with the understanding that I do not lose the floor.

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

Mr. DOLE. Madam President, I want to commend my distinguished colleague from North Carolina, Senator HELMS, for offering an amendment designed to outlaw quotas. Quotas are anti-equal opportunity, anti-individual merit, and in case you have not noticed, about as popular with the American people these days as Saddam Hussein.

Unfortunately, Madam President, the amendment offered by my colleague from North Carolina appears to be too broad in its scope. It would certainly outlaw what I would call "bad" affirmative action programs—rigid set-asides and, yes, quotas, but the amendment could arguably outlaw "good" affirmative action programs, programs in which an employer sets objective hiring standards and then affirmatively seeks out recruits—in other words, members of traditionally disadvantaged minority groups, who meet these objective standards but would not otherwise apply for the job, not from a lack of qualifications or willingness to work, but from the simple fact that the job opportunities were never available.

This approach is affirmative action in the traditional sense, and it is an approach that I fully endorse as a way to expand opportunities for all Americans.

Madam President, Martin Luther King, Jr., gave America a great gift when he shared his dream some 27 years ago, the dream that the best, the richest, America is one in which its citizens are not judged by the color of their skin but by the content of their character. Quotas make a mockery of this dream because they make a mockery of individual merit and individual character.

So I commend my colleague from North Carolina for his effort to excise quotas from the language of American social policy, but, Madam President, I continue to believe that race-based affirmative action in the very narrow traditional sense remains valid today as a means of casting the opportunity net as widely as possible.

So, I do not know what is going to happen with this amendment. I do not know if there is going to be a motion to table. Obviously, I will not vote to table an amendment of my colleague on this side of the aisle, but maybe there is some way to keep the good affirmative action and eliminate the part that would indicate there are quotas.

So I will withhold judgment. But if the amendment is not changed and there is an up-or-down vote, I will vote against the amendment.

So, Madam President, I think I know precisely what the Senator from North Carolina had in mind. That part I agree with, but I think the unintended effect is what I have just described, and there needs to be some way to correct that. Perhaps we should wait to address this issue at another time.

At this very moment there are negotiations going on on a broad civil rights bill that deals with quotas. The White House is involved. Democrats are involved. Republicans are involved. Senators, House Members, whatever, people on the outside are involved. I would not want a vote on this particular amendment to be misinterpreted.

I think we all are against, at least on this side and many on the other side—in fact—probably everybody is dead set against quotas. That has been the issue. That has been the debate. That has been the point made by President Bush.

But I see—just in the last, in fact, even since the Senator from North Carolina offered this amendment—some movement toward some agreement. I hope that we will not frustrate the efforts there but nail down a time to vote on an amendment to this particular bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Obviously, I did not know what the distinguished Repub-

lican leader was going to say, and I wish I could have talked with him before. The one thing I have to say is he is dead wrong, and I say that respectfully, and he knows I do. The trouble about all the rhetoric about affirmative action, and that sort of thing is that it has just skewed the understanding of what we are talking about. I hope the minority leader will listen to me for just a little bit.

If you equate affirmative action with goals, otherwise known as hiring by the numbers, you bet the Helms amendment will do away with that. But, if you equate, as the distinguished Republican leader does, affirmative action with outreach programs to train or educate the disadvantaged, then you have nothing to worry about. The amendment is clear, and what I said last night is clear.

Mr. HATCH. Would the Senator——

Mr. HELMS. Please, just a minute.

Mr. HATCH. I would like to ask on that particular point because I think I can help with this matter.

Mr. HELMS. Let me ask which side the Senator is on.

Mr. HATCH. I happen to be on the side of the Senator from North Carolina.

Mr. HELMS. OK.

Mr. HATCH. I do not think the amendment does away with affirmative action. It does not do away with the goals of affirmative action. What the amendment of the Senator from North Carolina says is you just do not permit reverse discrimination.

Mr. HELMS. Exactly.

Mr. HATCH. I would not interpret this amendment, in reading it clearly as ending affirmative action, but I would have preferred that the Senator call this amendment up on some other bill. This is not an appropriate bill to call it up on. I grant the Senator his rights. But I do not see where any wording in this amendment, which prohibits affirmative action. The amendment basically says:

"(j) It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e).".

Mr. METZENBAUM. Madam President, I rise on a point of order. Do the rules not provide that Members are to address the Chair and not have a colloquy between themselves?

Mr. HATCH. Madam President, I hope I can ask a question. I understand that is correct under the rules.

Mr. METZENBAUM. We cannot hear the Senator.

Mr. HATCH. I am sorry. All I am asking is, as I read the language—and I ask the Senator from North Carolina to confirm this—I do not see anything in the language that does away with true affirmative action programs.

Mr. HELMS. It is not there.

Mr. HATCH. Nothing in the amendment would do away with encouraging businesses to try to find minorities, such as women, and others, to fill positions in particular businesses.

What I do see is an amendment that says that you cannot do it through reverse discrimination, preferences, or through quotas. Is that not correct? Is that not what the Senator is trying to do?

Mr. HELMS. That is exactly what the amendment says.

Mr. HATCH. I do not see affirmative action in there. Even if it were, this amendment would not be read by me, or by anybody else that reads it fairly, to say that the distinguished Senator from North Carolina is trying to do away with affirmative action. I do not think anybody on the Senate floor wants to do away with that. Am I right?

Mr. HELMS. The Senator is correct. I am so glad I yielded to my friend from Utah. I thank the Senator.

Let us make it clear, and it is already clear in the amendment, it is clear in the legislative history made last night, and let me reiterate so there will be no mistake about it. Under the terms of this amendment, a company, for example, can recruit in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in schools, have day care programs, and expand this labor pool in a poor section of the community. Under this amendment, an employer can hire for any reason, as long as that reason is not race.

Mr. President, a few days ago——

Mr. BIDEN. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. BIDEN. Would an employer be able to say: "It is the policy of this company to affirmatively go out and find 10 percent of our work force as qualified blacks. We are looking for 10 percent of our work force to be black. We will not hire anyone who is not qualified for the job, but we are affirmatively seeking to do that"?

Mr. HELMS. You cannot do that. It sets quotas by race. He can hire competent employees, for whatever reason, just so he does not set a quota by race.

Mr. BIDEN. Let me ask another question, if I may, Madam President, Would an employer be able to go out and say: "The products that we sell primarily benefit the handicapped, so as a matter of management policy and as a matter of, quite frankly, marketing policy, I want to make sure that at least 25 percent of my work force is handicapped and, therefore, I am going to affirmatively seek handicapped persons until 25 percent of my work force is handicapped"?

Mr. HELMS. Not by numbers. But if they are qualified, whatever, no problem.

Mr. BIDEN. One last question, if I may.

Mr. HELMS. I wanted to make my statement.

Mr. BIDEN. May I ask a question about veterans?

Mr. HELMS. Sure.

Mr. BIDEN. What would happen if an employer said: "I believe that it is important, because of the high unemployment rate among veterans, that I have made a policy that 50 percent of my work force is going to be veterans"; would they be able to hire veterans or say: "If there is a qualified person who is a veteran and a qualified person who is not a veterans, in every case I have instructed my employment people to hire the qualified veteran." Would he be able to say that?

Mr. HELMS. I have checked with my lawyers in here, just to be sure, and veterans groups are not mentioned by race, sex, et cetera.

Mr. BIDEN. So one could, though, say, "Twenty-five percent of my work force is going to be veterans." Would that be OK?

Mr. HELMS. Sure.

Mr. BIDEN. One could not say that for handicapped people?

Mr. HELMS. Sure.

Mr. BIDEN. I thank the Senator.

Mr. HELMS. Madam President, a few days ago I came across a fine paper by Seymour Lipsit, and I mention the gentleman's name because I will identify him in just a minute. The paper is entitled "Equality and the American Creed: Understanding the Affirmative Action Debate," by Seymour Lipsit.

The central thesis of this paper was summed up with the following comments:

Affirmative action policies (hiring or promoting people by the numbers or group identity) challenged the basic American tenet that rights to equal treatment should be guaranteed to individuals and that remedial preferences should not be given to groups and given the strength of individualism in the American tradition. It is not surprising that most Americans, including a considerable majority of women and a plurality of blacks, have continued to reject applying emphasis on protected rights to groups.

Then he went on to say:

It is crucial that civil rights leaders, liberals and Democrats, rethink the politics of special preference. The American left, from Jefferson to Humphrey, stood for making equality of opportunity a reality.

Those comments, Madam President, are right on mark. It is also important to note that the passage I just read was taken from the work sponsored by the Democratic Leadership Council. I applaud the Democratic Leadership Council for its foresight. I do not understand why the Democrats in this Senate are so frightened about voting for this amendment, or even voting on it.

Let me capsule, if I may, the comments that I made last night on this floor, which were not heard by many Senators. This amendment is very simple and not subject to misinterpretation as, unfortunately, my friend from Kansas just did. It simply prevents Federal agencies and the Federal courts from misinterpreting title VII of the Civil Rights Act of 1964 to permit an employer to grant preferential treatment for employment to any group or individual on account of race.

The Helms amendment, as it has come to be known, prohibits the use of racial quotas in employment once and for all, and clearly gets the Federal Government out of the quota business, which it should never have gotten into in the first place.

Did you remember the past few months almost every Member of this Senate has gone home and proclaimed that he or she looked with disfavor on quotas? It has been said here this afternoon, and this amendment—and this is my purpose—this amendment will give Senators an opportunity to reinforce all of those statements with a clear-cut vote against quotas.

Let me make it clear. I am not here on behalf of business, large, medium or small. I am here on behalf of working people of all races, ethnic groups, and gender in North Carolina and around the country. They do not have 500 organizations trying to protect their civil rights. They are not organized into Washington pressure groups such as we see here this afternoon right outside the Senate Chamber. These working people simply want to work for a living free of discrimination. Unfortunately, Government-imposed and Government-encouraged quotas are a fact of life in this country and everybody knows it. Just about everybody around this country is steamed up about it.

According to the June 3 edition of Newsweek magazine a substantial number of Fortune 500 companies have very clear minority hiring goals which they treat as quotas. In a survey of CEO's of Fortune 500 companies, 72 percent acknowledged that they used some sort of quota hiring system. Only 14 percent of these CEO's claim that they hired solely on merit.

I note with emphasis that the Business Round Table is now negotiating with a professional civil rights establishment to come up with a compromise civil rights bill. For whom does the Business Round Table speak? Surely not for the little man, not for the working man.

As the Newsweek article itself suggested, there are these very big businessmen, who regularly engaged in reverse discrimination. They are interested in public relations, not the civil rights of the individual workers. That is not an opinion. That is a fact of life.

All this pending amendment, called the Helms amendment, says is that from here on out employers will hire on a race-neutral basis, they can reach out into the community for the disadvantaged, something that all Senators support, and they can even have businesses with 80 percent, 90 percent minority work forces as long as the motivating factor in employment is not race.

The Helms amendment clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of the authors, Hubert Humphrey and Everett Dirksen. I read it last night. But let me read it again for the RECORD and for those who did not hear what was said last night. Here is what Hubert Humphrey and Everett Dirksen said:

> It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group of individuals on account of—

And get this—

> on account of the race, color, religion, sex, or national origin of such individual or group for any purpose, except as provided in subsection (e) of this section.

I do not know what the holdup is on letting the Senate speak on this amendment. If I lose, fine; if I win, great.

But let me tell you why it is necessary. It is necessary because in the 27 years since the passage of the Civil Rights Act of 1964, the Federal Government and the courts have corrupted the spirit of this act and created a tolerance for the very evil which Hubert Humphrey and Everett Dirksen fought so strongly against, the racial quota. And this amendment simply makes part (j) of section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race, that is quotas, an unlawful employment practice.

This amendment will permit the Federal Government from ever again terrorizing the small business people of this country with threats and fines for not meeting some bureaucrat's vision of a promotionalized and racially correct society.

Last night I discussed a specific case which just underscored what I am talking about and as a matter of fact prompted me to offer this amendment today.

The Daniel Lamp Co., a very small Chicago lamp factory, recently was visited by the investigators of the Equal Opportunity Employment Commission, and on March 4 the CBS program, "60 Minutes," a program not particularly noted for its conservative bias, blew the cover off of the EEOC attempt to impose its quota mentality on one small defenseless businessman in Chicago. It was a perfect outrage what happened. And to be honest about it, I had the chairman of the EEOC over to see me about it. We met with several Senators. And after that the fines and penalties against the Chicago Lamp Co. were minimized.

Morley Safer on "60 Minutes" put it this way: The Daniel Lamp Co. "is guilty of not playing the numbers game." You see, Madam President, the EEOC found the owner of the Daniel Lamp Co. to be a practitioner of racial discrimination and it leveled a fine of $148,000 against this little company.

What was interesting about the EEOC charges was the fact that the company had 28 employees and only 2 of those employees were not black or Hispanic. And you know who those two employees were? They were the owner and his father. And by the way, the father is a survivor of Auschwitz. There were 18 Hispanics and 8 blacks on this lamp company's payroll when "60 Minutes" began its investigation.

All right. The trouble began when one disgruntled job applicant filed an EEOC racial discrimination complaint against the Daniel Lamp Co. of Chicago. The EEOC demanded the records of the company. The owner who hired only minorities, only minorities, was proud of his work force and he was happy to let the Federal Government inspect his ledger because he was stupid enough to believe that he might be commended for providing jobs for minorities. How wrong he was. This was all on "60 Minutes."

In its investigation "60 Minutes" found that the only information that EEOC was using against the Daniel Lamp Co. was the agency's computerized quota numbers. The EEOC's computer had told the agency that based upon the employment statistics of Chicago businesses with over 100 employees, and let me say a fascinating comparison since the lamp company never had more than 30 workers, the Daniel Lamp Co. had to employ exactly 8.45 blacks.

I do not know how you hire 45 percent of 1 percent of a black worker. But that is what this crazy EEOC demanded, and handed down the fine of $148,000 against one of the small businesses of this country.

When I heard all of that on "60 Minutes" I said, "Well, that sounds like a quota to me." And it even sounded like a quota to Morley Safer who on the air was obviously puzzled as to why the agency, EEOC, was disobeying the law, which as Mr. Safer put it clearly "says that the EEOC can't set quotas."

There the EEOC was setting quotas, and that is the doubletalk we hear in this country. Oh, we do not believe in quotas. And yet up comes an amendment to say we will return to the law passed in 1964 and they say, "Oh, we cannot vote on that. That is holding up

this bill. That will kill the bill." Nonsense.

Despite the denials by the EEOC, Mr. Safer concluded, and let me quote him, that the EEOC "did set numbers, by telling Mike," that is the owner of the company, "that based on other larger companies' personnel Daniel Lamp should employ 8.45 blacks."

When the Daniel Lamp Co. stood up to the intimidation by the EEOC, the EEOC tightened the noose, don't you see? Not only did the company have to meet the quota, I do not know how they did it, they had to pay a huge fine, but it also had to spend $10,000 on order of the EEOC to advertise in newspapers to tell applicants that they might have been discriminated against, and will you please contact the Daniel Lamp Co. for a potential financial windfall.

(Mr. FOWLER assumed the chair.)

Mr. HELMS. Now what have we gotten into in this country?

Do you see what is going on, Mr. President? The Daniel Lamp Co. is not one of those Fortune 500 companies that can afford a whole gaggle of lawyers and can placate the various special interest groups by hiring according to quotas. The Daniel Lamp Co. is a small, struggling enterprise that can afford to pay its few employees a scant $4 an hour.

Now this company—let me emphasize—hired only minorities. But that was not good enough for the quota bureaucrats in Washington, DC. They said the company did not hire enough of the right minorities.

This amendment, if we ever get around to voting on it—and let me say parenthetically if it kills this bill, it is not the Senator from North Carolina, it is those who do not want to vote on this bill. If you notice, they are afraid of even a tabling motion. They do not want to vote on this amendment.

Mr. President, Senator KENNEDY has been waiting patiently, and I want him to have his say. I know that he will not agree with me.

I am going to yield the floor in a minute. Senator CRAIG has sent me a note that he would like me to yield for a question, and then I will yield the floor.

Mr. CRAIG. Mr. President, I thank my colleague from North Carolina for yielding.

I join with him in the amendment that he has offered. I think it is only appropriate at this time and in this place that this Senate react to what this amendment addresses. I find it almost anti-American that we would choose the numbers game, that we would play the game that has been played so ineffectively and so destructively to this society for the last good number of years.

This amendment addresses the individual. This society's strength was built on the individual. We are talking about freedom and we are talking about merit and we are talking about the right of the individual, he or she, of any race or any color to achieve at their own level. That has always been the issue and that has been the strength of our society.

More importantly, Mr. President, what we have tried to solve in this country is the polarization that has resulted from how the 1964 act has been interpreted, well beyond what my colleague from North Carolina quoted yesterday from the late Senator Humphrey and his intent, very clear, very specifically spelled out in the language recorded in this Chamber at the time that that famous act was voted on. It is very clear to all of us what is intended by this amendment. And it is a very important part of any kind of legislation that we deal with.

I compliment my colleague from North Carolina for his foresight in bringing us to this point where we can, in a very conscious way, deal with this—no subterfuge, none of the game playing that went on in the other body. It was almost carnival-like to watch what they attempted to do to craft this unique language to get to where they wanted to get without a clear and exact statement on the part of the other body.

This amendment is clear and exact; very easy to understand. It simply says there will not be any quotas. We will deal with individual freedoms and individual merit, and that is the way our society ought to judge itself.

I compliment my colleague, the Senator from North Carolina, for offering this amendment, and I yield back to him.

Mr. HELMS. Mr. President, I thank my colleague. He understands what the amendment is intended to do and what the amendment, in fact, does, and he knows where the language of the amendment came from. It came from a piece of legislation 27 years ago.

I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, there had been a consent request for a period of time of 1 hour during which no motions would be offered. How much of that time remains?

The PRESIDING OFFICER. Twenty-nine minutes remains for debate under the agreement.

Mr. KENNEDY. A number of my colleagues have inquired about the agreement. As I understand it, the request did not state that there would be final action or indeed any action at the conclusion of that hour. The consent request was made so that there would be no orders placed in the interim, and at the end of the hour, the floor manager, Senator BIDEN, would return and, as I understand it, debate would continue. At least that was my impression from talking with the leader.

But my understanding of the time limitation was that it was intended only to ensure that there would be no motions so that there could be a period of time for debate. There remain now 29 minutes. I hope that the time that remains would be allocated to those who are opposed to the Helms amendment. We did not ask for a time division. But I would ask at this time, since 31 minutes have been used by those who support the amendment, that the remaining time be allocated to those who are opposed.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. KENNEDY. Mr. President, I want first of all to commend the minority leader for what I think was a very fair and accurate description of the current situation with regard to the civil rights legislation. This has been a long, continuing process of communication, with debate here on the floor of the Senate during the last session and a good deal of give and take during recent weeks by those who have been interested in trying to address some of the decisions that the Supreme Court has made during recent years.

I am one of many Members who have been involved in the discussions, which have included as far as I know just about anyone who has been interested in these issues. They have been done in an extremely constructive and positive manner, and I join at this time in paying tribute to all of those who have been involved in these discussions. They have been enormously constructive and I think some progress has been made. It has been a difficult process and, hopefully, there will be some opportunity in the very near future at least to describe where these discussions and negotiations have brought us.

But I believe that the minority leader, in expressing his reservations about and opposition to the Helms amendment, has given a statesmanlike presentation because so many of the issues which are involved in the Helms amendment are matters which would be included in any kind of civil rights bill. When we address the civil rights bill, we will have the opportunity to get into these kinds of issues in very considerable detail rather than just as an add on to the crime package.

So I take note of this position, and I express appreciation for his position, as one who is involved with many others on both sides of the aisle on the civil rights legislation.

Mr. President, I will include in the RECORD—I am not going to take a lot of time—documents regarding the Daniel Lamp case which was identified by the Senator from North Carolina. I will include various documents from the EEOC, one of which concluded:

> We discovered evidence that the company was intentionally engaging in a pattern and practice of excluding blacks from its work force. The owner of the company attempted to justify the virtual absence of blacks by

pointing to the high number of Hispanics he had employed. However, the civil rights laws do not permit a company to exclude deliberately members of one minority by hiring members of another minority. The civil rights laws require equal opportunity for all individuals.

The fact is that this employer hired virtually all Hispanics and virtually no blacks.

I will include in the RECORD examples of what the EEOC found in various applications for employment at Daniel Lamp.

For example, at the top of the application submitted by William Lawrence Gilletly, is handwritten, clean white in reverse letters. That was the code: writing clean white and spelling it backward.

On another application, submitted by Marie Violet Corrozzo, they have written the Hebrew word "lavan," which means white.

I am not going to take a lot of the Senate's time now during the debate on the crime bill, but on virtually all of the applications Daniel Lamp was using codes to indicate who was black and who was white.

It was on the basis of those and other findings that the EEOC took action and filed a complaint alleging intentional discrimination.

I think it is important to make that fact clear.

I ask unanimous consent that all this material be printed in the RECORD at an appropriate place after my comments and discussions.

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

(See exhibit 1.)

Mr. KENNEDY. Mr. President, the amendment offered by Mr. HELMS, is unwise, unfair, and has no place on the crime bill. A vote to table the amendment is not a vote for or against the amendment. There will be ample opportunity next month to deal with all aspects of the quota issue when we take up the civil rights bill.

The amendment would make it an unlawful employment practice "to grant preferential treatment * * * to any individual or to any group on the basis of race, color, religion, sex, or national origin." That language would do far more than ban quotas. It would reverse more than a decade of Supreme Court precedent upholding the use of affirmative action and outlaw all affirmative action efforts.

The Helms amendment violates the Nation's shared recognition that, under certain circumstances, it is appropriate to try to increase the representation of women and minorities in the workplace by engaging in affirmative action.

President Bush and Reagan have both recognized the importance of affirmative action and have taken steps which, had the Helms amendment been law, would have been illegal. Similarly, the Supreme Court has repeatedly recognized the valuable role played by affirmative action and has developed a body of law defining the circumstances under which such efforts may be undertaken.

We should not overreact to the cry of quotas by abandoning a valuable tool which has been invoked by the past two Republican Presidents and approved repeatedly by the Nation's highest court.

President Reagan personally demonstrated that one can oppose quotas and unfair advantages without also opposing appropriate affirmative action efforts. A long-time opponent of quotas, he promised in the closing days of his 1980 Presidential campaign to name a woman to fill one of the first Supreme Court vacancies.

He stated:

I oppose tokenism, and I oppose setting false quotas. * * *

I am also acutely aware, however, that, within the guidelines of excellence, appointments can carry enormous symbolic significance.

This permits us to guide by example, to show how deep our commitment is and to give meaning to what we profess. * * *

One way I intend to live up to that commitment is to appoint a woman to the Supreme Court. I am announcing today that one of the first Supreme Court vacancies in my administration will be filled by the most qualified woman I can possibly find, one who meets the high standards I will demand for all court appointments. It is time for a woman to sit among our highest jurists.

True to his promise, President Reagan nominated Sandra Day O'Connor to fill the first Supreme Court vacancy during his tenure. In announcing the nomination, the President explicitly referred back to his campaign promise that one of his first Supreme Court appointments would be a woman.

But if the Helms amendment had been law in 1981, President Reagan would have been committing an unlawful employment practice when he appointed Sandra Day O'Connor to the Supreme Court.

President Reagan did not stand alone in recognizing that there is an important distinction between granting unfair preferences and engaging in appropriate affirmative action. President Bush—undeniably a staunch opponent of quotas—has made clear that he supports efforts to seek out women and minorities to fill vacancies on the Federal bench. His administration has stated that it is looking for more qualified female and minority candidates for Federal judgeships, and he personally has written to Senator DOLE requesting the assistance of GOP Senators in identifying qualified female and minority candidates for the Federal bench.

President Bush has also supported affirmative action efforts outside the realm of judicial appointments. He has repeatedly affirmed his support for affirmative action in improving the representation of women and minorities throughout America's workplaces. According to Bob Woodward's book, "The Commanders," Chief of Staff John Sununu once instructed Secretary of Defense Cheney that, "the White House wanted 30 percent of the remaining 42 jobs in the Defense Department filled by women or minorities."

Like Presidents Bush and Reagan, the Supreme Court has recognized the important distinction between unlawful quotas and valid affirmative action efforts. In its first opinion directly addressing the issue of affirmative action, Steelworkers versus Weber, the Court held that title VII does not prohibit private, voluntary affirmative action efforts designed to hasten the elimination of discrimination.

In a series of subsequent opinions, the Court has illuminated the circumstances under which affirmative action is lawful. In Sheet Metal Workers versus EEOC, the Court held that title VII does not prohibit a court from ordering, in appropriate circumstances, affirmative race-conscious relief as a remedy for past discrimination. Recognizing that the availability of such relief may be the only effective means to ensure the full enjoyment of the rights protected by title VII, the Court approved the use of affirmative action efforts as long as they do not rise to the level of a strict racial quota, are temporary, and do not unnecessarily impair the interests of nonminority workers.

In Firefighters versus Cleveland, the Court held that title VII does not deprive trial courts of the authority to enter consent decrees which provide for the use of race-conscious relief and other affirmative action designed to eradicate past discrimination, even if the relief benefits persons who were not actual victims of the past discrimination.

And in Johnson versus Transportation Agency, the Court once again distinguished flexible affirmative actions plans from rigid quotas. It approved an affirmative action plan which allowed consideration of an applicant's sex in making promotions to traditionally segregated jobs and which set goals for increasing the work force representation of women and minorities.

In United States versus Paradise, the Court made clear that in appropriate circumstances even strict one-black-for-one-white promotion requirements may be permissible under the equal protection clause. Stressing the harmful nature of the defendant's actions and the fact that the one-for-one requirement was temporary, the Court held that the requirement was narrowly tailored to serve its purposes and was supported by compelling governmental interests in eradicating the defendant's pervasive, systematic, and obstinate discriminatory exclusion of blacks and in enforcing compliance with Federal court judgments.

The Court has not, however, uniformly upheld the use of race- or gender conscious programs. In Wygant versus Jackson Board of Education, Court made clear that there are constitutional limits on the extent to which public entities can use such programs as a tool to overcome discrimination, holding that affirmative action may be utilized by a governmental entity only when there is convincing evidence of prior discrimination.

These Supreme Court opinions make clear that affirmative action advances important social goals and is consistent with the Constitution and existing antidiscrimination law. In addition, they illustrate that the Supreme Court has and will continue to define the limits of appropriate affirmative action, rejecting plans that constitute inflexible quotas or attempts to maintain a permanent, fixed racial or gender balance in an employer's work force.

But if the Helms amendment becomes law, all of the Supreme Court decisions upholding affirmative action—all of them—would be overruled.

Title VII itself further ensures that Federal antidiscrimination laws will not be used as a vehicle for forcing employers to adopt quotas or other improper preferential treatment schemes. Title VII explicitly provides that it shall not be interpreted:

> To require any employer * * * to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons employed * * * in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any * * * area * * * or in the available work force in any * * * area.

In the attempt to reject quotas and other improper preferences, the Helms amendment goes too far. It would force employers to turn their backs on a tool that has been sustained and carefully defined by the Supreme Court and invoked by Presidents Reagan and Bush. The Helms amendment would seriously undermine any hope we have for eradicating the discrimination which continues to plague our society and our workplaces.

I urge my colleagues to vote to table the Helms amendment.

Mr. President, I ask unanimous consent that the privileges of the floor each day the Crime Control Act of 1991 is pending and for rollcall votes thereon, be granted to Ms. Mary Dent, a Congressional fellow from the Georgetown Women's Law and Public Policy Fellowship Program, who is a member of my staff.

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

EXHIBIT 1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC.

I am writing in response to the concerns you expressed in your letter about the Daniel Lamp case. To the extent that I am able to discuss any case that is the subject of ongoing litigation, I would like to set out the facts of this case.

The Daniel Lamp case arose when a black woman, Lucille Johnson, with several years relevant experience applied for a position with the company. Although the company hired several non-black individuals who appeared to be less qualified, she was rejected. Ms. Johnson filed a charge with the EEOC, claiming she had been discriminated against on the basis of her race.

We proceeded to investigate her charge as we do with every charge of discrimination. In this case, the Commission investigated Ms. Johnson's charge both by requesting documentation on applicants and by visiting the company to determine whether there was reason to believe the discrimination charge was true.

We discovered evidence that the company was intentionally engaging in a pattern and practice of excluding blacks from its work force. The owner of the company attempted to justify the virtual absence of blacks by pointing to the high number of Hispanics he had employed. However, the civil rights laws do not permit a company to exclude deliberately members of one minority by hiring members of another minority. The civil rights laws require equal opportunity for all individuals.

Daniel Lamp hired several blacks after the Commission found reason to believe the company was illegally excluding blacks. This does not remedy the injustice encountered by those black individuals who were apparently rejected at an earlier time on the basis of their race. We are pursuing a lawsuit on their behalf.

The EEOC never targeted the Daniel Lamp Co. We, as required by law, began the investigation after a charge was filed.

Furthermore, although Daniel Lamp is a small company, the size of its work force places it well within our jurisdiction. The Commission has jurisdiction over employers who have at least 15 employees—about 15 percent of employers across the country. We certainly have no intention of forcing the company into bankruptcy. In fact, the Commission lawsuit was filed only after numerous and fruitless attempts to settle this case. Only recently did the owner provide any information to support his claim that monetary relief for those individuals who were discriminated against would force the company out of business. The Commission has now resumed settlement negotiations with the company and would welcome an amicable resolution that would avoid the unnecessary expenditure of Commission and company resources.

One point remains—the 8.45 quota that is often cited. The 8.45 figure was obviously not intended to be a hard and fast number of blacks that Daniel Lamp was expected to employ. To focus on the 8.45 figure is to ignore the larger picture involved in this case. Daniel Lamp hired 115 factory workers during the 2-year period of the investigation; only 10 were black. Given the work forces of similar employers in the surrounding neighborhood, a company of Daniel Lamp's size would be reasonably expected to employ significantly more black workers than it did. This small number of blacks in the company's work force for part of that period was seen as another indication of discrimination.

Nonetheless, the perception in the general population and among employers that the 8.45 figure represents a quota graphically illustrates a major problem in the civil rights arena today. All too often, when confronted with such numbers, employers have assumed that they represent quotas. Consequently, many employers have come to believe the law requires quotas and have surreptitiously hired by numbers to avoid legal challenges.

Finally, the EEOC brought the case against Daniel Lamp because Lucille Johnson filed a complaint with us.

Protecting Ms. Johnson's rights is what brought this case to court, not any vendetta against Daniel Lamp Co. or its owner or any desire to bankrupt the company.

I hope this information concerning the Daniel Lamp case is helpful to you.

Sincerely,

JAMES C. LAFFERTY,
Director of Communications and Legislative Affairs.

APPLICATION FOR EMPLOYMENT

[Pre-Employment Questionnaire]

[An Equal Opportunity Employer]

PERSONAL INFORMATION

Date: 4-15-87.

Name: Gilletly, Lawrence William.

Social Security Number: [redacted]

Present address: 2997 S. Archer, Chicago, IL. 60608.

Permanent address: 2997 S. Archer, Chicago IL. 60608.

Phone No. 247-9480.

Are you 18 years or older Yes.

EMPLOYMENT DESIRED

Position: Assembly work.

Date you can start: Rite now.

Salary desired: 3.50 hr.

Are you employed now? No.

Ever applied to this company before? No.

EDUCATION

Name and location of school:

Grammar School—Sayer, 1850 N. Newland, Chicago IL. No. of years attended—8. Did you graduate? Yes. Subjects studied—Basic.

High School: Stinmet 2, 3030 N. Mobil, Chicago, IL. No. of Years atended—2. Did you graduate?—GED. Subjects studied—Gen. Busus. Math.

PERSONAL INFORMATION

Name: Corrozzo, Violet Marie.

Present Address 2707 S. Union, Chicago, IL. 60616.

Are you 18 years or older? Yes.

EMPLOYMENT DESIRED

Date you can start: A.S.A.P.

Are you employed now? No.

If so may we inquire of your present employer? Yes.

Ever applied to this company before? No.

EDUCATION

Name and location of school:

Grammar school—Mort Sheridan, 27th Wallace, Chicago, IL. No. of years attended—8 yrs. Did you graduate? Yes.

High school Kelly, 42nd California, Chicago, IL. No. of years attended —4 yrs. Did you graduate? Yes.

Night school: Kelly, 42nd California, No. of years attended—½ yr.

[In the U.S. District Court for the Northern District of Illinois, Eastern Division, Civil Action No. 9100289]

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, PLAINTIFF, *v.* DANIEL LAMP COMPANY AND MICHAEL WELBEL, DEFENDANTS

NATURE OF ACTION

This is an action under Title VII of the Civil Right Act of 1964, as amended, 42 U.S.C. §§2000e, et seq. ("Title VII"), to correct unlawful employment practices on the basis of race (Black), and to make whole Lucille Johnson, and all other Black applicants and Black potential applicants for employment aggrieved by the unlawful employment practices.

Plaintiff, Equal Employment Opportunity Commission ("EEOC"), alleges that Defendants, Daniel Lamp Company ("Daniel Lamp") and Michael Welbel ("Welbel") have engaged in a pattern and practice of continuing discrimination against Blacks as a class, on account of their race, in recruitment and hiring.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to §§706(f) (1) and (3) of Title VII.

2. The unlawful employment practices alleged herein were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

PARTIES

3. Plaintiff EEOC is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by §§706(f) (1) and (3) of Title VII.

4. At all relevant times, Daniel Lamp has continuously been and is now a corporation doing business in the State of Illinois, the City of Chicago, and the County of Cook, and has continously had and does now have at least fifteen employees. At all relevant times, Daniel Lamp has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of §§701 (b), (g) and (h) of Title VII.

5. At all relevant times, Welbel has been the owner of Daniel Lamp and has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Sections 701 (b), (g), and (h) of Title VII.

STATEMENT OF CLAIMS

6. More than thirty (30) days prior to the institution of this lawsuit, Lucille Johnson filed a Charge of Discrimination with EEOC, alleging violations of Title VII by Daniel Lamp. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least 1987, Daniel Lamp and Welbel have engaged in unlawful employment practices at Defendants' Chicago facility, in violation of §703(a) of Title VII. Such unlawful employment practices have included the following:

a. Failing to hire Lucille Johnson because of her race, Black;

b. Engaging in a pattern and practice of continuing discrimination against Blacks, on account of their race, in recruitment and hiring; and,

c. Failing to preserve employment records for such time periods as required by EEOC's Regulations.

8. The effect of the policies and practices complained of above has been to deprive Lucille Johnson and other Black persons of equal employment opportunities and to otherwise adversely affect their status as applicants for employment on account of their race (Black).

Wherefore, EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Daniel Lamp, Welbel, and their officers, agents, successors, assigns, and all persons in active concert or participation with them from engaging in any employment practice which discriminates on the basis of race;

B. Order Daniel Lamp and Welbel to institute and carry out policies, practices, and programs which eradicate the effects of their past and present unlawful employment practices;

C. Order Daniel Lamp and Welbel to make whole Lucille Johnson and the class of Blacks aggrieved by Defendants' unlawful recruiting and hiring practices, by providing appropriate backpay with prejudgment interest, and other appropriate monetary relief, in amounts to be proved at trial, as well as other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including, but not limited to, the hiring in their rightful places of the persons aggrieved;

D. Grant a permanent injunction requiring Daniel Lamp and Welbel to preserve employment records for such time periods as required by the EEOC's Regulations;

E. Grant such other and further relief as this Court deems necessary and proper; and,

F. Award EEOC its costs in this action.

Respectfully submitted,

Donald R. Livingston, General Counsel (Acting); Philip B. Sklover, Associate General Counsel; John Hendrickson, Acting Regional Attorney; Jean P. Kamp, Supervisory Trial Attorney; Zachary A. Tobin, Trial Attorney; Equal Employment Opportunity Commission, Chicago, Illinois.

EEOC FILES LAWSUIT AGAINST DANIEL LAMP COMPANY

WASHINGTON, D.C.—The U.S. Equal Employment Opportunity Commission today filed a lawsuit against Daniel Lamp Co. after extensive efforts to settle a race discrimination charge against the Chicago manufacturer failed.

Commission Chairman Evan J. Kemp, Jr. said, "The evidence obtained in our investigation led us to one conclusion—Daniel Lamp intentionally excluded qualified black applicants from its workforce, while hiring less qualified non-blacks."

Chairman Kemp outlined the following results of the Commission's investigation of the charge brought under Title VII of the Civil Rights Act of 1964:

"The company said it prefers to hire individuals referred to it by Hispanic organizations. It justifies its treatment of black applicants by asserting that its largely Hispanic workforce is already composed of minority individuals."

Kemp said, "Under the law, individuals are not fungible. Title VII stands for the proposition that the workplace must be open to all individuals on a nondiscriminatory basis. Therefore, an employer cannot successfully defend against a black individual's charge of discrimination by merely asserting that its workplace is composed of members of another minority group."

"The company said the backpay sought by the Commission would put it out of business. The company has provided no documentation for that assertion. "It is regrettable that the facts of this case were misrepresented to the public before the commencement of litigation—at a time when we were prohibited by law from discussing them," Kemp said. "Now that suit has been filed, we are able to set the record straight."

Kemp said, "I have read reports in the press to the effect that paying the backpay owed to victims of discrimination would have bankrupted the company and caused its employees to be unemployed. As required by law, we offered to arrange a settlement. I asked my staff to go through the Commission's files to see if there was some proof of financial hardship. To this day, we have not received even the most basic financial data in support of this financial hardship claim."

The Commission's investigation of the charge revealed that when Lucille Johnson applied for an unskilled factory worker job at Daniel Lamp Co., she was not selected, despite three years of related experience. However, less qualified non-blacks were hired for these jobs within a few days of Johnson's application. During most of the course of the investigation, Daniel Lamp had no blacks working in the company's factory.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I thank the Chair.

Mr. HELMS. Will the Senator yield to me 30 seconds?

Mr. COHEN. Without losing my right to the floor.

Mr. HELMS. What Senator KENNEDY neglected to say, Mr. President, was that this Chicago lamp company is situated in an almost totally Hispanic neighborhood. He carefully avoided saying that.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, Justice Holmes once stated that a catch word can hold analysis in fetters for 50 years. I am not sure that "quota" is a catch word, or indeed even a buzzword. It certainly is an inflammatory word. In fact, it is a label that, once attached to legislation, is the equivalent of stamping the red letter "A" on the head of the bill itself.

It is the political equivalent of Michael Dukakis turning Willie Horton loose. There should be no mistake about the political implications of labeling something a quota bill.

Why do we react so viscerally to the word quota? Well, it is a number. It is a fixed percentage. It is arbitrary. It is without logic. It is without merit. It is without fairness. And, of course, the very same thing could be said about racial prejudice or bigotry, of discrimination based upon one's sex, national origin, or skin color.

A famous author said:

Prejudice is born of ignorance and malice. It is the spider of the mind. It weaves its web on every window and over every crevice where light can enter and then it disputes the very existence of the light that is excluded* * *. Prejudice will swear the Northern Star out of the sky of truth.

The Senator's amendment goes beyond quotas. It has been pointed out by Senator KENNEDY, and also Senator

DOLE, it extends to affirmative action. Only bad affirmative action, not good affirmative action. But I did not see that distinction being drawn in the amendment itself. It talks about preferential treatment of any kind to anyone.

Affirmative action in the past at least has been used as a means of breaking down the barriers of segregation and breaking down the barriers to the handicapped, as the Senator from Kansas pointed out. But our concern for discriminatory employment practices is said to be passé.

One of the major papers today contains an article about a headstone being placed over civil rights legislation, reading "Rest in Peace."

Some may believe that we are no longer segregated. There is no racial prejudice any longer. There are no ghettoes, real or imagined. There is no red line for loans. Everyone is now seen as equal, and we have achieved that enlightened state of being completely oblivious to color or sex. We are now color blind and our policies have to reflect our refusal or indeed our inability to differentiate among races, nationalities, and sexes."

That is not a view that I share, but it is an issue which we ought to be debating, and at length, but that debate ought to be on the civil rights bill that hopefully will be coming to this Senate floor by the end of the summer.

It is clear that the language used in civil rights legislation is very technical, and no doubt that accounts for the difference of interpretation between the minority leader and the Senator from North Carolina. It is very technical. It is complex. It has a history of Supreme Court interpretations. And it is not something we ought to be attaching to crime legislation when in fact we know that within several weeks there will be a major piece of civil rights legislation brought to the floor.

So I hope, Mr. President, that when the appropriate time comes, that we would indeed have a motion to table the Senator's amendment, and I intend to join in support of that motion. I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, why is this amendment before the Senate? The answer is simple, at least to me. It is part of a longstanding and ongoing strategy by some in American politics to create inflammatory but essentially irrelevant issues designed to pit one part of the electorate against another; in short, legislation designed for a campaign ad.

Why does the Senator from North Carolina not go for the gold and propose the death penalty for quotas, mandatory life sentencing for affirmative action? What other civil activities does he believe are appropriate for discussion in a crime bill? Why are we talking about this during a debate on the crime bill when the Senator from North Carolina knows, as all of us know, that this body is going to consider a civil rights bill in the near future?

Mr. President, there are those in American politics who consider civil rights a wedge issue, an issue designed to drive wedges and distance between differing groups in our country. They talk about these wedge issues with pride, and they use them skillfully. But I would like to suggest that you can go to the well once too often. You can show Willie Horton's face once too often. You can televise those white hands twisting that rejection letter once too often. And you can invoke the specter of quotas once too often.

Cynical manipulation and scare tactics of racial politics are not the solution to the challenges our country faces, and the people in this country are looking for answers and for leadership.

The amendment before us is not leadership. The Senator from North Carolina proposes to prohibit preferential treatment in employment practices on the basis of race; with an amendment to the crime bill, he seeks to change title VII of the civil rights action. Affirmative action, goodbye.

Mr. President, it is not a crime to try to improve your hiring practices, and we should not make it one. I urge the Senate to defeat this amendment simply and soundly.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I rise in the name and in the spirit of Hubert H. Humphrey.

I rise to set the record straight on Hubert Humphrey's commitment to equal justice, on Hubert Humphrey's commitment to building a true community of peoples, on Hubert Humphrey's commitment to end the blight of discrimination, segregation, and prejudice.

I rise because last night, in offering an amendment to the Civil Rights Act of 1964, the Senator from North Carolina drew the memory of Hubert Humphrey, a passionate and unyielding champion of civil rights in decades past, into what has evolved into a divisive and cynical and shameful debate on civil rights in the 1990's.

We have allowed the debate to be framed by those who default to a single word—quotas—to define and confine one of the greatest issues of our time.

Why do we hear the quota refrain—over and over and over?

For the same reason we heard a lot about Willie Horton in the Presidential campaign of 1988.

The specter of quotas is being used today in exactly the same way as the specter of Willie Horton was used during that election to falsely define an issue in a way calculated to appear to people's worst, but unfounded, fears.

That is the leadership that divides the country by race.

That is not the type of leadership for which Hubert Humphrey stood. That is not the legacy which Hubert Humphrey left. That is not how Hubert Humphrey defined the great civil rights debate of the 1960's.

I am honored—and humbled—to represent the State of Minnesota, as Hubert Humphrey once did, in the Senate of the United States.

And I cannot stand by—mute—and allow Hubert Humphrey's legacy to be degraded by allowing all that Hubert Humphrey stood for on civil rights, and all that Hubert Humphrey fought for on civil rights, to be reduced to a false issue, a divisive issue, a Willie Horton issue.

There is no better way to describe Hubert Humphrey's true commitment to civil rights—and commitment to true leadership—than to return to Hubert Humphrey's own words on the eve of passage of the Civil Rights Act of 1964.

Hubert Humphrey called the Civil Rights Act of 1964 the greatest piece of social legislation of our generation.

On the floor of the Senate, where we stand today, Hubert Humphrey stated:

> * * * [F]or the first time in recent history the Congress of the United States will say in clear and unmistakable terms: "There is no room for second-class citizenship in our country." Let no one doubt the historical significance of this ringing affirmation which we now deliver to the Nation and to the world.

And Hubert Humphrey continued:

> We are engaged in the age-old struggle within all men—a struggle to overcome irrational legacies, a struggle to escape the bondage of ignorance and poverty, a struggle to create a new and better commuity where "justice rolls down like waters and righteousness is a mighty stream."

And what we must remember today is that Hubert Humphrey recognized that the Civil Rights Act of 1964 marked not the end of our fight for equal justice but "only the beginning of our responsibilities on this measure."

This is the legacy that Humbert Humphrey left us. That is the fight we must continue.

Hubert Humphrey stated back in 1964:

> We have before us a great opportunity to strive for a true community of peoples, where neighbors regard each other with charity and compassion, and where Americans of all races live together in harmony and good will. We must go to the people of America with the message that men are needed to seek peaceful, constructive, and positive responses to the blight of discrimination, segregation, and prejudice. We must call upon every American—from the President in Washington to the schoolchild in Minnesota—to become active participants in this crusade for human dignity.

And, as Hubert Humphrey did, I call upon every American—from the President in Washington, to the schoolchild in Minnesota, to the Senator from North Carolina, to become active participants in this crusade.

For that reason, we must vote down this amendment.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized. The Chair advises the Senator there are 6 minutes and 6 seconds left before the vote.

Mr. SIMON. I will use only 2 minutes of that. I ask unanimous consent to yield 2 minutes then to the Senator from Louisiana, and 2 minutes to the Senator from Georgia.

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

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, we hear a lot about government interference in business. Let me tell my colleagues to adopt this amendment and there will be massive government interference in business.

A grocer in North Carolina has 10 employees. Maybe they are all 10 Protestants, and he wants to have a Roman Catholic. He is violating the law if he does this, instance after instance after instance where people make practical business decisions; a preference, if you will. That would not be tolerated.

Finally, I will simply add this, Mr. President. We are on the crime bill. In the last couple of decades, we have seen brought on to the police forces of this Nation a great many African-Americans and Hispanic-Americans and women, and our police forces are better. We are better able to handle a lot of delicate situations.

That would not have been possible had this law been in existence. I hope we resoundingly defeat it.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I yield to the Senator from Georgia.

UNANIMOUS-CONSENT AGREEMENT

Mr. FOWLER. I thank the Senator from Louisiana.

Mr. President, I ask unanimous consent that for purposes of debate only, debate be extended for 1 additional hour, at which time we will return to an automatic quorum call.

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

Mr. FOWLER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Senator.

Mr. President, when I came to the floor, I was a little surprised because I had been under the impression that the Senate was engaged in debate and the writing of a crime bill, a bill that the President and this administration has asked the Congress to move on within 100 days, and to move very quickly, because it is of utmost importance to this Nation to have a crime bill adopted and enacted into law as soon as we can.

The President's request to the Congress is that we do it in 100 days. The chairman of the Judiciary Committee and the ranking member have done their very best to bring to a conclusion a crime bill.

Lo and behold, walking through the Senate Chamber, I notice we have tossed out as an amendment the essence of the civil rights legislation. I am not going to talk about the merits of the civil rights bill. I, along with a number of other people, are working in a bipartisan fashion with Members on this side and with distinguished Members on the other side to try and craft a civil rights bill that says very clearly that we, as Americans, are against intentional discrimination on the basis of race, creed, color, or any of the other items that we normally say should not be the basis of discrimination.

We are working on that. Diligent efforts are being made by Senator DANFORTH, for instance, with his proposed bill which he has pending right now. There are many of us who are working with him. So I would suggest, Mr. President, that this is the crime bill, and there will be ample opportunity, and I underline the words "ample opportunity," to discuss the civil rights bill. It should be discussed not in one narrow paragraph as this amendment suggests. It should be discussed with all of the options available. We should not just be discussing the question of unlawful employment practices and preferential treatment. We should be discussing damages, whether they should be limited or not, what are the remedies to enforce whatever the statute is ultimately going to say. We should be discussing quotas and whether they should be allowed or eliminated. I, and I know a number of other Members, have strong feelings. I am opposed to quotas. They do not work. I think they are morally wrong and deprive the most qualified people the opportunity to get work.

What I am saying to my colleagues is that the civil rights bill that is pending—we know it has already passed the other body, we know it is going to be coming to the Senate—is the proper forum for discussing all its ramifications, not a single-shot approach to discuss only one aspect of the civil rights legislation. Everything should be out in the open and debated. Everything should be subjected to amendment. The will of the Senate should be worked in a fashion which makes far more sense than a single-shot effort such as is now pending before the Senate.

I think the distinguished minority leader said it correctly when he said that this was not the forum and it is not something that we would be able to support regardless of how you feel on the civil rights legislation. Whatever your position happens to be now, you will have an opportunity to debate it freely and openly at the appropriate time.

Some would say this is a very important issue and the American people want to know the position of the Senate. Mr. President, I have some very important legislation dealing with wetlands. Is it appropriate for me to run to the Senate floor and offer my wetlands legislation as an amendment to the crime bill? I have strong feelings about things that need to be done in agricultural disaster assistance areas. Half my State of Louisiana is under water, Presidentially declared a disaster area, very important. Should I come out on the Senate floor to offer an amendment on agriculture disaster assistance? There is a proper forum, a proper time, a proper place. It is not because of the rules of the Senate. It is because these issues should be debated openly and fairly with everybody participating, everybody focusing on that issue. That is exactly what is going to happen with the civil rights legislation. This body will be focused on all aspects of that very complicated, very emotional issue, and Members will have a right and an opportunity to have their say on the Senate floor, offer their suggestions, and have them debated and voted up or down.

So while I suggest that this is, indeed, yes, an important issue, it should not be handled in a quick fashion without the opportunity to freely debate it. If the President wants a crime bill, he is entitled to it. He is entitled to it in an orderly procedure. This is clearly a major interruption in the crime bill, and I suggest it should be put aside until the civil rights bill is brought before the Senate and we all have ample time to express how we feel on that legislation. I think we should table it and this issue should be discussed at the appropriate time and place.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. I thank the Chair.

I rise briefly to associate myself with the remarks of the Republican leader, Mr. DOLE; the Senator from Maine, Mr. COHEN; and the Senator from Louisiana, Mr. BREAUX. All of us are adamantly opposed to quotas. We are all in the process of addressing a piece of legislation that will specifically and unequivocally outlaw quotas as a selection practice. Those negotiations, as the Senator from Louisiana just stated, are ongoing. They are bipartisan. They seek, through men and women of good will in this country, to affirm lawful business practices which are not based on an artificial quota system.

The amendment before the body offered by the Senator from North Carolina goes far beyond his public statements of a few moments ago. When you read the amendment and eliminate the qualifying clauses, the amendment says:

It shall be an unlawful employment practice for any employer to grant preferential treatment to any individual or to any group for any purpose.

Despite what the Senator from North Carolina said in his remarks, if you read his amendment on its face, I submit it prohibits any employer in the United States of America to give preferential treatment to any person who is handicapped if that employer in his own mind decides that he wants to hire the handicapped.

Despite the protestations of the Senator from North Carolina on this floor that this would exclude our veterans, if you read the language of the amendment that he is trying to put into the law of the land, it would prohibit any employer in the United States of America giving any preferential treatment to a man or woman who has served our country and fought our wars.

It is the most extraordinary interference in private business practices that I have seen offered on the floor of the Senate, because it would prohibit, in the words of the amendment, any private businessman or woman giving preference to anybody for any reason that they, the private employer, want to use.

I want to add my voice quite simply to what has been said before. This is a crime bill. We do not have rules of germaneness in the Senate. I do not know why. I would like to change that. We have people who want to offer B-1 bomber amendments on Social Security legislation, those who want to offer Social Security legislation on the defense bill. But believe you me, any time that is done, it is only done for one purpose, and that is to disrupt and delay.

I have joined with the leadership on this side of the aisle accepting what the President of the United States asked us to do: Please try to put together a crime bill that will somehow stall and prohibit the rage of crime that continues to affect every American family. That is why we have been here for the last several days. We started it within the 100 days. Everything about the process has been implemented in order to get an anticrime bill that will protect American families. And to offer an amendment like this can only frustrate the President of the United States in his effort to get a bill that he can sign into law so that we can go back to fighting some crime.

I thank the President. I yield the floor.

Mr. HELMS addressed the Chair.

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

Mr. HELMS. I thank the Chair.

Mr. President, I was not in the Chamber when my good friend from Georgia purported to explain the amendment by reading part of it.

As I understand it, and he can correct me if my information is incorrect, he read the first 2 or 3 lines and said, "It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee"—and then he said so forth and so on, then he jumped down to the next to the last line, "for any purpose, except as provided in subsection (e)."

I know that the Senator did not intend to mislead anybody. But let me read the whole amendment, the entire amendment.

It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex or national origin of such individual or group—

Then we will pick up what I understand the Senator gave you—

for any purpose except as provided in subsection (e).

I just wanted to make it clear that his omission, and I know it was not intentional, was rather significant.

Mr. FOWLER. Will the Senator yield?

Mr. HELMS. Just for a moment, please.

Mr. President, Senators can vote for or against this amendment as they choose. But I hope we can keep it on a basis of accuracy and objectivity. For example, the distinguished Senator from Massachusetts, Mr. KENNEDY, read a lot of stuff into the RECORD purporting to show that the lamp company out in Chicago had done some dastardly thing.

I have looked at the same documents. And they did nothing dastardly. As a matter of fact, they were proud of the fact that they hired only minorities. As I said earlier, the EEOC came racing in there and slapped on $148,000, plus $10,000 that they were required to spend advertising in the newspapers for people to come in and claim that they had been discriminated against. And EEOC's purpose, EEOC's motivation was to make a distinction between 8 black employees and 8.45 black employees.

I say to you, Mr. President, that was an outrageous activity. And the EEOC has since backed up because, as I said earlier, I invited the chairman of the EEOC, Evan Kemp, to come up here and visit with me and other Senators. And he acknowledged that it was an outrage. Therefore, the fine was virtually eliminated, and they did not have to spend the $10,000 advertising in the newspaper.

So I hope we can keep this debate on a pretty level plane. Facts are facts. Truth is truth. And I know some Senators do not want to vote on it. That is the reason all this is going on right now. They do not want to vote on it. They are scared of it. They are in a catch-22 situation. They have been out across the country saying I am against quotas. Then when they have a chance to back it up with a vote in the U.S. Senate, they say, oh, we do not want to vote on it. And they say, in addition, look at HELMS, he is blocking this bill, this crime bill.

I am not blocking it. I was ready to vote last night. It is the Senators who are afraid to vote on it, and I challenge them. Go ahead and table it. Do whatever you want to on it. But speak up, take a stand, whatever way you feel about it. Go ahead and vote. But do not try to pin a donkey's tail on the Senator who is simply attempting to validate the declarations of Senators who have said almost with unanimity, I am against quotas.

If they are against quotas, let us go to a vote right now. Do not hem and haw. Do not have a unanimous consent that you cannot do anything except debate. Buck up to it. Show a little courage. Vote one way or another, but vote. I yield the floor.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I hope the Senator from North Carolina will stay on the floor for just a couple moments, since he did accurately characterize the portion of his amendment that I read. But I submit to the Senator from North Carolina that I read the operable parts of the amendment.

The whole amendment, as we know, is printed in the RECORD. I say to the Senator that I am willing to accept, as always, his statement of his intentions as he has stated them in his usual eloquence on this amendment. But I say with great respect to the Senator from North Carolina that the drafters of this amendment went far beyond the stated purpose of the Senator from North Carolina because, if the Senator will allow me, when he put "for any purpose" in this amendment, whoever drafted it, "for any purpose" it goes beyond the stated intentions of the Senator from North Carolina.

And the result of this will be, since both of us came from a Baptist background, that it will prohibit the hiring of Baptists only to sell Baptist hymnals, if I am in the hymn-book business. It will prohibit the hiring of Catholics only, or some Catholics, even, if I want to sell crosses to churches. It will prohibit an employer from giving a preference to hire a wounded war veteran from our recent Desert Storm success. It will prevent the hiring or preferential treatment for the handicapped, because that is what the amendment says.

Mr. HELMS. The Senator is incorrect, and he knows he is.

Mr. FOWLER. The Senator is not incorrect.

Mr. HELMS. Yes, he is.

Mr. FOWLER. I can read the words on the page, and any first-year law student can read the words on the page and would know what it says—"for any purpose"—in the amendment; that would be the law if this was adopted. That is why the Republican leader is opposed to it. That is why Senator COHEN is opposed to it. All it takes is not listening to the speeches; all it takes is for any first-year law student, or any citizen, to read the words that are trying to be slipped by.

Sure, we will vote, after we have a thorough airing of the amendment, after everybody gets a chance to read it and not listen to the speeches. They do not have to listen to the speech of the Senator from Georgia. I would be delighted if we turned off everything. I would be delighted to not listen to the speech of the Senator from North Carolina and his characterization. All you have to do is read the amendment.

If it was in law, it would eliminate any preferential treatment of a private employer who voluntarily chose to do it. And that is all that I say to my friend from North Carolina.

I do not question his motives. I do not question his intentions. I question the words of his amendment, which would not do, in my humble opinion, what he says they would do, but would go far, far beyond his stated intention, to have an extraordinary disruption of the private rights of private employers to hire whom they wish.

Mr. HELMS. Mr. President, I appreciate the lecture, but when you read the amendment, you left out part of it. On line 9, did you read "except as provided in subsection (e)."?

The PRESIDING OFFICER. The Chair advises Senators to please address each other through the Chair and in the third person.

Mr. HELMS. I address that to the Chair. I thank the Chair.

Mr. FOWLER. The Senator from Georgia, I believe, has the whole amendment of the Senator from North Carolina.

Mr. HELMS. I will say to the Senator that I know he had it. What I asked him is did he refer to the provision in subsection (e)?

Mr. FOWLER. The entire amendment of the Senator from North Carolina is the basis for my opposition.

Mr. HELMS. Will the Senator tell me what he understands to be subsection (e)?

Mr. FOWLER. I would be glad to as soon as we get subsection (e).

If the Senator will make his statement, we will continue the debate.

Mr. HELMS. I state to the Chair that I am going through him. What I want to know is, if the Senator will now state—before the aide tells him—if he knows what is in subsection (e), that last words of the amendment, beginning on line 8, are "except as provided in subsection (e)." Does the Senator know what it means? He has been very blunt about his interpretation of the intent of the amendment.

I judge that the Senator is not answering. 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. 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, the distinguished Senator from Georgia made a comment, as I recall it, that he thinks a first-year law student would have done so and so. I do not want to be harsh with him, but any first-year law student I believe would have read subsection (e) before coming to a conclusion. I think I ought to read it in its entirety, leaving nothing out, and adding not one syllable.

It is headed: Businesses or Enterprises With Personnel Qualified on Basis of Religion, Sex, or National Origin; Educational Institutions With Personnel of Particular Religion.

This is the title.

(e) Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program—

This is where I was moved to say that the Senator was wrong. Let me continue—

on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

Mr. President, if Senators will take a look at the Helms amendment they will notice that it creates an exception—and I emphasize this—to the prohibition against discrimination on the basis of religion, sex, and national origin.

The amendment protects the religious school or institution which grants preferences in hiring or admission to those of its own religion. It protects those ethnic-based enterprises which require special language skills and familiarity with particular customs.

I rest my case, Mr. President, and 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. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. JEFFORDS. 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. JEFFORDS. Mr. President, I understand the pending business is the Helms amendment. I would like to discuss that situation.

Mr. President, once again my colleague from North Carolina is ahead of his time. Some day, I would like to support this amendment. Today, I cannot.

Who among us does not seek a color blind society? One that treats men and women as equals? One that is without religious prejudice?

We all seek this society. But sadly, all of us know it does not describe the United States in 1991.

The United States is still shackled by bias. It is still mired by hate. Too many employers and unions and individuals are not blind to color. Given this sad but true fact, our system of justice cannot be blind to the existence of prejudice either.

Regrettably, some unions still stack the deck against women and minorities. So, too, do some employers. What should our societal and legal response be to blatant historical and/or current discrimination? Should we let bygones be bygones?

The answer is, of course not. We still need to remedy past discrimination. In some cases, that means adopting goals and timetables to erase the effects of that discrimination. The Helms amendment would make this type of redress unlawful. The Helms amendment, while superficially attractive, would undercut efforts to gain true equality in our country.

Paper rights are one thing. But until blacks and women are in the building trades, the banks, and the board rooms, we will not really have equal opportunity in this country.

Affirmative action is a necessary tool in this effort. It does not mean hiring by the numbers to satisfy the whims of some bureaucrat. But sometimes it does mean making an extra effort to find qualified people who do not live in the right neighborhood and don't belong to the right country club.

The shame of it all is that if the Senator from North Carolina is trying by his amendment to ban quotas, the very provision he is amending does just that. I will submit for the record the text of the existing language of 703(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(j)).

That section states that nothing in the act shall require an employer to grant preferential treatment on the basis of race, sex, et cetera, on account of an imbalance in the numbers of persons of a particular race, sex, et cetera, employed by an employer as compared with the numbers of such persons in the community, State area, et cetera.

It clearly handles the kinds of circumstances which the Senator from North Carolina is referring to.

This language already bans the evil addressed by the Senator's amendment. But it does so without the side effect of also banning the affirmative action practices which the Supreme Court has repeatedly upheld.

In case after case, the Supreme Court has set the limits of permissible affirmative action. The names of these cases are well known: Steelworkers versus Weber, the Firefighters cases, Johnson versus Santa Clara, and others.

These decisions have served more often than not to constrain the scope of actions beneficial to women and minorities. However, they also consistently have held that under limited circumstances it is appropriate to take affirmative steps to provide equal opportunity where history has shown that negative steps to deny such opportunity had been taken previously.

So, I say to the Senator from North Carolina that his amendment assumes a fact not yet in existence. It assumes that we as a country have reached that color blind plateau where there no longer is a need for taking action to correct the wrongs of discrimination. I say to the Senator, that day will come. When it does, I or my like-minded successors will support the type of amendment he offers today. That support will be given with joy, for it will signal arrival of the color-blind society all of us crave.

But for now, this amendment is wrong for the times in which we live. For today, this amendment should be defeated.

Mr. President, I ask unanimous consent that the language of the referred to statute be printed in the RECORD.

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

(i) Businesses or enterprises extending preferential treatment to Indians.

Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance

Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Mr. JEFFORDS. Mr. President, I yield the floor and make a point of order that a quorum is not present.

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

The bill clerk proceeded to call the roll.

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

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

The Chair recognizes the Senator from Missouri, Mr. DANFORTH.

Mr. DANFORTH. Mr. President, listening to the debate earlier in the day on the Helms amendment, at least at one point it was described as an amendment that was, somehow, directed at governmentally mandated quotas. I would simply point out that that issue, which is a very important issue, is in no way related to the Helms amendment.

The whole so-called quota issue is one that we have been going round and round about in various efforts to draft civil rights legislation. But this amendment before us really does not have anything to do with any orders by the Federal Government to create numerical quotas for employment. This particular amendment has, instead, to do with what otherwise would be voluntary decisions by the private sector.

For example, if a private employer made a purely private decision that the employer wanted to provide better opportunities for minorities and wanted to attempt to hire more minorities in order to accomplish that, this amendment would say no, you cannot do that.

If an employer, for example, were a university, and the university said that we would really like to have a greater number of blacks on our faculty because we have black students and we thing that this is an important role model for our students, this amendment would prohibit that kind of program. If an employer were to say that we have a national advertising campaign, and we think that it is important in our advertising campaign to appeal to all kinds of people, and therefore we are going to try to insert in our commercials blacks or women, this amendment, as I read it, would say, no, you cannot do that.

This amendment is an effort by Government to regulate the employment practices of private employers. That is done by government. We do, of course, have statutes that prohibit discrimination. But this is to say we are going to also have a statute that prohibits an employer making an effort to open up opportunities for clearly disadvantaged groups.

If an employer, as a matter of social resonsibility, believes that it is a wrong in our country that some minorities clearly have economic disadvantages and the employer wants to participate in righting that wrong, then this amendment would say: Mr. Employer, you violate the law by that private decision.

If the employer says: As a matter of principle, I think that it would be good for my business to have more blacks, and I am going to reach out and find more blacks, and I am going to try, the next 10 people who are hired, to hire blacks so that instead of 100 percent whites, I have some blacks in my office, this amendment would say: No, Mr. Employer, you cannot do that because it violates the law.

If an employer says: I think in this community and in this business, it would be good to have training opportunities for minorities so that they will have a opportunity to better themselves, and we are going to have a training program designed to do that, this would say no, you cannot do that.

I talked earlier today to one of our colleagues who is a former Governor. Many of our colleagues are former Governors. This Senator said that, when he was Governor, he had to beat on his State highway patrol because the highway patrol in his State by tradition was virtually 100 percent white male, and he had to beat on them to reach out and hire blacks and hire women. And the same with the State Conservation Department.

This amendment says, oh, no, that cannot happen.

There is a big difference between Government-mandated quotas, on one hand, and private, or perhaps local or statewide efforts to remedy clear problems in the country, on the other hand. There is a difference between Govern-

ment saying you must hire by the numbers, which is wrong, and all of us oppose that, and on the other hand, a private employer saying: It is good for my business, and it is good for this country if we have a more balanced representation in our work force. That is a major difference.

Clearly people in this country are disadvantaged on the basis of race. There cannot be any doubt about that. And it seems to me that it is not unreasonable for somebody in the private sector to say, "I want to be part of the answer."

And if the Government then, by statute, says, "No, you cannot be part of the answer; we do not want you to be part of the answer; it is illegal for you to be part of the answer"; then it seems to me that we have extended the power of Government beyond what it is now, and that we have told private people: Do not make your own decisions in what you believe is a socially responsible way.

I oppose the Helms amendment. I hope it will be defeated.

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, let me commend the distinguished Senator from Missouri. He raised the very question I raised earlier, and I am going to have a discussion now with the distinguished Senator from North Carolina. He made the points I made, which I did not do quite as well as the Senator from Missouri in making the points. But it did raise some concerns that I thought should be addressed.

Again, I apologize to the distinguished Senator from North Carolina for, in effect, coming on the floor and maybe blindsiding him. I thought, given our staffs' discussion back and forth, he was aware of my concern. But I apologize; that was not the case.

So, Mr. President, for all the reasons just stated by the Senator from Missouri and in the comments that I made earlier today, and from discussion at the staff level and with Senator HELMS, let me make a statement and maybe elicit a response from the distinguished Senator from North Carolina.

It is my understanding from the earlier remarks of my distinguished colleague from North Carolina that this amendment would not—would not—prohibit an employer from voluntarily making special efforts to seek out and recruit minorities for its applicant pool.

This is race-based affirmative action in the traditional sense.

However, when it comes to the decision to hire and promote, this decision ought to be made without regard to race, ethnicity, or gender.

For example, it is my understanding that this amendment would still allow an employer with a predominantly white work force to widen its applicant pool specifically to recruit minority and women applicants.

Accordingly, the employer could affirmatively recruit minority applicants by placing ads in newspapers which have a primarily minority readership.

The same employer could ask minority and civil rights groups for referrals of minority applicants.

And my question would be, after discussions, is this correct reading of the Senator's amendment?

Mr. HELMS. It is absolutely correct, I would say to the Senator.

Mr. DOLE. I thank the Senator from North Carolina.

I also suggest—it may not be possible under the parliamentary situation—that one way to alleviate the concerns of, I know, some on this side, as the distinguished Senator from Maine has expressed, the Senator from Missouri has expressed, the Senator from Vermont has expressed, and many others, it is my hope that even though the yeas and nays have been ordered, there might be some way—it has to be by unanimous consent—to add at the end of the pending Helms amendment the following language:

> Nothing in this amendment prohibits an employer, employment agency, labor organization or joint labor/management committee from establishing affirmative action programs designed to recruit qualified minorities and women for its applicant pool.

It seems to me if that language could be added, if that proviso could be added—most everyone has indicated their opposition to quotas—that most everyone would find this amendment acceptable. I have taken the liberty of giving a copy of the amendment earlier to the distinguished majority leader. I say to him, I have added a few words right out of the statute. I added "employment agency, labor organization, or joint labor/management committee," which comes from the statute. If it were possible to do that and if the original sponsor has no objection, that might alleviate the concerns of a number of Members.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. I will be happy to yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Senator. I can understand the concern he has. He stated it in his usual eloquence a while ago. And some others have concerns which, if you go through the entire history of the 1964 act, you will see when you get down to section E and other aspects, declaration by Hubert Humphrey and others, that the amendment does have a protection. It has never been my intent, nor do I believe at this moment that it has the effect that some have seen in it, that the amendment would prohibit recruitment and other efforts to expand the applicant pool. Consequently, the amendment of the Senator may be unnecessary except to emphasize and nail down the point that he has just made. If the Senator will feel more comfortable and other Senators would feel more comfortable with that language, I have absolutely no problem with it, and I am perfectly willing to accept it with the reemphasis that, as Senator HATCH explained earlier, such language, in my judgment and in the judgment of others, is not necessary. But if it makes the Senator feel more comfortable, I not only will accept it, I will accept it gratefully.

Mr. DOLE. Mr. President, I thank the Senator from North Carolina. It is my hope we might have some agreement to accept the amendment. But I will say, based on the colloquy I just had with the Senator from North Carolina, which I think the amendment covers more explicitly—some would say the colloquy itself would not be binding—I hope that maybe at the appropriate time, at least, we could ask unanimous consent that the amendment be in order. But I will wait until the majority leader speaks, and others may want to comment. I will be happy to give a copy of the amendment to the distinguished manager of the bill, Senator BIDEN. I yield the floor.

The PRESIDING OFFICER. If the majority leader will withhold, under the previous order, the Senate was to go into a quorum call at just about this time.

Mr. MITCHELL. Mr. President, that was my purpose in rising. It is my intention to ask unanimous consent to proceed with debate only until 7:30 p.m. on this measure.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, if there is no objection, I now ask unanimous consent that the period for debate only on the pending amendment be extended until 7:30 p.m., at which time the Senate go into a quorum call.

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

Mr. MITCHELL. Mr. President, 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. DOLE. 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. DOLE. Mr. President, I send an amendment to the desk and ask unanimous consent the language in it be added at the end of the pending Helms amendment. I read that language earlier, and I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I will shortly have a more detailed statement

to make on the pending measure. I advised the distinguished Republican leader earlier in conversation that I would object to modifying the amendment as proposed, but I would like to make a brief comment on this question of legislative history.

I listened to the colloquy between the distinguished Senator from Kansas and the Senator from North Carolina, the author of the amendment. As someone who, in a previous occupation, was charged with the formidable task of determining legislative history, I think it is clear that the principle is that history is used to illuminate any doubts that may exist as to the intent of Congress, but, of course, legislative history cannot rewrite statutes.

I submit that the plain language of the statute is inconsistent with the interpretation suggested in any previous colloquy, and that is, in fact, one reason why the proposed change was made, precisely because of that reason. I think it rather clear that this amendment does, in fact, prohibit any voluntary action, any affirmative action of any kind that could be defined as preferential treatment. I think it is one reason why it has troubled so many Senators and why it troubles this Senator.

I will have a more complete statement to make later. I hope, frankly, that we can proceed in a manner that will make it possible not to consider this measure. This amendment has nothing to do with this bill. This has to do with an entirely separate matter that we are trying very hard to resolve under the dedicated leadership of Senator DANFORTH and others.

So, Mr. President, I merely wanted to explain my view with respect to legislative history and my reason for objecting. There have been no hearings on this. No Senator knows what this amendment means or does not mean. It has a potentially immense consequence in our society, raising possibilities all the way from veterans being adversely affected by it to handicapped and disabled persons, and every Senator's comment represents an individual subjective judgment on what it may or may not mean.

Mr. President, I will at a later time during this debate have a much more detailed statement on it, but I wanted to at this point explain my reasons for objecting to my good friend and colleague's request, and I previously indicated to him I would.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished majority leader for his statement. When I came to the floor earlier and indicated my concern about this very problem, I caught, I know, the Senator from North Carolina by surprise even though I thought our staffs had been talking about the concerns I had with the amendment. We have had a discussion since that time, and we have had our colloquy.

It seems to me one way to nail it down to remove any doubt would be by an amendment. Maybe this is not the appropriate amendment. Maybe the distinguished majority leader is right, without any hearings it is difficult to tell the ramifications of the pending amendment or any proviso that might be added thereto.

But I did make my statement initially opposing the Helms amendment in good faith.

I think the Senator from North Carolina responded in good faith and tried to correct my concerns, and I have tried to further underline my concerns with an amendment. Certainly the majority leader or anybody else has a right to object. But on that basis I think I should state to the Senate I would not oppose the Helms amendment at this point, since he has agreed to accept an amendment I think would clarify the concerns not only of this Senator but a number of Senators.

I assume there will be a motion to table, and I indicated earlier I could not support a motion to table the amendment on this side of the aisle. But I wanted the RECORD to reflect I did not intend to mislead anyone, including the manager of the bill and the distinguished Senator from Georgia who was speaking earlier, Senator FOWLER.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1395 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this crime bill is a very comprehensive and complicated bill we have been debating here for the last 3 days. It has a lot of political appeal because the crime rate in this country continues to soar. Our constituents still continue to demand that something be done about it. And when this bill is finished, and indeed during the course of the debate on the bill, everybody will be sending out press releases to assure the folks back home that we are dealing with the issue of crime.

I dare say, as I look at this bill, there are not any Senators in here that could tell you with any degree of certainty everything that is in the bill and very few Senators that could tell you very much of what is in it. S. 1241 is 245 pages long.

It takes me a good while to read a book that long. But just for openers, we have had a bidding war between that side of the aisle and this side of the aisle on who could conjure up more reasons to execute people. I have been told that there are something like 56 crimes in this bill for which people may be sentenced to death.

I am not here to debate the death penalty. I have voted for it a number of times here in the Senate. But this debate just shows that there has in fact been a bidding war to convince the American people that either this side or that side is more eager to put people to death than the other side.

I was in London not too long ago with my wife and we were walking down a street that had no lights on it. On both sides of the street were what we call row houses in this country. It was about four or five blocks long. At the end of this street, you could see there was a thoroughfare that was fairly well lit.

We had walked from our hotel out to dinner that evening, and were returning to the hotel, and we started down this very dark street. And the strange thing is, because we were in London, it never occurred to us that we might get mugged or robbed or murdered, and we walked along there for that distance and had a nice conversation, as I say, with no thought of crime.

I do not know of a single American city where you would do that. There was a time in this country when you would have done it. When I was a child, we never locked the front door. And in the summertime, we did not have air-conditioning, so we had to leave the front door open. And occasionally my mother would latch the the screen, but most of the time she forgot even to do that.

Now, that was a good, long while ago, Mr. President. But today, the last thing that every Member of this body, indeed, that every person in America does before they go to bed at night is to secure their household as best they can with locks and chains, and in many instances, expensive burglar alarms, and so on.

So something very drastic has been happening in this country, and in my opinion, continues. I have heard speeches all of my life, but especially during the 20 years that I have been in public service, both as Governor and as U.S. Senator, about how we are going to lock them up and throw the key away. And everybody keeps making these speeches about how we are going to lock 'em up and throw the key away, and indeed we continue to lock 'em up and throw the key away. And every time we put a criminal into pris-

on, 10 more jump up to replace him. The States are going bankrupt building prisons.

I heard somebody the other day say it reminded them—the way we are building prisons in this country to try to keep up with the ever-escalating crime rate—it reminded them of Lucille Ball in the chocolate factory. Do you remember that wonderful show where Lucille Ball is at the end of the conveyor, and the conveyor keeps getting a little faster and a little faster? The first thing you know, Lucy and Ethel have so many chocolates, they are cramming them in their mouths, throwing them in the wastebasket, trying to get rid of them, trying to keep up.

That is what this country is doing in building prisons. And yet, with this crime bill and all the other crime bills, the number of inmates in Federal prison will double between 1990 and the year 2000.

I am not complaining about a single thing in this bill that deals with expediting the habeas corpus process, as long as it is constitutional. And certainly criminals ought to be taken off the streets and locked up, because if you do not lock them up, there are just that many more criminals on the streets to fear when you walk out in the evening.

So we have no choice, Mr. President, but to continue spending massive amounts of money on prisons, massive amounts of money on drug interdiction, massive amounts of money on new policemen, new drug enforcement officers, a thousand new FBI agents for next year. But I just want to make this little point. We have been doing that now for as long as I can remember, and the crime rate just keeps soaring.

There were three times, Mr. President, three times as many murders in New York City last year as in all of Western Europe and Japan combined, with 350 million people. We are now just barely below Colombia in the crime rate. Think about how much we talk about Colombia being the crime capital of the world. Now the United States has more people in prison per capita than any nation on Earth, including the Soviet Union, South Africa, and China.

And the crime rate just continues to soar. And as I say, we are just now barely, just now still barely behind Colombia in the crime rate.

What are there in this world, 157 countries? And here is the United States, which we love so much, where we have allowed the crime rate, for a host of reasons, many of them social, to reach the point where our Nation is the crime capital of the world.

And that brings me to this point. You look at all the statistics, Mr. President, on who is committing crimes and where they are being committed. You look at the number of violent crimes committed by people who make over $50,000 a year. Almost nonexistent; occasionally a lover's quarrel or a family spat may cause a homicide.

Drug use is declining every day, declining among people earning over $50,000 a year, declining among college graduates, and even declining slightly among high school students. The problem with drug use declining in high schools is that alcohol use is soaring. I saw a poll the other day—I believe it was the National Institutes of Health that did this—where they found that—listen to this—37 percent of the high school seniors said in this poll that they had had five or more consecutive drinks in one sitting within the preceding 2 weeks.

But drug use is down for people who are relatively affluent and can make their car payments and house payments and can keep their kids in school. Drug use is down among college graduates. Drug use is soaring in the inner cities, where there is so much ignorance and poverty.

Senator PRYOR and I requested a GAO study about the use of drugs in rural areas last year. And guess what showed? Drug use in rural areas is just as rampant on a per capita basis as it is in Washington, DC, or New York City.

But my point, Mr. President, is that we are hacking away at the branches of the tree and we are issuing those press releases, and nobody is talking about the root cause of all this crime.

Now, Mr. President, until we spend more money to educate our youngsters—I mean, we are spending umpteen millions of dollars more on interdiction and more police and more prisons than we are in educating people about drug use, and in providing treatment for the roughly 2 to 3 million people in this country who want treatment because they recognize they are addicted.

And now, as we try to wade through this 242-page bill, all of a sudden, the Senator from North Carolina has an amendment which he says is a quota amendment dealing with civil rights.

Here we are, some of us at least, as thoughtfully and sincerely as we know, trying to labor through this bill and make a difference in the crime rate in this country. And all of a sudden we are dealing with an amendment that concerns one of the most volatile issues, which has nothing to do with the crime bill, purporting to prohibit quotas in employment practices. We are going to have a civil rights bill on this floor, I suppose, sometime this summer, and we are going to debate quotas, quotas, quotas, because every person in this body has seen the public opinion polls showing that about 75 to 80 percent of the people in this country oppose quotas.

If the Senator from North Carolina's amendment did what he says it does, if it would just eliminate quotas, and he could offer that amendment and convince everybody here that that is all his amendmend did, he would get 90 to 100 votes. There would be a few people that might not vote with him. I would vote with him. I do not favor quotas. But I do not like to hear the word "quotas" used constantly just for political purposes just because it is known that the American people deplore quotas. And just because the Senator from North Carolina engages in a colloquy with the minority leader and says "This is what I intended and I did not intend this but I did intend that—" that colloquy is not binding. That is not what the amendment says.

As I say, if the amendment were so carefully crafted that everybody in this body knew that it just simply eliminated the possibility of quotas, even though it has no business on this crime bill, we would all vote for it and go onto another amendment.

I am chairman of the Small Business Committee, Mr. President. This week we held a hearing on a bill that Senator NUNN and I have introduced called the Paperwork Reduction Act. The Paperwork Reduction Act is very popular with the small business community in this country because small businesses are drowning in Federal paperwork and paperwork required by the State and local governments.

If you do not think paperwork is killing the country, look at the report released the other day that showed that, of the $600 billion a year we spend on health care in this country, 24 percent of it is on administrative expense. Do you know what that same administrative expense figure is for our Canadian neighbors to the north? It is 8.6 percent. Do you know what it is in Japan? It is 6 percent. If we had a 6-percent administrative cost on health care costs in this country, we could save almost enough money out of that $600 billion we spend on health care every year to provide health care for the 38 million people in this country who have no health care insurance of any kind.

So, if you want to do something popular and you want to get the applause of the small business community, you jump on that Nunn-Bumpers paper reduction bill because the small business community will love you for it. And, Mr. President, if you want to please the small business community, you just tell them you are opposed to quotas. And that is not just the small community that opposes quotas, that is the business community, period.

So we all know the politics of this amendment. But let me tell my colleagues what the amendment will do. The amendment would say, for example, that if you sold wheelchairs and you felt you ought to hire disabled people to sell your wheelchairs, you could not do that. If you were a white person and you had a grocery store in a black

neighborhood and you wanted to hire black employees, you could not do that. If you manufactured crucifixes primarily for sale to the Catholics of this Nation, and you had 50 salesmen, one in every State, selling those crucifixes, you could not require your salespeople to be Catholic. And on and on it goes. You see, we do so much mischief around here for policial reasons.

There is a book on my desk that somebody gave me. I have just scanned it, but I fully intend to read it. It is called "Why Americans Hate Politics." I can tell my colleagues without reading the book, one of the things the author is going to say that Americans hate politics because the politicans do not deal with the things that are relevant in their lives. A lot of people are having a difficult time making their house payments. Many of them cannot buy a home because it is unaffordable. Many of them have no health care insurance.

I saw a pathetic grandmother on one of the networks last evening, or the evening befoe last, with this beautiful grandchild she was raising, saying, "I do not take her to the doctor when I know she needs to go because if I take her to the doctor, we do not eat." What kind of a country is this? And this children's study that has just come out—think of it.

As I say, I can understand the disenchantment of the American people. I suppose we ought to be pleased that more people do not watch C-SPAN than do, because today would not have been a very exhiliarating day for most people if they had been watching this debate in the Senate today. We are not dealing with crime. We are not dealing with the things that are relevant to people's lives. We are not dealing with the fact that they are scared to death to walk out of the front door. We are not dealing with the fact that one out of every five children in this country lives in poverty. What kind of a future do we think we are setting up for ourselves.

Some people think that the murder rate is just a bunch of blacks in the inner city killing each other. They live in the suburbs and they are going to build a wall around that house and it is not going to affect them. I promise you, that is a delusion.

The President says he is going to veto this bill for various reasons, I know he says he is going to veto the Brady bill, he is going to veto anything that does not have the B-1 bomber in it, he is going to veto anything that does not have SDI, he is going to veto the civil rights bill—I forget, there must be 10 or 15 of them that he says he is going to veto.

I would like to hear the President of the United States say, "I am going to veto any bill that does not begin to address the problem that one out of every five children in this country is living in poverty and therefore we are setting ourselves up for a disaster down the road." I would like to hear the President say, "I am going to veto any bill that does not provide health care for the children in this country and every poor pregnant woman in America," because every time a poor pregnant woman does not get a decent diet she is almost guaranteed a defective child. And the cost to the taxpayer will run $1 or $2 million for the child's lifetime.

Would it not be good if the President would say, "I will veto any bill that does not provide enough funds to immunize every child in America against every preventable childhood disease"? Eighty-nine children died last year from measles. In 1983, we had 1,700 cases of measles, and 1 or 2 deaths. Yet we have had vaccines to prevent measles and mumps and rubella and polio and whooping cough and all those diseases for years, and we cannot figure out how to get that vaccine to our children. So last year we had 27,600 cases of measles, and 89 of those children with measles died.

In a nation of 250 million people, 89 children is not very many unless 1 of those children happens to be yours.

So, Mr. President, why do we not say to the American people, this is an outrage. We are talking about peanuts to correct it. You take the cost of the super collider, the space station, the B-2 bomber and SDI just for next year, not for the outyears, but just the cost of those four programs for next year and spend 1 percent of it on childhood immunizations, and within 3 years you could virtually eliminate these diseases that are ravaging our children. Just 1 percent, Mr. President. Think about that.

I can go on with a whole host of those needs that are being neglected. But I can tell you, Mr. President, today has not been a good day for this Senator. I think this day has been a sort of a manifestation of frustrations. I am not speaking just for myself. I sit in the Cloakroom and hear other Senators talk about what are we doing to ourselves.

I go back to the story I told on the Senate floor before about a visit I had one time with President Truman, one of the highlights of my life. I was telling the President I did not enjoy being Governor of Arkansas. I was just a country lawyer and the pressures were so much more intense, the decisions you had to make every 5 minutes. Oftentimes you did not have sufficient information to base a sensible decision on. I told him I was pretty unhappy. I was a country lawyer, and I did not like the big-time operation.

And he said, son, let me tell you something—this is just as I left, I spent an hour with him—just as I left he said, let me tell you how you can enjoy it and you will get to where you enjoy it, but I will tell you the best way to do it.

When these tough decisions come in and you lie upstairs in the mansion looking at the ceiling and wonder what in the world you have gotten yourself into, you just remember this: First of all, tell the people the truth. They know when they are being manipulated. They know when they are being lied to and the problems in this country are, invariably, caused by politicians telling them what they want to hear instead of what they need to hear. They can handle it. How can you expect people to make rational decisions when some politician is lying to them?

Second, he said, get the best advice you can get on both sides of these issues and then you make up your mind what you think is right for your people, and you do it because that is what they elected you to do.

Everybody around here knows that is good advice. It is not profound. It would not be profound if you heard it down on the street, but coming from President Truman, it certainly had an indelible impact on me. Sometimes I walk out that door over there and I think, I wish I had not voted that way. In my heart of hearts, I know sometimes that I probably voted that way because of the threat of that 30-second spot.

Senator BYRD, the chairman of the Appropriations Committee one time asked me, "How many 30-second spots can they run?" He said, "Goodness gracious, you will meet yourself coming back if you try to worry about every 30-second spot that somebody can conjure up," like the 30-second spots they can conjure about this amendment which has had people jumping under their desk all day long.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas yields the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the pending amendment be extended until 8:30 p.m., at which time the Senate go into a quorum call, as under the previous order.

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

Mr. COHEN. Mr. President, 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. COATS. 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. COATS. Mr. President, the first, primary, and foremost service owed by Government to its citizens is protection, safety, and protection of lives. On the domestic front at least I think we have every cause to fear the judgment of that standard.

According to the Justice Department, 87 percent of Americans will be victims of property crime three or more times in their lifetime. That is 87 percent of all Americans will be victims of property crime three or more times in their lifetime. A shocking 83 percent will be victims of violent crime at least once in their lifetime.

So if we take 100 Senators in this body, on average 83 of us will be subject to violent crime once in our lifetime. Four in ten will be injured in a violent assault. This is not just entering the family room and taking the color TV or stealing the hubcap. This is injury in a violent assault, 4 in 10.

Maybe these are familiar figures to some, but they still have great power to shock and offend us. Former Chief Justice Warren Burger commented, "Crime and fear of crime have permeated the fabric of American life."

The direction of criminal justice reform can be debated, and that is what we are doing this week, but the need for reform cannot be debated. There is no debate necessary.

The cost of crime, the price of prisons, the sacrifice of security, these burdens seem to grow heavier every year and each year we are presented with a crime bill and the latest package to deal with the cost and the price of sacrifice. It is a crisis that moves in a spiral which seems to both descend and widen. We are left with a choice between innovation and learning to live with fear.

Congress has debated and will debate a number of proposals for change. We have reforms to increase the speed of justice and the severity of the punishment. I found myself in general agreement with the proposal put forward in the President's package on this floor.

The death penalty must be carefully and consistently applied in murder cases that demand it, not out of vengeance, not out of utility, but out of justice.

There must be tighter time deadlines for the filing of appeals, as well as a limit to their number. For justice to be clear and to be firm, it must come to a point of finality.

Legal technicalities should not exclude evidence collected in good faith by the police. Guilt or innocence, Warren Burger argues, becomes irrelevant in criminal trials as we flounder in a morass of artificial rules poorly conceived and often impossible to apply.

It is encouraging to see in Senate bill 635 a provision requiring States to drug test convicted felons on release from prison, identifying the cycle of crime and drug dependence that is the cause of so many repeat offenses.

All these reforms are important, and I believe they balance the need for a faster pace of justice with a proper concern for basic rights. But I also think that the focus of the reform is fairly narrow and, in the end, too narrow. And the hope that it offers is limited by lack of ambition. My concern is not with the substance of what we are doing but with the scope of what we are doing.

The congressional debate over crime has been presented to the Nation as a conflict between the death penalty and gun control. Neither of these issues ought to be diminished or dismissed. We are debating them this week, but neither of those issues reaches to some of our deeper concerns.

Our approach to crime and punishment, I am convinced, requires a more basic reassessment of more fundamental assumptions. The first most basic assumption of our system is a nearly universal reliance on prison for punishment. We have proven that commitment with harsher sentences and unprecedented spending. The number of prisoners in the United States has doubled in the last decade from 330,000 in 1980 to 703,000 in 1989.

States are currently spending or planning to spend $25 billion on new prison construction. This spending on corrections is growing faster than State spending on education. Let me repeat that. State spending on prisons is growing faster than State spending on education.

But as prisons are built and filled, we have seen precious little positive evidence on the rate of crime or on the reform of criminals. According to the Bureau of Justice statistics, from 1984 to 1989 the prison population grew 36 percent while reported crimes still climbed 17 percent. The FBI reports that 74 percent of people released from prison will be rearrested within 4 years. Prison, it seems, have done little to deter or rehabilitate. Warren Burger asked, "What business could continue with the rate of recall of its products that we see with respect to the 'products' of our prisons?"

Mr. President, we all know that prisons are essential for isolating violent and dangerous criminals. That is what prisons do best—bars and walls. In these cases bars and walls are a type of societal self-defense. They mark the boundaries which the predatory must not cross, and none of us here would dispute that. But we should not fool ourselves that barbed wire and wasted hours are a recipe for rehabilitation. It makes no sense to strip prisoners of their privacy and possessions, expose them to constant threats, warehouse them with hardened criminals, deprive them of meaningful work and then expect a rejuvenation of morals and manners.

Prisons protect society. Society needs prisons to protect them from dangerous, violent criminals. But they do not reform lives. We would be wise to be more selective in their use.

Prisons have in fact been called "graduate schools of crime." They leave young offenders instructed in the finer points of lawlessness. They transform the misguided into the hardened, the confused into the violent. The Rand Corp. found that recidivism was higher for prisoners than for identical offenders put on probation, particularly for property crimes.

Former Chief Justice Warren Burger has written, "We have developed systems of correction which do not correct. If anyone is tempted to regard humane prison reform as 'coddling criminals' let them visit a prison and talk with the inmates and staff. I have visited some of the best and some of the worst prisons and I have never seen any signs of coddling. But I have seen the terrible results of boredom and frustration, of empty hours and pointless existence."

It is clear there is no substitute for the punishment of prison where the violent are concerned. I want to repeat that. There is no substitute that we know of for the violent criminal and for punishment of that violent criminal. But it is equally clear that some other forms of punishment ought to be found for nonviolent offenders, particularly young nonviolent offenders, not just for their sake but for our sake.

Surely we could find some middle ground between a prison's gradual destruction of a soul and a half-hearted slap on the wrist. The general public does not want to let offenders free in our society, but we make no distinction between offenders who are a threat to that society, those who in many cases have made their first mistake, and rehabilitation outside of prison in an appropriate manner can be an appropriate response.

The second assumption of our system is that the purpose of criminal justice is to punish offenses against the State. Too often it is forgotten that there is a victim involved, whose suffering and loss should be a primary concern. Each year crime victims experience losses of more than $13 billion. That is not counting the price that they pay in fear.

But typically they are excluded from participation in the legal process and receive no restitution of any kind. Many describe their experience of crime as being victimized twice, first by a criminal and then by a justice system deaf to their concerns.

In many cases victims are not informed of plea bargains, or told of furloughs, or involved in trials except as a witness for the State. One man who was assaulted and wanted information on his case was told bluntly by the district attorney's office, "You need to understand something, This is not your case. You just happen to be the victim. This was an offense against the State, and that's how we are going to handle it." That is an attitude that forgets a very basic point. It is not primarily society that is wounded by crime. It is the victim, and that victim has real

losses and real fears and is too often ignored.

The kind of reform that would address these flawed assumptions requires some innovative thinking. For the most part that is properly the responsibility of State governments, but Congress can set some guidelines.

Boot camp prisons are a promising alternative to traditional prisons for young, nonviolent offenders, providing punishment through hard work and tough discipline. Last year this Congress passed a proposal that I authored along with Senator LEVIN that is, unfortunately, yet to be funded, but boot camps do provide an alternative, particularly for young nonviolent offenders, that promises rehabilitation and return to society.

Make no mistake about it. Boot camps are not a slap on the wrist. They are not an easy way out for a crime that has been perpetrated. They are tough. They provide discipline. They provide job training. They provide education skills. They provide a way back into society. And they prevent first-time young offenders from being put into that graduate school of crime which often embitters them, hardens them, teaches them lessons that they take back into society, unfortunately, at the expense of that society.

Intensive supervision programs have had some success and cost considerably less than building a prison cell. In these programs offenders go to work and abide by tight curfew requirements enforced by daily unannounced visits. Probation officers supervise just 20 to 25 prisoners rather than 300 assigned in some cities.

Does it cost some money to do this? Yes; it does. Does it make sense for violent criminals? No; it does not. Does it make sense to those who are a threat to society? No; it does not. Does it make sense to those who have committed white collar crime, those who have not committed a crime which poses any kind of threat to society, to other human beings? I think it does. And the cost of that, as I said, is less than building a prison cell.

Restitution is an old principle that can meet some current needs. Its goal is to heal the wounds of crime, not just punish offenders. Victims deserve to be paid back for their losses. And with some offenders restitution is the responsibility that can change attitudes.

Psychologist Albert E. Eglash argues, "Restitution is something an inmate does, not something done for or to him. Being reparative, restitution can alleviate guilt and anxiety, which can otherwise precipitate further offenses."

Community service can be a fitting punishment for certain crimes. Its use could be extended. Commentator Paul Harvey was so impressed with some programs he wrote, "If nonviolent criminals, instead of being sentenced to prison, can be sentenced to compulsory community service—or to work in jobs until they make restitution to their victims—then the punishment would fit the crime. And they would pay taxes instead of having taxpayers supporting them."

Victim compensation and victim assistance programs could be expanded. It is encouraging to me that the President's crime bill gives victims the right to address courts about sentencing in violent and sex crimes and extends restitution to include child care and transportation. I am also glad to see that Senator GRASSLEY's victim impact statement amendment was approved by this body yesterday.

Taken together, Mr. President, approaches like these could set a new agenda for reform. We require a vision of justice that restores victims, not just punishes offenders; that recognizes the important but limited role of prisons, preserving scarce space for the violent; that seeks punishment for the nonviolent without creating a new class of hardened and repeat offenders; that challenges spectacular failure with some new thinking.

Ultimately, I am convinced that the war on crime will not either be won or lost in legal changes or Government programs such as we are addressing this week. They will not be addressed with that alone. There has to be something else.

Crime is the mere image of a community's moral state. Criminal acts are not primarily failures of society or failures of deterrence. They are failures ultimately of character.

Former President Ronald Reagan made the point well. He said, "Controlling crime is ultimately a moral dilemma—one that calls for moral or, if you will, a spiritual solution. The war on crime will be won only when our attitude of mind and a change of heart takes place in America, when certain truths take hold again and plant their roots deep in our national consciousness, truths like: right and wrong matters; individuals are responsible for their actions; retribution should be swift and sure for those who prey on the innocent."

This moral dilemma is addressed, if it is addressed, first, in families that transmit values, then in churches that raise the moral standard, and communities that set norms of behavior. In the meantime, our reforms take effect only in the margins. But even in the margins, lives can be saved and victims restored.

Mr. President, I hope as we debate which are issues that are very important to the American public, we would keep in mind that what we do here this week, and what we pass this week, hopefully, will have a significant impact. But probably it will only have a marginal impact on the rate of crime, and under the statistics, each one of which is ultimately translated into human life; that while we stand here in eloquence sometimes, and in anger and in frustration, and demand the death penalty or curb on guns or severity of punishment or more money for prisons, there is a deeper problem that needs to be addressed, there are alternate solutions that need to be proffered, and there needs to be some innovative thinking about how we deal both with the offender and the offended.

I have outlined some possible reforms that I hope we will seriously undertake not only this week but in the future.

I have outlined briefly for the body that ultimately our problem is moral, it is spiritual, and it is one of character. Our crime is a reflection of the mirror of society, and until we deal with some of those underlying societal problems, we are going to continue to come down here to the floor and add new billions of dollars for programs many of which are necessary but do not address the root cause of the problem.

Mr. President, 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. DOMENICI. 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. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 8 minutes as if in morning business.

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

INCREASED FUNDING FOR COMMUNITY HEALTH CENTERS

Mr. DOMENICI. Mr. President, I rise today to speak about health programs that I believe deserve the highest priority in the appropriations process. Many of my colleagues may be aware of my long standing concern about mental illness. I have long advocated sufficient funding for mental health research and services, and I have deeply appreciated the leadership of the chairman and ranking member of the Labor, Health, and Human Services and Education Subcommittee in advancing our understanding of serious mental illness.

It will come as no surprise that I have today once again asked the leaders of that subcommittee, the chairman and ranking member, to continue their support of that critical mental health program.

In that same letter, where I urge them to support mental health programs as we have in the past, I seek to enlist their aid on another important program that I believe deserves the strong support of the entire Congress—the Community Health Centers Program.

We hear a lot of talk these days from both sides of the aisle about the crisis in health care and the need to increase access to basic health services. We all know that millions of Americans are going without health care when they need it because they cannot afford it, and they do not have any insurance.

While I am not sure of the numbers, it is commonly accepted as an estimate, that up to 33 million people or about 14 percent of Americans have no health insurance, and maybe they have no access to health care.

Fortunately, we have in place a program that can dramatically increase access to basic primary health care at very little cost. In fact, it is the most economic health care program in the United States. And it is delivering primary care to literally millions of men, women, and children, principally, poor men, women, and children in the United States.

Community Health Centers are now in existence and in a sense one might say they are ready and willing and waiting for us to provide them with resources that they need to do this job. They could provide access to many more Americans who go without services if the President and the Congress would provide them with adequate funding.

These centers have proven themselves over 20 years now and, believe it or not, they provide primary care and preventive care to 6 million Americans each year. And the money we spend in these Community Health Centers is extremely well spent. It is cost effective beyond anything else we have in the health care system. It keeps people healthier, preventing the need for more expensive medical treatment later, and it keeps people out of hospitals and emergency rooms where many hospitals are ill-equipped. And these centers provide the basic service that keeps them from needing these emergency rooms across America. Six million—and we think that number might be low—are now being served.

I have not yet told the Senate how much it costs us because it is rather incredible in these days when we speak of $40 or $50 billion for a health care program. Quite frankly, we should dramatically increase the funding for these centers. That should be done now and over the next few years. We ought to increase them perhaps as much as fourfold as part of any health care reform system. It would furnish primary health care at the most reasonable rates of any program around.

I will be introducing a bill to do that very soon so that instead of 6 million, we may be serving 12, 18, or even 20 million Americans.

Now I will tell you that it seems incredible but, essentially, in my letter to the chairman and ranking member of the subcommittee, I simply urge that we add 10 percent, a 10-percent increase to the basic program, which was funded in 1991 at a level of $526 million. This should be in addition to new funding made available under the infant mortality initiative, which the House Appropriations Committee has proposed.

I hope the Senate Appropriations Committee will endorse what the House did. But I am very concerned that the House did not add any funding—not even for inflation—to the basic Community Health Centers Program.

Actually, Mr. President, this 10-percent increase would be enough to provide basic services to 565,000 more Americans next year. Some of the additional funding could be used to start up some new sites in high-need rural areas and in the inner cities.

I am absolutely convinced that while this program used to be objected to by many of the professionals, including those in the health care field, it is now receiving broad base support, and it needs our support.

Many of my colleagues on both sides of the aisle are talking about the problem of the uninsured and rising health care costs. Well, let me suggest that without having to reinvent anything, we have an opportunity right now to provide important basic, and cost effective, health services to many American families, who will have no care otherwise.

We have an opportunity to back all this talk about improving health care access with some action by voting to increase the funding for the community health centers in fiscal year 1992 in the subcommittee bill, which will soon be reported out and come to the floor.

I am fully aware of the difficulties in the subcommittee with the caps, but I am also convinced that it is time that we do some prioritizing, and there is no more cost effective or efficient program than this. If Congress will approve a $526 million funding for this Community Health Centers Program—and I may have misspoken a while ago—that is the total amount with 10 percent added. We are not spending that much. We are spending 10 percent less, and we are covering 6 million Americans.

Added to that, with the $69 million that is targeted in the House program, the community health activities will be on the road to furnishing services for more Americans, at a lesser price, than almost anything we can do. If we underfund them again, we will only have ourselves to blame when access to basic health care gets worse, and we cannot find a way to pay for it out of them with new, expensive programs.

DEPARTMENT OF ENERGY NUCLEAR WEAPONS RD&T AND ENVIRONMENTAL RESTORATION PROGRAMS

Mr. DOMENICI. Mr. President, I want to clarify the situation surrounding the reallocation of $200 million in defense budget authority from the Defense Appropriations Subcommittee to the Energy and Water Development Appropriations Subcommittee to support Department of Energy [DOE] defense programs.

This Senator urged the Senate Appropriations Committee to increase the defense allocation to the Energy and Water Development Subcommittee to provide $200 million more for research, development, and testing activities.

There seems to be the wrong impression that the $200 million in additional funding for DOE's core weapons research, development, and testing [RD&T] programs came at the expense of the environmental restoration and waste management programs.

That is simply and emphatically not the case. A review of the Senate bill shows that the $11.97 billion recommended for DOE atomatic energy defense activities is exactly $200 million above the President's budget request and approximately that amount above the House-passed bill.

Any changes to the environmental restoration programs came from committee decisions on programs other than the nuclear weapons RD&T activities. I send a table to the desk showing the differences between the House bill and the Senate committee recommendations for the major atomic energy defense programs and ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. The Senate appropriations report accompanying the fiscal year 1992 energy and water development appropriations bill clearly displays the additional funds that have been allocated to the nuclear weapons RD&T accounts.

Page 137 of that report displays the atomic energy defense activities, weapons research and development recommendations; $170 million of the $200 million increase above the House bill and President's request went into this account. It consists of $150 million in the R&D operating expenses account, and $20 million in the R&D capital equipment account.

I would note that $18 million of the $150 million increase for R&D operations will go to accelerate the implementation of the National Competitiveness Technology Transfer Act of 1989. This program promotes the integration of the scientific and technical expertise of DOE's national laboratories with U.S. industry to enhance their capabilities and their ability to

compete in an expanding global market. The Senate approves $50 million for DOE's technology transfer program.

Page 138 displays the additional funding added for the inertial confinement fusion program. The Senate added $12.3 million to the inertial confinement fusion program to match the House recommendation of $194.8 million for fiscal year 1992.

The final piece of the $200 million add-on is an additional $17.7 million for the weapons testing program. These funds are especially critical to ensuring the safety of the nuclear weapons stockpile.

The committee, of course, departed from the House bill in other programs, and I will briefly highlight them. These are the changes to the budget request that impact on the environmental restoration and waste management program, which some of my colleagues have noted is $108.5 million below the House bill.

The Senate committee recommends $130 million above the House bill for DOE's production and surveillance activities. These funds are associated with operating expenses. The Senate committee restores the House's $54.6 million reduction to the President's request and adds an additional $75.4 million to address weapons retirements, site facility and equipment maintenance, preproduction and process engineering connected with pit reuse, and to reduce maintenance backlogs at DOE's production facilities.

The Senate-reported bill is $15 million above the House bill and the President's request for DOE's materials production activities. The committee devotes these funds to preserving the U.S. processing capability in plutonium while a national strategy on the production of materials necessary to maintain the Nation's nuclear deterrent capability is formulated.

There is a significant difference between the Senate and House recommendations for the new production reactors program. The Senate committee recommends $53.7 million less than the House for this DOE activity. The House evidently feels an increase is needed to accelerate the continued acquisition, design, and construction of a new production reactor to meet national security standards.

The Senate approves $17 million more than the House for the naval reactors program. The Senate committee targets these additional funds to cover higher than expected reactor operating costs in fiscal year 1992, to advance development work that has been deferred, and to core redesign/manufacturing modifications which could be initiated in fiscal year 1992.

Finally, the Senate-reported bill is $108.5 million below the House bill for DOE's defense-related environmental restoration and waste management program.

First let me say, Mr. President, that the Senate bill recommends $3.6 billion for these DOE activities in fiscal year 1992. The committee recomendation is fully $595.6 million more than was provided for these activities in fiscal year 1991.

The $108.5 million difference is entirely associated with the committee's assumption that in this $3.6 billion DOE program, which has increased from $1.1 billion just 4 years ago, there will be some slippage in the projects that are expected to be undertaken in fiscal year 1992.

Perhaps it is misleading that the committee report characterizes the $108.5 million difference as a general reduction, but the fact is that it is common practice in this bill to assume some savings and slippage. Such savings are routinely assumed in the construction programs of the Army Corps of Engineers and the Bureau of Reclamation.

Thus, there are differences between the House-passed bill, and the Senate committee recommendations for a variety of programs. But I repeat, Mr. President, the environmental waste reductions are not associated with the additional $200 million that this Senator sought to allocate to the core nuclear weapons RD&T programs.

The overall recommendation for DOE atomic energy defense activities is $11.97 billion in the Senate version of this bill. It is exactly $200 million above the President's budget request, and $199.5 million above the House-passed bill, and that $200 million difference is the amount reallocated to this subcommittee for the core weapons RD&T programs.

EXHIBIT 1

ATOMIC ENERGY DEFENSE ACTIVITIES HOUSE–SENATE DIFFERENCES

[In millions of dollars]

Program	House	Senate	Difference
RD&T	1,777.0	1,976.7	199.7
Production and surveillance	2,460.5	2,590.5	130.0
Materials production	1,876.9	1,891.9	15.0
New production reactors	536.7	483.0	−53.7
Naval reactors	801.0	818.0	17.0
Environmental restoration and waste management	3,748.9	3,640.4	−108.5
Total: Atomic energy defense activities	11,768.5	11,968.0	199.5

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. 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. DURENBERGER. Mr. President, I ask unanimous consent that the remarks I am about to make appear in the RECORD with regard to the Helms amendment which is before us.

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. DURENBERGER. Mr. President, I rise to strongly oppose the amendment that the distinguished Senator from North Carolina has proposed to add to the crime bill before us. I see no reason to delay debate on the cime bill that the President has asked us to pass in order to debate affirmative action.

During the course of this day, I have spent some time on the telephone with the President of United States asking me to vote for a particular amendment to the bill. And during the course of that conversation, he impressed on me the essential nature of the crime bill, and particularly the essential nature or the need for its passage.

I guess, like other Senators, I have spent a certain amount of time today also discussing a potential resolution to the Civil Rights Act before us, as well, and so my purpose in speaking to the Senator's amendment right now is to say there is a time to debate civil rights; there is a time to debate affirmative action.

This is not that time, given the exigencies of both the administration, Congress, and the members of the Judiciary Committee, who have spent so much time on this crime bill. There are many Members of both political parties and within the administration who have been working for many weeks to find a fair and a just resolution to what many think is an almost impossible problem, and that is getting consensus on a crime bill through this body.

They have debated the issues that underlie this amendment. Under the amendment, an employer would be guilty of an unlawful employment practice for granting any preferential treatment to applicants or employees on the basis of race, color, religion, sex, or national origin.

In my view, this amendment will be a step backward from the progress we have made toward achieving the raceblind and gender-neutral society all of us seek.

The amendment suffers from two major flaws: First, it would prohibit valid, voluntary affirmative action programs that employers undertake across America in order to provide opportunities for persons who ordinarily might be deprived of access to good jobs.

In my State of Minnesota, many of our companies conduct minority outreach programs to provide such an opportunity to historically disadvantaged persons. For instance, General Mills conducts recruiting at primarily minority and black universities, and in addition also advertises for jobs in periodicals that tend to have significant minority readership.

Yet, under this amendment, because companies do not specifically conduct these recruiting activities at primarily white male audiences, our companies would be prohibited from such minority outreach programs.

Mr. President, these affirmative action programs are good, positive, solid employment practices that should be encouraged, rather than prohibited by law. I feel that our society benefits by promoting opportunities for those who need a helping hand. We are not just talking about helping racial minorities. We are talking about employers taking affirmative outreach steps to hire more people with disabilities.

We in this Congress should not be sabotaging the efforts of those responsible corporations that wish to assist minority access to mainstream employment. On that basis alone, I must oppose this amendment.

But in addition, the amendment calls into question the remedial action that a court may order after making a specific finding of intentional discrimination. Under current law, if a court determines that an employer engaged in intentional discrimination, the court may order the employer to conduct a court-ordered affirmative program.

In such a case, a court could require the employer to change its recruiting practices to attract qualified minority applicants. The remedy might be necessary to overcome the effects of past discrimination. Yet, under the pending amendment, the court would be powerless to redress the prior wrong.

In my view, that conclusion is untenable, and it serves as a further justification for voting against this amendment, as I shall do, and I urge all of my colleagues to do the same.

HABEAS CORPUS AMENDMENT

Mr. SHELBY. Mr. President, I rise in support of the Hatch amendment for habeas corpus reform. For centuries, the writ of habeas corpus has been used to provide a safeguard against the execution of innocent people. However, the habeas corpus process has been abused, terribly. We now have a system in place that allows a State prisoner to file an unlimited number of appeals in Federal court. This amendment would limit the number of times a convicted criminal would have to appeal his case—thus, bringing a sense of finality in resolving criminal cases.

Alabama now has approximately 109 murderers on death row. Eight murderers have been executed in Alabama since the Furman decision, and the last execution was that of Wallace Norrell Thomas on July 13, 1990, for a crime that was committed on December 20, 1976. Mr. President, it took 13 years and 7 months before Wallace Norrell Thomas was finally punished for his crime. Let me just tell you about that crime.

A young college coed at Birmingham Southern College was eating supper at her boyfriend's house and discovered that there was no salad dressing. She decided to run to the convenience store to get some salad dressing. It seems that Wallace and two of his buddies were out looking for a woman to rape. The coed was the unfortunate victim. They forced her into her car and raped her. Then they took her to a desolate area and raped her again. Finally, they shot her, and one of the buddies noticed that she was not dead, and said, "The ——— ain't dead." So, they shot her again. Wallace and his buddies left the coed to die, but somehow, she did not die immediately and managed to crawl a short distance and actually died from exposure.

It is hard to imagine that Wallace was allowed appeal after appeal—for over 13 years—after committing such a heinous crime.

There have been 148 post-Furman executions in this country as of today. Nineteen of the 148 executions were by consent, but 129 of the executions were involuntary and the defendants took or attempted to take full advantage of all postconviction remedies available for delay, including Federal habeas corpus review.

Three murderers were executed in this country within the last month.

On May 21, 1991, Ignacio Cuevas was executed in Texas. It took 16 years and 9 months to execute him after his crime;

On June 17, 1991, Jerry Byrd was executed in Texas. It took 17 years and 5 months to execute him after his crime; and

Today, Bobby Francis was executed in Florida. It was 15 years and 10 months after Mr. Francis committed his crime.

The average delay of the last three executions in this country—the time between when the crime was committed and the time when the sentence was carried out—was 16 years and 8 months.

In the Bundy case in Florida, the Eleventh Circuit Court of Appeals held that, "litigants, the judicial system, and society at large, are entitled to have habeas corpus cases, and especially death penalty cases, proceed promptly, effectively and fairly."

Mr. President, we are certainly not adhering to the recommendation of the court in the Bundy case when it takes over 16 years to finalize a case.

Any meaningful reform in the present system of collateral review of death sentence cases will have to come primarily in the area of Federal habeas corpus reform, where most collateral review time is spent. We should not support provisions under the guise of habeas corpus reform that vitiate the procedural default doctrine.

Under the procedural default doctrine, a claim that is or would be barred from State court adjudication because it was not raised at the proper time in State court cannot be relitigated in a Federal habeas proceeding, unless the petitioner makes a showing of adequate cause for his failure to raise the claim in State court and actual prejudice to him from the alleged error underlying the claim. An exception to the procedural default bar exists for claims that do not meet the cause and prejudice requirement if failure to consider them would lead to a fundamental miscarriage of justice.

I am encouraged that the Congress has decided to make changes in the Federal habeas corpus process. We all know that something is wrong with the habeas process because our jails and our courts are overcrowded. True habeas reform is imminently needed. This point has been echoed by States' attorneys general, State and Federal judges, and academicians. Consideration of this crime bill provides the Senate with an opportunity to meaningfully address the current problems in Federal habeas litigation of capital cases.

We must reform the habeas process by adopting the Hatch amendment to restore public confidence in our criminal justice system.

HABEAS CORPUS REFORM

Mr. KENNEDY. Mr. President, I suport the Graham and Biden alternatives, although I continue to favor additional measures in several areas to protect constitutional rights. Stronger counsel standards and compensation modeled on the work of the American Bar Association should be guaranteed to capital defendants and habeas petitioners. More protection should be provided to habeas petitioners whose claims fall victim to unfair procedural default rules which allow ignorance, neglect or incompetence of counsel to extinguish constitutional rights. More should be done to undo recent Supreme Court retroactivity decisions that virtually eliminate the ability of habeas petitioners to obtain full and fair review of many potentially meritorious claims.

These issues go to the heart of our system of justice and its ability to ensure access to equal justice for all. Nevertheless, the Graham alternative contains worthwhile provisions to secure counsel for capital defendants and habeas petitioners, and it deserves the support of the Senate.

The Supreme Court has eroded much of the protection that the writ of habeas corpus was intended to provide. The Teague case last term and the McCleskey versus Zant decision handed down several months ago have cut back drastically on habeas review. Earlier this week, the Court erected additional barriers to limit the ability of State habeas petitioners to seek fair review of their constitutional claims.

The writ of habeas corpus is one of the great historical achievements of Anglo-American jurisprudence, and it continues to play a fundamental and unique role in our modern system of

justice. Habeas corpus review of death sentences is the principal means of relief available to a wrongfully convicted individual facing execution. It has spared the lives of many innocent persons who were unconstitutionally convicted and sentenced to death. The rights at issue include the right to a fair and speedy trial, a fairly-constituted jury, competent counsel, and access to evidence and witnesses, are essential attributes of fairness in our system of justice. Habeas petitions have saved many individuals from constitutional violations of their rights and ultimately spared their lives, often after repeated denials of relief in State court systems.

I oppose the death penalty, because capital punishment is wrong in principle and wrong in practice. The death penalty is fundamentally flawed, because of the likelihood that innocent people will be executed. No system of justice, however wise or resourceful its judges and juries may be, can eliminate this risk. That is a risk we accept when the punishment is imprisonment, because a jailed defendant can always be set free when innocence is proved. But that is a burden we cannot tolerate when the punishment is death.

The risk of executing innocent persons is no theoretical, hypothetical, proposition. A recent Stanford Law Review study lists 350 cases in which defendants convicted of capital or potential capital crimes in this century have later been found innocent.

If it is to be applied at all, capital punishment ought to be applied only where notions of fairness are given priority. Despite procedural safeguards, mistakes are often made in criminal prosecutions. Habeas corpus review of death sentences is virtually the only means of relief available to a wrongfully convicted individual facing execution whose constitutional rights have been violated.

In 1983, an inmate in a Florida prison was within 15 hours of his scheduled execution and had been fitted for his burial suit when the Federal Court of Appeals issued a last-minute stay. His conviction was later overturned, and the main prosecution witness subsequently recanted his testimony. The defendant was never retried.

In 1967, a habeas petitioner came within hours of execution before the granting of his petition led to the discovery that the prosecutor claimed that the petitioner's clothing was stained with the victim's blood and induced a witness to testify to that effect, despite the fact that the prosecutor knew that the stains were paint, rather than blood.

In 1982, the 11th Circuit remanded a capital case where defense lawyers repeatedly stressed to the jury that they were only representing the black defendant because they had to, and that their client was not unlike "the kind of people that we have historically put to death here in Georgia."

In 1988, the Supreme Court remanded for a new trial a case in which the defendant was sentenced to death by a jury selected after the prosecutor secretly induced the jury commission to under represent blacks and women in jury pools.

In 1985, a conviction and death sentence of a mentally retarded defendant were reversed after it was established that the prosecutor had withheld evidence that a key eyewitness against the defendant had earlier told the police that he could not identify the perpetrator of the crime.

A 1976 conviction was overturned on retrial in Arizona after it was determined by five expert witnesses that the victim had not been murdered but had died instead of pneumonia.

A 1978 Indiana conviction and death sentence were overturned when, on retrial, it was shown that his conviction rested on perjured testimony.

In 1988, a defendant was released from prison in Florida after it was determined that he had been convicted on the basis of testimony the prosecutors knew to be false.

In a 1986 case, the jury selection began at 9 a.m. and 17 hours later the death sentence was imposed. The jury had been deadlocked as to guilt, but the defense counsel agreed to replace the one holdout with an alternate juror in the interests of expediency.

Judy Haney's capital trial was suspended for 24 hours so that her attorney could sober up. The next day she was sentenced to death.

In 1984, trial counsel left the courtroom and missed critical testimony to check on his car.

In 1990, counsel in a capital case devoted only 8 hours to preparation, and their only defense was that the defendant's statement could not have been obtained reliably since "black people don't speak grammatically."

All of these violations were revealed on habeas corpus. The list goes on and on. How can any of us shut the door to relief or, worse yet, refuse adequate representation to defendants in cases such as these?

The need for counsel in capital cases is a protection that former Justice Lewis F. Powell, who chaired the Habeas Corpus Study Committee, and others have advocated for years. The Powell committee proposal, as modified last year by the Judicial Conference, would provide counsel for State habeas corpus proceedings, and this proposal is a starting point. But I believe that meaningful representation by counsel must include minimum attorney competence standards based on experience, as well as adequate compensation, monitoring and investigative resources where necessary.

The Graham proposal goes farther than the Thurmond proposal in providing important protections, and it should be supported. The Thurmond proposal seriously jeopardizes fair and adequate representation of constitutional claims. To reduce a habeas petitioner's ability to obtain review of constitutional claims in Federal court in exchange for representation by counsel, is a lopsided bargain without additional guarantees as to the adequacy of the counsel's representation and adequate procedural opportunity to be heard.

Habeas corpus review necessarily entails consideration of complex constitutional and procedural issues, and often requires experienced investigation. The stakes facing a habeas petitioner in a capital case leave no room for error. Moreover, the Thurmond alternative apparently provides that a capital defendant gets no Federal review if constitutional rights have been violated but were not properly raised in State court, and no Federal review if such claims were raised in State court but the State court denied relief.

At every stage in a capital proceeding, whether at trial or on postconviction review, counsel must be familiar with the arcane procedures that apply in death penalty cases. Meaningful representation by counsel at the trial level, in particular, in capital proceedings, would go farther to assure fairness and render the postconviction review process more manageable.

Inevitably, the death penalty is applied to minorities and to the poorest, the least popular, and the least powerful members of society. Consequently, too many defendants facing the death penalty at trial are represented by attorneys who are poorly prepared, underpaid, and overworked. The result is often inadequate legal assistance.

The infliction of death at the hands of Government brutalizes our society instead of atoning for crime. To shortchange individuals charged with capital offenses, in terms of the quality of their representation or their ability to obtain meaningful review of their constitutional claims, unfairly prejudices them. I urge the Senate to support the pending amendment, and to recognize that further reform is needed to ensure that if capital punishment is inflicted at all, at least it must be inflicted fairly.

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

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

WASHINGTON POST EDITORIAL ON PACIFIC NORTHWEST FORESTS

Mr. ADAMS. Mr. President, I would like to ask my colleagues to give careful consideration to an editorial in the June 25, 1991, edition of the Washington Post. The editorial is entitled "Owls, Trees, and Loggers" and calls our attention to Federal District Court Judge William Dwyer's recent opinion on the management of National Forests in the Pacific Northwest.

Judge Dwyer is a highly respected jurist appointed in 1987 with strong bipartisan support of Senator GORTON and myself. He has had this litigation before him for more than 2 years and has held numerous hearings to examine the law and the facts. His opinion is a comprehensive and cogent analysis of the case and shows why the problem exists.

In March of this year, Judge Dwyer found the proposed Forest Service timber sale program for the Pacific Northwest to be in violation of the National Forest Management Act. Before enjoining the timber sale program, however, he agreed to hear evidence on the impacts such an injunction might have. The opinion quoted in the Washington Post contains the judge's key findings of fact following 8 full days of hearings.

The Post has printed extensive excerpts from this opinion and I ask my colleagues to review not only the excerpts, but the entire opinion as well.

The editorial states that Judge Dwyer's opinion is "the best summary we have seen of this dispute." I agree, and I urge my colleagues to study it carefully. It lays out clearly and succinctly the reasons why many of our timber dependent families and communities in the Pacific Northwest are currently threatened with economic ruin and why our National Forests may no longer be able to sustain them.

In the National Forest Management Act and subsequent legislation, Congress has sought to ensure that Federal forest lands would be managed to produce all forest resources on a long-term sustainable basis. Only in this way could we maintain economic stability and the health of the forest ecosystem—the goose that lays the golden eggs of timber, water quality, recreation, and fish and wildlife. These laws were established to protect a balance of those uses, as well as the employment and enjoyment that flows from them.

Throughout the last decade, however, we have heard increasingly from Federal land managers that our timber sale programs were exceeding sustainable levels, and that we would inevitably face drastic declines in timber, water quality, and other values if we did not act immediately to phase in more moderate harvest levels.

Judge Dwyer's opinion chronicles the failure of the administrative agencies to respond to these early warning signals. He states: "The problem here has not been any shortcoming in the laws, but simply a refusal of administrative agencies to comply with them."

The opinion makes clear which Government officials carry the responsibility for this failure. After reciting verbatim the testimony of the Associate Chief of the Forest Service describing the Cabinet level decisions to ignore the laws, Judge Dwyer states: "This is not the doing of the scientists, foresters, rangers, and others at the working levels of these agencies. It reflects decisions made by higher authorities in the executive branch of Government."

Our communities in the Pacific Northwest are suffering unnecessarily because of the Bush administration's refusal to comply with the Federal forest management laws. Had the administration acted in a timely manner when professional foresters first started to sound their warnings, we would be harvesting timber today, tomorrow, and long into the future—on a reduced but sustainable basis—and thereby providing employment and real economic stability in our communities.

Mr. President, we in this Congress will soon be considering legislation to resolve this issue. I urge my colleagues to review Judge Dwyer's findings to inform themselves regarding the legal and factual history of this issue.

I ask unanimous consent that a copy of the Washington Post editorial and the printed excerpts of Judge Dwyer's opinion be printed in the RECORD.

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

[From the Washington Post, June 25, 1991]

THE OWL AND THE LAW

(Last month U.S. District Judge William L. Dwyer in Seattle ordered timber sales in national forests of the Northwest suspended until federal agencies produce an effective protection plan for the endangered northern spotted owl. He criticized the Forest Service and the Fish and Wildlife Service for what he called "a deliberate and systematic refusal to comply with laws protecting wildlife" in old-growth forests of the Northwest. The following are excerpts from his opinion.)

* * * The fate of the spotted owl has become a battleground largely because the species is a symbol of the remaining old growth forest. As stated in the ISC Report [The Report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl, issued in April 1990]:

"Why all the fuss about the status and welfare of this particular bird? The numbers, distribution, and welfare of the spotted owls are widely believed to be inextricably tied to mature and old-growth forests. Such forests have been significantly reduced since 1850 (mostly since 1950) by clearing for agriculture, urban development, natural events such as fire and windstorms, and most significantly, by logging in recent decades. Nearly all old growth has been removed on private lands. Most of the remainder is * * * on Federal lands. As its habitat has declined, the owl has virtually disappeared from some areas and its numbers are decreasing in others."

* * * An old growth forest consists not just of ancient standing trees, but of fallen trees, snags, massive decaying vegetation, and numerous resident plant and animal species, many of which live nowhere else.

* * * A great conifer forest originally covered the western parts of Washington, Oregon, and Northern California, from the Cascade and Coast mountains to the sea. Perhaps ten percent of it remains. The spaces protected as parks or wilderness areas are not enough for the survival of the northern spotted owl.

* * * The old growth forest sustains a biological community far richer than those of managed forests or tree farms. As testified by Dr. William Ferrell, a forest ecologist: "The most significant implication from our new knowledge regarding old-growth forest ecology is that logging these forests destroys not just trees, but a complex, distinctive, and unique ecosystem."

* * * The remaining old growth stands are valued also for their effects on climate, air, and migratory fish runs, and for their beauty. A 1984 Forest Service document summed up the controversy:

"There are at least three main reasons cited for maintaining old growth: wildlife and plant habitat, ecosystem diversity, and preservation of aesthetic qualities. Those opposed to the retention of old growth are primarily concerned with economic factors and urge rapid conversion of the existing old growth to managed forests of productive, young age classes."

* * * Through most of the country's history there was little or no logging in the national forests. Intensive logging began with World War II and has accelerated. . . . NFMA [The National Forest Management Act] was adopted in 1976, after three decades of heavy logging, in the hope of serving both wilderness and industry values. Senator Humphrey of Minnesota, a sponsor of the act, stated:

The days have ended when the forest may be viewed only as trees and trees viewed only as timber. The soil and the water, grasses and the shrubs, the fish and the wildlife, and the beauty that is the forest must become integral parts of resource managers' thinking and actions."

* * * Despite increasing concern over the environment, logging sales by the Forest Service have continued on a large scale. Timber harvests in the nation's forests in Washington and Oregon ranged from 4.448 billion to 5.082 billion board feet per year in 1985 through 1989, amounting to between 30 percent and 33 percent of the total harvested in those states in those years. * * * Mill owners and loggers, and their employees, especially in small towns, have developed since World War II an expectation that federal timber will be available indefinitely, and a way of life that cannot be duplicated elsewhere.

* * * The region's timber industry has been going through fundamental changes. The most important is modernization which increases productivity and reduces the demand for labor (i.e., the jobs available). There have also been recent changes in product demand, in competition from other parts of the country and the world, and in the export of raw logs for processing in the Far East. The painful results for many workers, and their families and communities, will continue regardless of whether owl habitat in the national forests in protected.

* * * In seeking a stay of proceeding in this court in 1989 the Forest Service announced its intent to adopt temporary guidelines within thirty days. It did not do that within thirty days, or over. * * * The [Fish

and Wildlife Service], in the meantime, acted contrary to law in refusing to list the spotted owl as endangered or threatened. After it finally listed the species as "threatened" following [a judge's] order, the FWS again violated the [Endangered Species Act] by failing to designate critical habitat as required. * * *

The reasons for this pattern of behavior were made clear at the evidentiary hearing.

Dr. Eric Forsman, a research wildlife biologist with the Forest Service, testified in regard to the 1988 ROD [Record of Decision] and other Forest Service plans for the spotted owl * * *

Q. Were you satisfied at the time with the results of those previous works?

A. No. On all of those plans, I had considerable reservations for a variety of reasons. But primary because in every instance, there was considerable—I would emphasize considerable—amount of political pressure to create a plan which was an absolute minimum. That is, which had a very low probability of success and which had a minimum impact on timber harvest.

George M. Leonard, associate chief of the Forest Service testified that the agency experts began in early 1990 the work needed to have a revised plan in place by September 30 of that year, as Congress mandated. * * * But the Secretaries of Agriculture and Interior decided to drop the effort. The public was not told of this decision to ignore what the law required. * * *

* * * More is involved here than a simple failure by an agency to comply with its governing statute. The most recent violation of NFMA exemplifies a deliberate and systematic refusal by the Forest Service and the [Fish and Wildlife Service] to comply with the laws protecting wildlife. This is not the doing of the scientists, foresters, rangers, and others at the working levels of these agencies. It reflects decisions made by higher authorities in the executive branch of government.

While the [Forest Service's] proposal would involve logging an estimated one percent of the remaining habitat, the experts agree that cumulative loss of habitat is what has put the owl in danger of extinction. There is a substantial risk that logging another 66,000 acres, before a plan is adopted, would push the species past a population threshold from which it could not recover.

* * * The estimate used by all parties is that as of February 28, 1991, there were 4.778 billion board feet of uncut timber under contract in the "spotted owl" forests. That figure includes four 1990 sales, aggregating 14.1 million board feet, which are subject to a revived legal challenge as the result of a recent court of appeals decision.* * * Subtracting the 14.1 million leaves about 4.764 billion board feet under contract and free of legal challenge. When added to the amount of timber the Forest Service would sell while protecting owl habitat, that supply of timber would last about nineteen months if logging proceeded at the rate experienced during fiscal year 1990.* * *

* * * Additional timber supplies from private lands can reasonably be expected to enter the market if the price of timber stumpage increases, as it probably will do if Forest Service sales decline. In addition, some timber now exported will probably be diverted to the domestic market.

* * * To the extent that Pacific Northwest mills have had supply shortages, the problem has been exacerbated by the export of raw logs. About thirty percent of the timber harvested in Washington and eleven percent of that harvested in Oregon is exported.* * * The exported logs produce no mill jobs or added value in the United States. A ban on exports would not automatically shift every raw log to domestic buyers, but would provide a major source of additional supply. It is true * * * that transportation costs from Western Washington to Southern Oregon exceed those for logs produced in the immediate vicinity. They are nevertheless lower than the costs of transportation to Japan, China, or Korea. An expert ban would also have the effect of moderating log prices generally.

* * * While some mills may experience log shortages during the period of an injunction, that would occur to some degree regardless of whether owl habitat is protected, and there is no way of assuring that the mills most in need of logs would get them if the Forest Service proposal were adopted. National forest timber sales must be awarded on competitive bids.

* * * Over the past decade many timber jobs have been lost and mills closed in the Pacific Northwest. The main reasons have been modernization of physical plants, changes in product demand, and competition from elsewhere. Supply shortages have also played a part. Those least able to adapt and modernize, and those who have not gained alternative supplies, have been hardest hit by the changes. By and large, the companies with major capital resources and private timber supplies have done well; many of the smaller firms have had trouble.

* * * Job losses in the wood products industry will continue regardless of whether the northern spotted owl is protected. A credible estimate is that over the next twenty years more than 30,000 jobs will be lost to worker-productivity increases alone.

[From the Washington Post, June 25, 1991]

OWLS, TREES, AND LOGGERS

The Endangered Species Act lends itself to caricature; in the case of the northern spotted owl, we print on the opposite page today an explanation of why the caricature is false. The excerpts are not from the works of a biologist or economist but from an opinion by a federal judge; sadly, the courts have become the referees to which one must too often look for environmental truth these days.

The opinion is the best summary we have seen of this dispute. The owl, Judge William Dwyer observes, is not so much the subject of the controversy as it is a convenient metaphor and what the biologists call an "indicator species." What its extinction would indicate is that the entire complex forest system of which it is part is at risk. The real dispute is over that old-growth forest that is the owl's habitat. "A great conifer forest originally covered the western parts of Washington, Oregon and northern California" from the coastal mountains to the sea, Judge Dwyer wrote. As little as 10 percent of it remains, and the question is whether to log the remainder or save it. The judge's opinion has helped to toss the question back to Congress. But the history of the dispute—and the reason it was before the judge—is that neither elected branch of government has wanted to be the one to decide.

Most of the logging of the old-growth forest which Judge Dwyer described was done in the last 50 years; much of the logging on the federal share of that land has been done by smaller companies—the giant companies are more likely to grow their own trees on their own vast tracts of land. The judge observes that the smaller companies logging in the federal domain are in decline for economic rather than environmental reasons that have nothing to do with the spotted owl—but that has made the owl doubly a symbol.

Congress moved to control the logging on federal lands with the National Forest Management Act in 1976. But this call for multiple use of the forests was a straddle that regularized logging as much as it restricted it. The Endangered Species Act was less equivocal, and as the size of the old-growth forest was reduced, a multiple-use compromise became more difficult to achieve.

The Reagan and Bush administrations for the most part dealt with the issue by looking the other way; the law-and-order administration balked at enforcing the law. The judge says the record shows them to have engaged in "a remarkable series of violations of the environmental laws" and a "deliberate and systematic refusal * * * to comply with the laws protecting wildlife," not at the working levels of the relevant agencies but higher up, for political reasons.

The owl—and through it, by proxy, the irreplaceable forest—are to be preserved; the executive branch, for the sake of seeming to protect jobs that are disappearing anyway, has refused. Judge Dwyer has enjoined further logging contracts until a plan to enforce the law is put in place. Congress is now trying to find a legislative compromise; the industry is claiming that efforts to save the owl are having an unhappy impact not just on jobs but also on lumber prices, which have been rising. The idea is that the owl is responsible for the run-up. But that seems not to be so. The people in the logging towns deserve help in making a transition they faced anyway. The Dwyer opinion, while it isn't addressed to Congress, urges facing other obligations at the same time, obligations that are not inconsistent with aiding the loggers now. "The loss of old growth is permanent," he notes, while "to bypass the environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on earth cannot afford to preserve old-growth forests for a short time, while it reaches an overdue decision on how to manage them, is not convincing today. It would be even less so a year or a century from now."

Mr. ADAMS. Mr. President, I will just simply summarize my statement by saying that the editorial also includes excerpts from the judge who heard the case, one of the best Federal judges in the Pacific Northwest, Judge William Dwyer, who was sponsored for this position with bipartisan support by both Senator GORTON and myself and, prior to Senator GORTON'S returning to the Senate, by Senator EVANS and myself, a fine Federal judge who simply was placed in the position of not having had put before him the necessary plans under the Forest Management Act so that he could appropriately deal with the problems of how the forest should be used. He did not go with a temporary restraining order as had been done before but instead provided a hearing opportunity for the parties.

I regret that the administration did not provide the Forest Service and the Fish and Wildlife Services and the Bureau of Land Management with the necessary policy guidance so that they

could present to the court an appropriate plan for dealing with the ecosystem in total of the Pacific Northwest. We have had overcutting in that area, Mr. President, for a number of years. We have also had the problem that we had exports of many of our logs from the Pacific Northwest and elsewhere in the United States to markets elsewhere in the world where prices were bid far above what our local domestic people could bid.

Several of us, including Senator PACKWOOD of Oregon and myself, in this body and others in the other body provided legislation to stop exporting from public lands in order to prevent this flow of wood products and the destruction of our forests and to give a chance for the Endangered Species Act to work. I think there was a great deal of misunderstanding, not only in the Senate but in the House and throughout the country, about the Endangered Species Act and whether or not it was really used in this case. It was not. There were opportunities within that act to have prevented the court from having to make the decision that was made.

I have placed this in the RECORD so that all of my colleagues will have an opportunity to look at what the judge said and what the judge did and what was required by the judge after a hearing. This came on the heels of his giving the administration and its agencies months and months to prepare for this matter. Our foresters were prepared and our forest schools were prepared and they had plans, but they were not allowed to proceed and present them.

So I hope that all of my colleagues, with these brief few remarks that I have made tonight and with the materials that I have placed in the RECORD, will have an opportunity to have the judge's view and the Washington Post's view, and then begin to consider for themselves what should be done with the total ecosystems of the Pacific Northwest.

This is the largest biomass left in the United States and we must treat it carefully. It can provide lumbering opportunities for some of our citizens, but it also can provide a habitat for many creatures that could not exist elsewhere. We only recently have discovered that it could provide biological opportunities for medicines to be developed that we had no idea were possible.

Mr. President, I yield the floor, and 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. DIXON. 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. DIXON. Mr. President, I understand we are in morning business until 8:30; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business for the purpose of making a brief statement and for the further purpose of the introduction of a bill, which I think will not take, in the aggregate, more than 10 minutes.

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

THE TAKEOVER OF LITHUANIAN COMMUNICATION CENTERS

Mr. DIXON. Mr. President, while we debate the crime bill in the Senate, a crime of international significance has taken place this morning. According to numerous news reports, the Soviet Union's infamous Black Beret Interior Ministry troops, seized control of Lithuania's communications centers, took over the independent television stations in Vilnius and Kaunas, and cut the telephone and telegraph lines.

These same vicious troops were responsible for the murder of 13 unarmed Lithuanians during "Bloody Sunday" last January. I have seen the video of that day. These Black Beret troops are ruthless. I assure you they have never heard of glasnost and perestroika.

The troops attacked Lithuanian border posts last weekend and took them over. They have continued to intimidate, harass, and oppress the Lithuanian people.

And the administration is on the verge of granting most-favored-nation status to the Soviet Union? It boggles my mind, Mr. President!

I have been trying to push this administration to live up to our nonrecognition policy toward the forced incorporation of the Baltics. The administration consistently replies, "We're concerned."

Well, Mr. President, I hope the administration, in no uncertain terms, is telling President Gorbachev, "get your troops out of Lithuania, Latvia, and Estonia."

We must not be lulled by Soviet statements about glasnost. We must measure their sincerity toward openness by their deeds. The actions of the black beret troops in the Baltics demonstrate that the Soviet bear is still very much alive.

I ask unanimous consent to have a UPI wire service story reprinted in the RECORD at this time as if read.

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

SOVIET TROOPS ATTACK IN VILNIUS

MOSCOW.—Soviet troops Wednesday took over the central telephone center in Vilnius and all outside telephone ties with the Lithuanian capital were severed, Lithuanian officials said.

The officials said they did not know whether shots were fired or whether any people were injured in the assault.

"At 4:30 p.m. armed OMON soldiers took the inter-city telephone station in Vilnius," said Natalya Boganova, a spokesman at Lithuania's permanent mission in Moscow.

"All telephone ties with Lithuania are broken," she said. "The radio also is not broadcasting."

Lithuanian Deputy Prime Minister Zigmas Vaisvila contacted the head of the Lithuanian mission, Egidius Bickauckas, and informed him of the attack, Boganova said.

Lithuanian officials said the attack was carried out by a unit of "black beret" Soviet Interior Ministry troops, the same forces that in recent months assaulted a number of border checkpoints and other facilities in Lithuania and the neighboring Baltic republics of Latvia and Estonia.

The independent Interfax news service quoted the Lithuanian mission's press attache as also saying that telephone ties with Vilnius were cut off. Several attempts to call the Lithuanian government were unsuccessful.

Soviet troops attacked Lithuania's television tower in Vilnius on Jan. 13, killing 14 people in an assault backed by tanks.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1397 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROVIDING FOR ADJOURNMENT OR RECESS OF BOTH HOUSES

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate House Concurrent Resolution 175. The concurrent resolution has been cleared with the distinguished Republican leader.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 175) providing for an adjournment of the House from June 27, 1991 to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991 or Tuesday, July 2, 1991, to July 8, 1991.

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 27, 1991, it stand adjourned until noon on Tuesday, July 9, 1991, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, June 28, 1991, Saturday, June 29, 1991, Sunday, June 30, 1991, Monday,

July 1, 1991, or Tuesday, July 2, 1991, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until noon, or until such time as may be specified by the Majority Leader or his designee in the motion to adjourn or recess, on Monday, July 8, 1991, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this resolution, which occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceed to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 175) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the bill be extended to 9:15 p.m., and that at 9:15 p.m., the Senate go into a quorum call as under the previous order.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, negotiations are continuing on the pending amendment and on the underlying bill. There are a number of amendments remaining. It is my intention that we will complete action on this bill this week. Therefore, Senators should be aware that rollcall votes are likely, will be probable this evening, and that the Senate will be in session this evening, barring some agreement to the contrary.

So that Senators may adjust their schedules accordingly, we still hope to proceed to make further progress on this bill this evening. Senators should be aware there will be rollcall votes this evening in all likelihood, barring some broader agreement to the contrary.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I understand that I am not really taking from anyone's time because various Members are waiting to be heard on the pending business, and that is the purpose of the quorum call. I make a parliamentary inquiry, what is the pending business?

The PRESIDING OFFICER. We are in morning business until 9:15 p.m. at which time the Senate will go into a quorum call.

Mr. LEAHY. Mr. President, this is interesting. We are in morning business at 10 minutes to 9 at night until 9:15, when we can go into a quorum call. Anybody watching this on television will see on their screens the Senate is not doing anything, it is in a quorum call.

I wonder, Mr. President, next week and during the Fourth of July, how many people are going to be back home saying, by God, we have to do something about crime, crime is running rampant in our streets, crime is right here, right here at home. People are out with knives, guns, drugs, clubs, you name it.

Mr. President, at some point, somebody might actually stand up and say, "I'm glad to hear you are against crime. It is a courageous position, Senator. You are against crime. How did you vote on the crime bill?"

"Well, we never really got to it." We have talked, and talked, in the last 3 days, notwithstanding the valiant efforts of the distinguished chairman.

I must say Chairman BIDEN has done everything conceivable to bring a substantive bill to a vote.

We have had a handful of votes on substantive issues on this bill. Senators—well-intentioned Senators—have worked for hours, and weeks, and months to bring those substantive issues to the floor, and the chairman has worked for months to bring this bill, to the floor.

On the other hand, we have voted on symbols. On the right, we have the symbol of the death penalty—many think that if we have a whole lot more crimes subject to the death penalty, we will stop crime. On the left, we have the symbol of the waiting period that says you cannot buy a pistol, without a waiting period, but you can buy a 12-gauge shotgun. The idea is that if we have a waiting period for buying pistols then we will not have crime. Fine. We have voted the death penalty, but let us vote one way or the other on the Symms amendment, vote it up or down. Let us vote on the waiting period, up or down. Let us get those two symbols out of the way because they really will not do much, if anything, to stop crime.

Then let us vote on specific criminal matters, vote on the question of appeals and moving the appellate process forward. We have voted on the questions of habeas corpus and the exclusionary rule. Let us vote on the question of how many prosecutors and judges we need.

But do not tell me, a former prosecutor, that these symbols like the unrelated amendment the Senate has had before it today will do one thing to stop crime.

As one of the few people in this body who has prosecuted armed robbers, who has prosecuted murder cases, who has prosecuted arson cases, drug cases, rape cases, and who has prosecuted child molestation cases, I did not win on symbols. If you ask any of the other prosecutors in this Chamber, they did not win criminal cases on symbols. When is this body going to stop relying on symbols as a substitute for substance? Now, we are going to tell the District of Columbia what to do. Somebody ought to ask some of the Senators who want to talk about what the District of Columbia should do, what have you done to stop crime in your State? What have you done to stop child molestation in your State? What have you done to stop rape in your State? What have you done to stop the increase in the crime rate in your State?

Let us talk about reality. If there are some who feel the only way we are going to stop crime is by extending the symbol of the death penalty in the District of Columbia and just about everywhere, even though we all know, if we want to be honest enough to admit it, that it is not going to stop crime. If that is the issue, then let us get an agreement for 5 hours, and we will vote on the Symms amendment. If you feel the Brady bill is the answer to crime, well, then, let us enter into an agreement, have a couple hours of debate on either side of it and then vote it one way or the other. If the public opinion polls say that 80 percent of the people want it, all right, then let's vote on the Brady bill.

But then once we have done away with the symbols, let us sit down and start talking about the fact that we have courts too clogged with makework cases designed to improve their statistics on cases won, because of a Justice Department that would rather make itself look good through statistics, than stop crime. Let us debate that.

And let us ask whether it makes sense for U.S. attorneys to be required to go in and start trying gas station

stickups, which they are doing in some States now.

Can you imagine that? The local sheriff or the chief of police gets somebody in a gas station stickup and all of a sudden he gets a call from the FBI or U.S. attorney, saying "we heard this man had a felony record, or used a gun; that is a major case." We get the full power and majesty of the United States of America to handle a second-rate robber who held up the gas station for $28. Somebody might say, "But, Mr. Attorney General, don't we have some white-collar crimes? Don't we have some toxic waste crimes, people who crossed a border, a State border, and dumped toxic waste in a rural area of America where these toxic wastes are seeping out and polluting the water and deforming our children and killing our people? Do we not have cases like that that the Federal Government should be prosecuting? Maybe even cases concerning organized crime's involvement in toxic waste?"

But the answer woud be, "We do not have time for that because we have our second-rate robber and his $28 stickup of the gas station that we have to try in the Federal courts."

"But, Mr. Attorney General, isn't that normally handled by the state courts and the local district attorney, maybe the sheriff?"

"Well, yes, but we have our statistics to keep up because we are tough on crime. We are tough on crime now, and we have to have good statistics. We had a 192 percent increase in convictions last year" or whatever the number might be.

Nobody ever asks the question of whether the convictions amount to a row of pigs. I would rather get that toxic waste person. I would rather get that organized crime person who may be corrupting judges and prosecutors and elected officials. I would rather get that drug kingpin. I would rather have them go after one good Federal case and leave these other cases to local law enforcement, which can better handle it.

But is that the debate here? Heavens, no. We are going to show our hairy-chested resolve against crime.

Well, maybe, Mr. President, we should pass a sense-of-the-Senate resolution to say all those Senators voting for the resolution are against crime. That may be the only thing we could get unanimous consent to bring at a time certain.

Mr. President, I rarely come down here to speak on such issues, and I would not do it tonight if the managers of the bill were seeking to bring forward or could bring forward an amendment at this time. But I have been there. I have been at crime scenes at 3 o'clock in the morning. I have had a murder victim die virtually in my arms while he tried to tell me who it was who killed him. I have been a target of people who tried to murder me and my family.

I personally arrested a man within hours of the time he was going to fire bomb my whole family. I do not stand here as somebody who talks about this as some abstract question. And I tell you right now, symbolic gestures on the floor of the Senate would not have stopped that fire bomber and telling the U.S. attorney's office to get involved in State matters would not have stopped him. It would not have stopped that man from fire bombing me and my family. What stopped him was good, solid police work at the local level.

If we want to debate something that is going to actually help fight crime, let us talk about the money that we are giving in this bill to rural America, to small cities and small towns that may have only one police officer for 40 or 50 miles, to give them the communications systems, the training, the backup, the manpower, the forensic tools, and the crime labs they need.

But do not go back and tell those people, by gosh, we are for you; we passed a quota bill and a bill for death penalty in the District of Columbia. Do not tell that to the sheriff of a rural county who has one or two deputies and has to cover several hundred square miles when somebody calls him at 3 o'clock in the morning to say there is an armed robbery and he has no backup and he has no radio and he has no way of getting there.

Mr. President, so far, with the exception of a handful votes, this debate has been a lot of baloney, notwithstanding the superb efforts of our chairman to bring a substantive bill to a vote.

I remember a case once where we had a brilliant defense attorney arguing a case against a county prosecutor—not me, I will quickly add—in a very small rural county.

Under Vermont's system the prosecutor speaks first, and the defense attorney speaks second. The prosecutor is allowed to give the summation.

So the prosecutor spoke, short and to the point; he spoke to the defendant's criminal behavior. The defense attorney stood up and gave one of the most brilliant arguments I ever heard. He quoted Aristotle. He quoted Shakespeare. He quoted Black's Law Dictionary. He quoted from the Inns of Court. He quoted the Magna Carta. He quoted the Constitution. He went on for hours. But he never spoke to the guilt or innocence of his client. And when he finished he said to the jury, "Ladies and gentlemen of the jury, this debate is like a sandwich. The prosecutor goes first and he goes last, but I am in the middle. The prosecutor is like the bread." he said, "I am the defense attorney. I am the meat in the sandwich."

That county prosecutor got up and he said, "Your Honor, he is right, he is the meat in the sandwich. But it is a baloney sandwich." And sat down. The jury was out 10 minutes. They found the man guilty.

I think the people of this country are going to be the same kind of jury. They know you can dress up a crime bill with unrelated amendments, you can give a great statement at the beginning, and at the end; and, say we have done something about crime, but the meat is in the center. And if we only talk about symbols rather than the substantive provisions in the Chairman's bill it will not do anything. It will be a cruel hoax on the people of this country.

I am willing to stay here all night and vote on serious matters. If you want to vote on gun control matters, vote on gun control matters, real ones. If you want to vote on deterrence, vote on real ones. But do not pretend that we have jurisdiction over 50 different States to handle the local crime problems of small towns or large, cities or counties. Do not pretend that somehow we can go back home and say we ended crime for you. Because if the American people do not feel any safer as they walk down the street, if they feel they have to lock, double lock, and triple lock their doors at night, they know we are not doing enough.

Why do we not stop this symbolism? Why do we not stop aiming for the 30-second spots on television? Why do not all of us, Republicans and Democrats alike, put aside the rhetoric?

We have the core of a good crime bill here. If somebody has a real amendment to improve it, bring it up, stand up for it. Do not fool around with parliamentary procedures. Debate your point. And then vote it up or vote it down, and let the American people know where we stand. Do not hide behind all kinds of parliamentary gimmickry.

Let me tell you, Mr. President, as a former prosecutor I would feel a lot better, but more importantly, as a Vermonter, I would like to think—even though I come from a State with one of the lowest crime rates in the country—that the U.S. Senate was actually talking about crime. But do not pretend that we are all for the county sheriff and do not pretend that somehow what we are doing here now really affects local law enforcement.

Let us talk about those things that are truly Federal matters, and let us, when doing it, remember that this country has been strong and great for 200 years because it has a Constitution. Let us not throw out the Constitution, whether we are debating the right of appeal, habeas corpus, search and seizure, or anything else. Let us not just throw the Constitution out the window because it is easier to explain in a 30-second TV spot that you are tough on crime than it is to explain that you carried out your sworn duty to uphold the Constitution of the United States.

That is what we ought to do first and foremost: uphold the Constitution of the United States, and then pass a crime bill that works.

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

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

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. 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. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the bill be extended until 9:45, and at 9:45 the Senate go into a quorum call as under the previous order.

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

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that we now have a period for morning business.

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

FIFTIETH ANNIVERSARY OF THE RESTORATION OF UKRAINIAN INDEPENDENCE

Mr. RIEGLE. Mr. President, 50 years ago on June 30, 1941 the Organization of Ukrainian Nationalists [OUN] declared the restoration of Ukraine's independence. This year, I join with Ukrainians all over the world to celebrate the anniversary of this momentous day. Tragically, Ukrainian autonomy only lasted for a few months. But for the 35 million Ukrainians still living under Soviets oppression, the memory of this declaration of freedom lives on.

The Ukrainian independence movement achieved its historic first victory in 1918, when Ukraine declared itself a sovereign republic. After years of domination by foreign occupiers, Ukrainians finally experienced the joy of controlling their own destiny in their traditional lands. Only 3 years later, however, the Russian Bolsheviks crushed the new nation, stamping out any outward signs of freedom in Ukraine.

But the spirit of liberation could not be eradicated. It burned as a flame in the hearts of the Ukrainian people, only to be rekindled in the chaos of the Second World War. Eight days after the brutal Nazi invasion of the Soviet Union on June 22, 1941, the Ukrainians again declared their independence. This time, their dauntless devotion to freedom faced one of the most vicious regimes in history, but Ukrainian determination could not be thwarted. The OUN called a national assembly and established a Provisional Ukrainian Government. Although the Gestapo swiftly arrested the new government officials, the Ukrainian people continued to fight heroically for their liberation facing torture and concentration camps. While their courageous resistance during the 4 years of German occupation helped to end the facist threat to the world, it came at a cost of hundreds of thousands of Ukrainian lives.

The Ukrainian struggle for sovereignty continued after World War II when Soviet communist domination replaced Nazi repression. But, dreadfully, Ukrainian suffering did not end with the defeat of the Nazi regime. From Kiev to Lviv, Ukrainians continued to experience decades of harsh rule by the Soviet Union. Still, despite a past filled with tragedy, including the Terror Famine of 1929–32, violent russification, and the calamity of Chernobyl, the courageous Ukrainian people have persevered in their struggle to determine their own national future.

To the Ukrainian-American community in my State of Michigan, as they honor the 50th anniversary of the restoration of Ukrainian independence, I offer my full support for the efforts of the Ukrainian people to reestablish the sovereignty of Ukraine. As we celebrate this important date, we must not only confirm American abhorrence of the injustices survived by the Ukrainian people, but also our belief in the unalienable right of self-determination of the Ukrainian people.

REGARDING THE HEAD START ACT

Mr. ROBB. Mr. President, I rise today in defense of America's future, our children. I am proud to cosponsor the Head Start Act, which will fulfill a dream of educational equality conceived more than two decades ago.

As I look at America's domestic policy, I am struck by the unconscionable way in which we are wasting the precious resource of our people. At the same time that we spend billions of dollars to bail out our savings and loan depositors, papering over yesterday's mistakes with greenbacks, we are neglecting the next generation by failing to invest in them effectively.

Time and time again, we have seen the importance of getting an early start on cultivating the habits of education. If we don't cultivate those habits, if we don't encourage curiosity and a desire for knowledge in children in kindergarten and in first and second grade, chances are many of those children won't even stay in the system until the 12th grade.

The Head Start program exists precisely to achieve that end. It helps prepare preschoolers to learn. But somehow, we seem unable to recognize a winner when we see one.

Mr. President, it baffles me that in all of its history, Head Start has never been fully funded. In fact, Head Start has been a success for 20 years, yet current funding exists for only about 27 percent of all eligible children.

How can the Federal Government sound the alarm for educational reform if it is not even meeting its own responsibility to the system? And how can anyone here castigate the teachers and the principals and the school boards if we in Washington are not giving them the tools that they have been promised? The tools which help make kids ready to learn?

A responsible government invests in people, in developing their minds, safeguarding their bodies, offering hope and opportunity to their spirits. It is this kind of investment, not the purely financial kind, that indeed is government's highest calling.

We've heard a lot recently about the state of our infrastructure, of how the state of our industrial capital will determine whether we succeed or fail in our national effort to return to solvency and maintain our position of influence in world affairs.

But the real difference is people. All the industrial capital in the world won't do us much good if we don't have people around with the skills, training, and ability to manipulate it and respond to the rapid changes of our increasingly technological world.

Mr. President, as you know, I am not much of a spender. If we had to waive the budget act to implement this program, I'd find myself torn between two good causes; Head Start and responsible spending. That's why I'm pleased that discussions are proceeding to identify revenue sources honestly so that we'll be able to give Head Start the funding it deserves without adversely impacting the budget, or other human services programs.

In short, Mr. President, by passing the Head Start Act we won't just give children a head start of their education; we will give America a head start on the 21st century. I urge my colleagues to support this bill.

LITHUANIA

Mr. DECONCINI. Mr. President, I have just received word that Soviet military units occupied for several hours the telephone and telegraph exchange in Vilnius and Kaunas, Lithuania. Communications, including all telephone lines between Lithuania and the outside world, had been completely cut off. It appears that the military units involved were both from the special force Black Berets and the army. While the latest reports indicate that the troops have been withdrawn, this unnecessary intimidation of the Lithuanian people is unacceptable.

This was an outrageous provocation on the part of the Soviet Government which claims to be negotiating with the Baltic States in good faith. It was

a violation of the sovereignty of the Republic of Lithuania, whose democratically elected leadership is seeking to restore Lithuanian independence.

How long can Soviet President Gorbachev pretend that he is unaware of such actions and other violence in the Baltic States perpetrated by Soviet army and internal affairs troops? It is time for us to face the issue of who is the decision-maker behind the harsh repression there and what the implications are.

The military action today was only the most recent in a long list of violent acts against the Baltic States since January of this year, when Soviet repression in Lithuania and Latvia resulted in the deaths of more than 20 people. The Vilnius TV and radio center has been occupied since then. Soviet authorities attempted to whitewash this violence in a report issued at the beginning of this month which claimed that the deaths were accidental. Furthermore, for weeks now Baltic border posts throughout the Baltic region have been systematically attacked and innocent people have been killed.

Mr. President, we call upon President Gorbachev to put an end immediately to this violence against the sovereign Baltic States. He continues to show one face to democratic governments in the West when he wants aid and cooperation, but he demonstrates another, uglier one to the Baltic peoples. The Kremlin's actions make a mockery of the Soviet Union's CSCE commitments as well as the so-called new spirit of cooperation with the West. The next time Gorbachev comes begging for U.S. aid, I do not think the American people will accept being used in this callous and cynical manner.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. DURENBERGER. Mr. President, tomorrow the Senate Finance Committee will be voting on resolutions relating to the President's request for an extension of most-favored-nation [MFN] trading status for the People's Republic of China. I have come to the Senate floor today to provide my reasons for supporting the President's request for an unconditioned extension of MFN.

In reaching this decision, I have concluded that it is in our nation's best economic and geopolitical interests to maintain normal trading relations with the People's Republic of China. I further believe that continuation of MFN will improve economic and political conditions for the people in China.

Mr. President, neither the President of the United States, nor this Senator believes that extending MFN can be interpreted as condoning the domestic repression in China, or the Chinese Government's irresponsible arms proliferation policies. The United States was the first country to condemn the brutal repression in Tiananmen Square. We were the first nation to guarantee the rights of Chinese students studying at universities in the United States. We were the first nation to impose sanctions against the Chinese, and we are now the last, alone among our Western allies, to keep those original sanctions in place.

But those actions are not enough for the critics of the President's policy. Do the critics of the President's policy think we would be better off if we turned the clock back on Sino-American relations to 1970 when we exercised a policy aimed at isolating China from the rest of the world? That would be the net effect of our decision to abandon normal relations with the Chinese. Although it might make us feel good in the very short run, it will surely set back relations and dialogue with Chinese for years to come and likely lead to wider crackdowns within China against foreign influence.

Let those who want to return Sino-United States relations to 1970 remember that in 1970 China did not serve as a permanent member of the U.N. Security Council. Let them remember that because of President Nixon's opening to China, the people of China have ultimately benefited and our long-term bilateral relationship with China and the Chinese people has been enhanced.

Let the critics also remember that they are putting at risk more than $5 billion in U.S. exports including wheat ($511 million), aerospace ($749 million), computers and electrical machinery ($860 million), fertilizer ($544 million), cotton ($259 million), and wood products ($281 million). And not only will our European and Japanese competitors immediately step in to take up the slack caused by the loss of American business, but we would be putting at risk more than $4 billion in United States investment in China.

Farmers and businesses in Minnesota stand to lose hundreds of millions of dollars if the United States decides to restrict MFN. For Minnesota wheat farmers, that's a $27 million market that will disappear and for Cargill's wheat and phosphate exports that's a $150 million loss. For 3M, Control Data, Eaton, Honeywell, MTS, Thermoking, Conagra, North Star Steel, Medtronic, and Crown Iron Works, restricting MFN means the whole transfer of export business to Japanese and European competitors.

And what about the American consumer, especially the low-income consumers who rely on imports from developing countries like China for affordable clothing and footwear. If MFN is restricted, tariffs on clothing and footwear manufactured in China will rise by 72 percent. In other words, raising tariffs on Chinese imports of clothing and footwear is equivalent to imposition of a $6 billion a year tax on the American consumer of low- and moderate-priced clothing and shoes.

Mr. President, it has been 12 years since the United States decided to use the American farmer as an instrument of foreign policy. Haven't we learned the lesson of the failed 1979 American grain embargo of the Soviet Union. And that lesson is simply that when America unilaterally decides to use trade as a weapon of foreign policy, the only party who is hurt is the American worker. Other countries always step in to fill the breach left by our unilateral withdrawal from a market.

There's a second lesson that we should all keep in mind. And that is the lesson we learned last August after Iraq invaded Kuwait. Economic and trade policy can be a meaningful tool of foreign policy, but only when such a policy is carried out in concert with all of the world's trading partners. UN economic sanctions against Saddam Hussein certainly had a devastating impact on the people of Iraq. But those sanctions had meaning only because the whole world acted in unison.

Will Japan follow our lead and restrict MFN for China? Will France? Will Germany? Will Brazil? Of course not. Their manufacturers and farmers will simply step in and take the business that we lose.

Mr. President, for many in this chamber, the debate over MFN has been narrowed to focus on the issue of Chinese missile sales to terrorist countries such as Iran and Syria. Under the most recent Democratic leadership bill, MFN would be immediately revoked if it is determined that the Chinese have sold certain short-range missiles and launchers to Iran, Syria, and Pakistan.

Mr. President, I am appalled that the Chinese seem indifferent to the proliferation of ballistic missiles, especially to countries in the over-militarized Middle East. Yet this has not gone unnoticed by the Administration.

Just 2 months ago, the President denied licenses for export of components critical for the launch of a Chinese domestic satellite and he has indicated that he will not seek any further satellite waivers for China until missile proliferation concerns are satisfied. The President has also publicly stated that the United States would impose additional sanctions on any Chinese company found to violate international guidelines on missile sales.

Mr. President, MFN is the functional equivalent of closing down economic relations with a trading partner. It is a last resort trade weapon. Much as I believe that the Chinese have been irresponsible in selling missiles to certain terrorist countries, I do not believe that is a sufficient basis to terminate normal trading relations with China.

In fact, Mr. President, I would suggest that it was just as irresponsible

for some of our own allies to sell missile parts, guidance systems, and facilities capable of manufacturing poison gas to Iraq as it would be for the Chinese to sell Silkworms, M-9's and M-11's. No one suggested that we terminate trade relations with the countries who supplied such weapons. Nor did any one suggest that we endanger the entire United States-Japan trade relationship after it was learned that a Toshiba subsidiary sold our cold war adversary, the Soviet Union, advanced machine tool milling machines.

Mr. President, MFN is a vestige of the cold war. Very few countries are denied MFN—the Soviet Union, Afghanistan, Albania, Cuba, Laos, North Korea, Vietnam Kampuchea. The list keeps shortening every year as free markets and free societies evolve out of the rubble of Socialism. I believe it would be a step backward in international political and economic relations if the United States at this late date seeks to terminate a relationship that holds great promise for the future once the current generation of octogenarian rulers in Beijing passes the mantle to the new generation.

I would hope my colleagues will look toward stabilizing relations between our two countries, and leave this matter to the wisdom and judgment of the President.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations. Calendar Nos. 205, 206, and 207.

I further ask unanimous consent that the nominees be confirmed, en bloc, and that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations, considered and confirmed en bloc, are as follows:

DEPARTMENT OF THE TREASURY

Mary Catherine Sophos, of California, to be a Deputy Under Secretary of the Treasury.

DEPARTMENT OF AGRICULTURE

Ann M. Veneman, of California, to be Deputy Secretary of Agriculture.

Ann M. Veneman, of California, to be a member of the Board of Directors of the Commodity Credit Corporation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

COMMITTEE DISCHARGED AND SENATE CONSIDERATION OF CERTAIN MEASURES

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed to the immediate consideration, en bloc, of Senate Joint Resolutions 40, 72, 73, 78, 92, 121, 125, 126, 132, 138, 151, 154, 156, 36, 142, and House Joint Resolutions 72, 138, and 149; that the joint resolutions be deemed read a third time and passed; that the motion to reconsider the passage of the joint resolutions, en bloc, be laid upon the table, and that the preambles be agreed to.

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

The Senate joint resolutions were deemed read a third time and passed.

The preambles were agreed to.

The joint resolutions, with their preambles, are as follows:

S.J. RES. 36

Whereas over 4 million United States citizens are affected by Alzheimer's disease, a surprisingly common degenerative disease which attacks the brain, impairs memory and thinking, alters behavior, and renders its victims incapable of self care;

Whereas it is estimated that by the middle of the 21st century, Alzheimer's disease will strike 14 million United States citizens, affecting one in every three families;

Whereas Alzheimer's disease is not a normal consequence of aging, but a disorder of the brain for which no cause has been determined and no treatment or cure has been found;

Whereas Alzheimer's disease is the quintessential long-term care problem, requiring constant full-time care for its victims, who can suffer from the disease for 3 to 20 years, at a total annual cost to the Nation of at least $90 billion;

Whereas families of Alzheimer's patients bear the overwhelming physical, emotional, and financial burden of care, and neither public programs, including medicare, nor private insurance provide protection for most of these families;

Whereas 80 percent of all Alzheimer's patients receive care in their own homes;

Whereas nearly half of all residents of nursing homes suffer from Alzheimer's disease or some other form of dementia; and

Whereas increased national awareness of Alzheimer's disease and recognition of national organizations such as the Alzheimer's Association may stimulate increased commitment to long-term care services to support Alzheimer's patients and their families and a greater investment in research to discover methods to prevent the disease, delay its onset, and eventually to find a cure for the disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of November 1991, and November 1992, are designated as "National Alzheimer's Disease Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such months with appropriate ceremonies and activities.

S.J. RES. 40

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 8, 1991, and ending on September 14, 1991, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

S.J. RES. 72

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy;

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitative services in this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 15, 1991, through September 21, 1991, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

(2) each State governor, and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

S.J. RES. 73

Whereas it is estimated that a woman is battered every fifteen seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting six million women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 per centum of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;

Whereas in 50 per centum of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over three hundred and seventy-five thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes and the number of women and children that were sheltered by domestic violence programs increased by one hundred and sixty-four thousand between 1983 and 1987;

Whereas 40 per centum of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

S.J. RES. 78

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical, emotional, and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and community volunteers trained in the hospice concept of care;

Whereas hospice is becoming a full partner in the Nation's health care system;

Whereas the enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more United States citizens to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1991 and 1992 is designated as "National Hospice Month". The President is authorized and requested to issue a proclamation calling upon all government agencies, the health care community, appropriate private organizations, and people of the United States to observe such months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in the Nation.

S.J. RES. 92

Whereas the Congress responded to the brave Civil War service of more than 180,000 African-American troops by voting on July 28, 1866, to create 6 regular Army regiments composed of African-American enlisted soldiers;

Whereas the 9th and 10th Cavalry regiments were among those regiments, which consisted of veterans of the Civil War and free men of color;

Whereas the 9th Cavalry was stationed at Greenville, Louisiana, and the 10th Cavalry was stationed at Fort Leavenworth, Kansas, from where they played a key role in the history of the American West, guarding wagon trains, surveying roads, building forts, and protecting settlers;

Whereas after a battle in 1867 near Fort Hays, Kansas, Cheyenne warriors remarked that the African-American soldiers fought as fiercely as buffaloes, and the cavalry thereafter adopted the name "Buffalo Soldiers" as a badge of honor;

Whereas the Buffalo Soldiers were an important part of American history and served the United States in many States and Nations, including Arizona, California, Kansas, Louisiana, Montana, Nebraska, New York, Oklahoma, Texas, Utah, Vermont, Virginia, Cuba, Mexico, and the Philippines;

Whereas the Buffalo Soldiers' military heroics included serving with Theodore Roosevelt and the Rough Riders during the Spanish-American War, and helping to capture Billy the Kid and Pancho Villa;

Whereas some Buffalo Soldiers became famous African-American military officers, including Henry Flipper, Charles Young, and Benjamin Davis;

Whereas the Buffalo Soldiers served with pride and maintained high morale and the lowest desertion rate in the Army, despite receiving the worst equipment and food, living in inadequate housing, and being subjected to discrimination;

Whereas the Buffalo Soldiers were repeatedly cited for heroism and dedication to duty, including numerous campaign and unit citations, as well as 22 individual Congressional Medals of Honor;

Whereas the Buffalo Soldiers served in the highest tradition of the United States military, but still have not been given their proper place in American history;

Whereas General Colin Powell, Chairman of the Joint Chiefs of Staff, recognized this omission in 1982 while serving as Deputy Commander at Fort Leavenworth, and set in motion efforts to construct a monument to these forgotten heroes;

Whereas a monument to the Buffalo Soldiers will be dedicated at Fort Leavenworth, Kansas, in July 1992, on a site where Buffalo Soldiers camped during the late 19th and early 20th centuries; and

Whereas the Buffalo Soldier Monument will appropriately recognize the great sacrifices and outstanding performance of the Buffalo Soldiers and their contributions to our Nation; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 28, 1992, is designated as "Buffalo Soldiers Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

S.J. RES. 95

Whereas breast cancer will strike an estimated 175,000 women and 900 men in the United States in 1991;

Whereas 1 out of every 9 women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 44,000 women and 300 men in 1990;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, and/or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

S.J. RES. 121

Whereas D.A.R.E. (Drug Abuse Resistance Education) is the largest and most effective drug-use prevention education program in the United States, and is now taught to 20 million youths in grades K–12;

Whereas D.A.R.E. is taught in more than 150,000 classrooms, reaching more than 3,500 communities in all Department of Defense Dependent Schools worldwide;

Whereas the D.A.R.E. program has become a model drug prevention program for other countries and is now taught in Australia, New Zealand, American Samoa, Canada, Costa Rica and Mexico;

Whereas the D.A.R.E. core curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps prevent substance abuse among school-age children by providing students with accurate information about alcohol and drugs, by teaching students decision-making skills and the consequences of their behavior and by building students' self-esteem while teaching them how to resist peer pressure;

Whereas D.A.R.E. provides parents with information and guidance to further their children's development and to reinforce their decisions to lead drug-free lives;

Whereas the D.A.R.E. program is taught by veteran police officers who come straight from the streets with years of direct experience with ruined lives caused by substance abuse, giving them a credibility unmatched by teachers, celebrities, or professional athletes;

Whereas each police officer who teaches the D.A.R.E. Program completes 80 hours of specialized training in areas such as child development, classroom management, teaching techniques, and communication skills; and

Whereas D.A.R.E., according to independent research, substantially impacts students' attitudes toward substance use and contributes to improved study habits, higher grades, decreased vandalism and gang activity, and generates greater respect for police officers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 12, 1991 is designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

S.J. RES. 125

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia, in the seventeenth century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contribution to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor in the greatest son of Poland, his Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader and now President Lech Walesa in fighting for freedom, human rights, and economic reform in Poland;

Whereas the Polish American Congress is observing its forty-seventh anniversary this year and is celebrating October 1991 as "Polish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated "Polish-American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.

S.J. RES. 126

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crisis of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1991 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

S.J. RES. 132

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately 20,000 deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 2 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon levels: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 13, 1991, through October 19, 1991, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

S.J. RES. 138

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness of, and participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the national war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across the United States will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock p.m. on August 7, 1990, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 6, 1991, is designated as "National Neighborhood Crime Watch Day", and the President authorized and requested to issue a proclamation calling on the people of the United States to observe National Neighborhood Crime Watch Day with appropriate programs, ceremonies, and activities.

S.J. RES. 142

Whereas over 250,000 children in the United States are affected by the debilitating disease known as Juvenile Arthritis;

Whereas this crippling condition attacks the joints and major organs of the human body—heart, liver, spleen, and even eyes;

Whereas this disease is often lifelong, affecting children into their adulthood, making even simple tasks seem difficult and frustrating, affecting the quality of life for our future citizens and leaders;

Whereas Juvenile Arthritis can be controlled reasonably well in most people, but it can prove fatal in some instances; and

Whereas the commitment to research and education efforts to develop a greater understanding about Juvenile Arthritis should be encouraged and continued: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 28, 1991, is designated as "National Ju-

venile Arthritis Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

S.J. RES. 151

Whereas since the arrival of the first German immigrants to America on October 6, 1683, in the area of Germantown, Pennsylvania, German-Americans have made significant contributions to the quality of life in the United States;

Whereas German-Americans are proud of the existing friendship and cooperation between the Federal Republic of Germany and the United States, of which the German-American Friendship Garden in Washington, D.C., is evidence;

Whereas German-Americans pledge their unconditional support for further expansion of the existing friendship between Germany and the United States, and will continue to contribute to the culture of the United States, support its Government and democratic principles, and will also work to help assure the freedom of all people;

Whereas President Bush lauded German unification and the spirit of friendship and cooperation between the people of the Federal Republic of Germany and the people of the United States during proclamation ceremonies for German-American Flag Day on October 3, 1990; and

Whereas the Congress unanimously passed joint resolutions designating October 6, 1987, 1988, 1989, and 1990 each as "German-American Day": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1991, and October 6, 1992, are designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such days with appropriate programs, ceremonies, and activities.

S.J. RES. 154

Whereas August 1, 1991, is the sixteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have recognized that respect for human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of state or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the States signing the Helsinki accords;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Eastern and Central Europe and the Union of Soviet Socialist Republics, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1991, the sixteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors to the United States of the other thirty-three Helsinki signatory States.

S.J. RES. 156

Whereas mental illness is a problem of grave concern and consequence in the United States, widely but unnecessarily feared and misunderstood;

Whereas 31,000,000 to 41,000,000 United States citizens annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, school attendance, and independent living;

Whereas more than 10,000,000 United States citizens are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas 33 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of adults in this country in any 6-month period;

Whereas mental illness in at least 12,000,000 of our children interferes with vital developmental and maturational processes;

Whereas mental disorder related deaths are estimated to be, at the very least, 33,000 annually, with suicide accounting for at least 29,000 of such deaths;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that 10 percent of AIDS patients will develop dementia or other psychiatric problems as the first sign of such disease, and that as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of 249,000,000,000 dollars in direct treatment and support and indirect costs to society, including lost productivity;

Whereas the Federal research budget committed to the Alcohol, Drug Abuse, and Mental Health Administration represents only about 1 percent of the direct clinical costs of caring for persons with alcohol, drug, and mental disorders;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapaci-

tating forms of mental illness, including schizophrenia, major affective disorders, phobias, and phobic disorders;

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced use of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of October 6, 1991, through October 12, 1991, is designated as "Mental Illness Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The House joint resolutions (H.J. Res. 72, H.J. Res. 138, H.J. Res. 149) were deemed read a third time and passed.

The preambles were agreed to.

H.J. RES. 72

Whereas, on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the United States Armed Forces stationed at Pearl Harbor, Hawaii;

Whereas more than 2000 citizens of the United States were killed, and more than 1000 citizens of the United States were wounded, in the attack on Pearl Harbor;

Whereas the attack on Pearl Harbor marked the entry of the United States into World War II;

Whereas December 7, 1991, is the 50th anniversary of the attack on Pearl Harbor;

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1991, in remembrance of the attack on Pearl Harbor; and

Whereas commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the United States Armed Forces during World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1991, is designated as "National Pearl Harbor Remembrance Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

H.J. RES. 138

Whereas Lyme disease (borreliosis) is spread primarily by the bite of four types of ticks infected with the bacteria Borrelia burgdorferi;

Whereas Lyme disease-carrying ticks can be found across the country—in woods, mountains, beaches, even in our yards, and no effective tick control measures currently exist;

Whereas infected ticks can be carried by animals such as cats, dogs, horses, cows, goats, birds, and transferred to humans;

Whereas our pets and livestock can be infected with Lyme diesase by ticks;

Whereas Lyme disease was first discovered in Europe in 1883 and scientists have recently proven its presence on Long Island as early as the 1940's;

Whereas Lyme disease was first found in Wisconsin in 1969, and derives its name from the diagnosis of a cluster of cases in the mid-1970's in Lyme, Connecticut;

Whereas forty-six States reported twenty-two thousand five hundred and thirty-eight cases of Lyme disease from 1982 through 1989;

Whereas Lyme disease knows no season—the peak west coast and southern season is November to June, the peak east coast and northern season is April to October, and victims suffer all year round;

Whereas Lyme disease, easily treated soon after the bite with oral antibiotics, can be difficult to treat (by painful intravenous injections) if not discovered in time, and for some may be incurable;

Whereas Lyme disease is difficult to diagnose because there is no reliable test that can directly detect when the infection is present;

Whereas the early symptoms of Lyme disease may include rashes, severe headaches, fever, fatigue, and swollen glands;

Whereas if left untreated Lyme disease can affect every body system causing severe damage to the heart, brain, eyes, joints, lungs, liver, spleen, blood vessels, and kidneys;

Whereas the bacteria can cross the placenta and affect fetal development;

Whereas our children are the most vulnerable and most widely affected group;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness;

Whereas education is essential to making the general public, health care professionals, employers, and insurers more knowledgeable about Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 21, 1991, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

H.J. RES. 149

Whereas American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home;

Whereas American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation;

Whereas American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement;

Whereas American women have been leaders not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the literature, teaching, and study of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1991 and March 1992 are designated both as "Women's History Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

J.E. "EDDIE" RUSSELL POST OFFICE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 674.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 674) entitled "An Act to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the 'J.E. "Eddie" Russell Post Office'." do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. REDESIGNATION.

The building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service (as determined by the Postmaster General) shall be known and designated as the "J.E. (Eddie) Russell Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the J.E. (Eddie) Russell Post Office Building.

SEC. 2 TECHNICAL CORRECTIONS.

Title 39, United States Code, is amended—

(1) in section 3001, by redesignating the 2 subsections immediately following the first subsection (i) as subsections (j) and (k), respectively; and

(2) in section 3005(a), by striking "section 3001 (d), (f), or (g)" each place it appears and inserting "3001 (d), (h), or (i)".

Amend the title so as to read: "An Act to designate the building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service as the 'J.E. (Eddie) Russell Post Office Building', and for other purposes.".

Mr. FORD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 2525, the Veterans Affairs Codification Act, just received from the House, be placed on the calendar.

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

NATIONAL LITERACY ACT OF 1991

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 53, H.R. 751, the National Literacy Act of 1991.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity on their work and in their lives, and to strengthen and coordinate adult literacy programs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 385

(Purpose: To amend programs regarding the territories and the freely associated States)

Mr. FORD. Mr. President, on behalf of Senator PELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Senator PELL, proposes an amendment numbered 385.

Mr. FORD. 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:

On page 63, beginning with line 12, strike all through page 66, line 23, and insert the following:

TITLE VI—BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS

On page 67, line 1, strike "602" and insert "601".

At the end of the bill insert the following:

TITLE VIII—AMENDMENTS AFFECTING THE TERRITORIES AND THE FREELY ASSOCIATED STATES

SEC. 801. ELIGIBILITY FOR EDUCATION PROGRAMS.

(a) HIGHER EDUCATION.—Section 484 of the Act (20 U.S.C. 1091) is amended by adding at the end thereof the following new subsection:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.".

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3142) is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.".

(c) TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.—Section 1204 of the Act (20 U.S.C. 1144a) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

SEC. 802. TREATMENT OF TERRITORIES AND FREELY ASSOCIATED STATES.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Subsection (a) of section 1005 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) COMPETITIVE GRANTS.—(A) From amounts appropriated for purposes of carrying out this section, the Secretary shall reserve an amount equal to the amount described in subparagraph (B) for purposes of making competitive grants to local educational agencies in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. The Secretary shall make such grants according to the recommendations of the Pacific Regional Laboratory in Honolulu, Hawaii, which shall conduct a competition for such grants.

"(B) The amount described in this subparagraph is the portion of the aggregate amount reserved in the fiscal year 1989 under sections 1005(a), 1291, 1404, 1405(a)(2)(A), and 1405(a)(2)(B) for the Trust Territory of the Pacific Islands that was attributable to the Republic of the Marshall Islands and the Federated States of Micronesia.

"(C) Subject to subparagraph (D), grants awarded under this paragraph may only be used for—

"(i) activities consistent with the purposes of—

"(I) title I;

"(II) the Adult Education Act;

"(III) the Education of the Handicapped Act;

"(IV) the Library Services and Construction Act; or

"(V) the Dwight D. Eisenhower Mathematics and Science Education Act;

"(ii) teacher training;

"(iii) curriculum development;

"(iv) instructional materials; or

"(v) general school improvement and reform.

"(D) Grants awarded under this paragraph may only be used to provide direct educational services.

"(E) The Secretary shall provide 5 percent of amounts made available for grants under this paragraph to pay the administrative costs of the Pacific Regional Laboratory with respect to the program under this paragraph.".

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) (20 U.S.C. 1201a(7) and 1211(b)(7)(B)(i)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(2) in sections 313(b) and 361(a) (20 U.S.C. 1201b(b) and 1209a(a)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(c) STAR SCHOOLS PROGRAM.—Section 970(8) of the Star Schools Program Assistance Act (20 U.S.C. 4086(7)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau."

(d) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) section 602(a)(6) (20 U.S.C. 1401(a)(6)) by striking "or the Trust Territory of the Pacific Islands" and inserting "or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 611(a)(2) (20 U.S.C. 1411(a)(2)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau"; and

(3) section 611(e)(1) (20 U.S.C. 1411(e)(1)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

(e) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act is amended in—

(1) section 3(g) (20 U.S.C. 351a(g)) by striking "or the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 5(a)(3) (20 U.S.C. 351c(a)(3)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(3) section 7(a) (20 U.S.C. 351e(a)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(4) section 7(b) (20 U.S.C. 351e(b)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "the Commonwealth of the Northern Mariana Islands and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

The PRESIDING OFFICER. Is there debate? The Chair hears none.

Without objection, the amendment proposed by Senator PELL is agreed to.

So the amendment (No. 385) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. PELL. Mr. President, it is a pleasure for me to urge that my colleagues pass this important legislation. The need for a concentrated attack on illiteracy in our Nation is paramount.

Over 26 million Americans cannot read, write, and compute. If this problem continues unabated, we simply cannot expect to continue our leadership role in the international economy.

Our colleague, the junior Senator from Illinois, Mr. SIMON, has worked tirelessly on this problem, and the legislation before us is essentially his. He is a valued member of the Education Subcommittee, which I chair, and his leadership in the fight for literacy is recognized not only in this body but throughout the country.

We came very close to enacting this legislation late last year, and I believe it incumbent upon us to act this year so that we can finally get about the business of launching the kind of intensive action necessary to rid our Nation of this terrible problem.

The amendments we would add to this legislation are not controversial.

The amendments affecting the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau have been worked out with our colleagues on the House side. In higher education, it would continue eligibility for these Pacific islands in such important programs as TRIO, territorial teacher training, and Federal student aid. In elementary and secondary education, it would place funds previously allocated to these islands in a special fund and enable the islands to compete for grants consistent with the purposes of the Federal programs from which the funds were drawn.

Mr. President, I urge my colleagues to support H.R. 751 with the amendments in question.

Mr. SIMON. Mr. President, as you know, I have been working for a number of years now to bring about a more concerted, effective Federal approach to illiteracy. Nearly 2 years ago, after studying the problem and the current Federal programs, I introduced the first comprehensive national literacy proposal. That proposal, S. 1310, was approved unanimously by the Senate in February of last year. But, as sometimes happens in Congress, that bill got caught up with some other issues, and ultimately died in the final days of the 101st Congress.

Mr. President, the bill before us today represents a House-Senate agreement, with only a few changes from last year's agreement, and it is my understanding that it is supported by the administration.

The National Literacy Act has three overarching purposes: First, to improve the coordination and effectiveness of literacy services and research at the national and State level; second, to expand existing Federal literacy programs; and third, to ensure that tax-supported literacy programs are of the highest quality possible, serving the individuals most in need. These themes run throughout the bill.

STRATEGIC PLANNING, RESEARCH, AND COORDINATION

While there are a number of existing Federal programs that help to address the problem of literacy, resources are scarce and are dispersed among a number of different agencies. Furthermore, the programs that do exist are not coordinated, and the services are delivered in a fragmented fashion. We simply have no national policy on literacy. There is no consensus on what works most effectively in literacy programs nor how to judge those programs, and what we do know is not widely available or used.

In this area of coordination, the hard work we have put into this legislation has already yielded some results. First, the President has taken our suggestion that an interagency group be established to coordinate the various Federal programs. Because the administration has assured Congress that the interagency group will continue its work, I agreed to delete the provision in my bill which would have established an interagency council by law.

There has also been some progress on the National Institute for Literacy proposed in this bill. Several months ago, the Department of Education began planning for a similar Institute, and the National Literacy Act has been amended to incorporate some of the Department's plans. Advised by a board of literacy service providers and experts, the National Institute for Literacy will serve as an important focal point for expertise and leadership in literacy. In addition to assisting with Federal coordination, it will work closely with the State literacy resource centers also created in this act. The Institute has a broad mandate, including basic research. There has been some concern that the Institute's research might duplicate work currently being done by the National Center on Adult Literacy, funded by the Department's Office of Educational Research and Improvement to provide "national leadership in research and development in adult literacy." In giving some research responsibilities to the Institute, it is our intent that the Institute work closely with, and not duplicate, the work done by the Center.

The National Literacy Act also authorizes funds for State literacy resource centers, to help States or groups of States provide training, technical assistance, and coordination for Federal, State, and local literacy programs. The bill includes incentives for States to establish the centers on a regional basis, so this proposal is essentially the same as the regional literacy resource centers proposed in President Bush's America 2000 proposal.

Mr. President, I recently was reminded that even the Department of Agriculture is involved in providing literacy services, through its Extension Service. For example, in the summer of 1989, the University of Illinois Cooperative Extension Service started a program with the Alton-Godfrey Human Development Center, the Lovejoy Learning Center, and the Alton-Godfrey 4-H Club, to help young people living in Alton public housing learn to read. The Extension Service should be included in efforts to coordinate Federal literacy programs, and, since the cooperative extension services at various universities are experienced in providing literacy services, they should be eligible for funding under the programs created by or expanded in this act.

WORK FORCE LITERACY

The National Literacy Act doubles the authorization for the existing Workplace Literacy Partnerships, and authorizes the Secretary of Education to fund programs to design and implement national strategies for assisting small- and medium-sized businesses in developing literacy programs. It also establishes within the Department of Labor a program to assist small- and medium-sized businesses and labor organizations in implementing literacy programs for individuals with low basic skills.

ADULT EDUCATION

The major Federal program that addresses illiteracy is the Adult Education Act [AEA], yet it represents less than 1 percent of the Department of Education's budget, and serves only 10 percent of those in need. In fact, across the country, all the public and private literacy programs combined provide services to less than 20 percent of those who need help.

The bill before us today expands the authorization for this program—currently at its maximum appropriation—so we can serve more people. In addition, it assures that community-based organizations will be able to compete for funds, so that the most effective providers, public or private, will be funded. To judge effectiveness, the bill requires the Secretary of Education and each State to develop methods of evaluating the quality of literacy programs, and to judge grantees and applicants on that basis.

EVEN START FAMILY LITERACY

In 1988, Congress began an effort to break the cycle of illiteracy, poverty, and unemployment with a new Even Start program targeting literacy services to parents and their children, together. This bill makes a number of improvements in the program, and changes the title to Even Start Family Literacy. Among other things, the amendments will expand the authorized level of funding—currently at its maximum—will require collaboration between local educational agencies and community-based organizations, will strengthen the focus on families most in need of literacy services, and will allow services to begin at the birth of a child instead of age 1.

H.R. 751 also includes a number of other amendments and programs, including funding for a television literacy program on PBS and matching funds for ACTION volunteer literacy efforts. For two current Federal programs, Library Literacy and Book Distribution, the bill establishes a priority for programs serving the people and communities most in need.

Mr. President, I cannot underestimate the scope of the illiteracy problem. An estimated 4 million people in this country cannot read their own names. Another 20 to 25 million can be considered illiterate by other commonly used measures. And an additional 45 million adults read with only minimal comprehension. Extremely high rates of illiteracy are reported among the welfare population, the unemployed, drug users, criminals, and high school dropouts. It is reported that one-half of all households that are classified below the poverty level by Federal guidelines cannot read an eighth-grade-level book.

A major goal of the National Literacy Act is to improve work force literacy. The literacy skills of our current and future work force must be improved if the United States is to remain competitive in domestic and international markets. At a time when many communities are experiencing regional and local labor shortages, greater efforts to provide unemployed persons with critical literacy skills are needed to fill jobs that increasingly go vacant. Our newspapers are replete with dramatic examples of the difficulties American businesses are facing today in hiring literate workers.

The New York Telephone Co. had to test 60,000 people on an entry-level exam to hire just 3,000 people. Eighty-four percent of those tested failed the exam.

IBM offered free college-level algebra courses at a New York State plant and 280 workers signed up, but an achievement test revealed that only 30 workers could read and solve math problems at even the high school level.

Chrysler Corp. had to incorporate graphics on its assembly line because so many workers could not read the words "bad hood fit" on the button they were supposed to push when they detected an ill-fitting hood.

The American Society for Training and Development estimates that American businesses now spend about $1 billion a year on basic education in addition to the billions they spend on teaching specific occupational skills. Within a decade that figure is expected to increase at least tenfold.

The workplace is placing greater demands on employees. The average American worker today must have skills at the 9th through 12th grade levels, not the 4th grade level typical after World War II. And the standards keep rising. The growth occupations have increasingly shifted to the service and retail sectors, which require high level problem-solving, communication, reading, writing, and math skills. By the year 2000, three out of four jobs will require educational training beyond ninth grade.

Changing demographics suggest that our future work force will rely increasingly on population groups that have disproportionately high rates of illiteracy. Women, immigrants, and minorities will account for over 80 percent of the work force growth from 1986 to the year 2000. Minorities, especially blacks and Hispanics, and persons with disabilities, dominate the pool of unskilled, and increasingly unused, labor. It is estimated that 44 percent of black and 56 percent of Hispanic adults are functionally illiterate. The proportion is roughly 16 percent for whites.

Fighting illiteracy is not just an issue of fairness and equity; it is an issue of economics. Our Nation's economic security is directly tied to the quality of the Nation's work force. Over the course of the next decade, some 21 million new labor market entrants, including those from minority groups, will require literacy and basic skills training to enable them to succeed in new jobs. The future growth and prosperity of our economy will be closely linked to our ability to educate and train these individuals.

Combating illiteracy allows us to combat crime. About 75 percent of adult prison inmates are functionally illiterate, and the average person in prison has a third- or fourth-grade reading level. While it costs only $4,200 a year to send a youth to school, the costs of school failure are much higher if these youth resort to crime and are incarcerated. In fact, it costs $14,000 per year to keep a prisoner in jail and these costs are exacerbated by extremely high rates of recidivism. The high levels of illiteracy among the prison population virtually guarantees poor success in the job market after release. This is a particularly serious problem considering that about 90 percent of adults presently in prison will be released within the next 5 to 10 years.

One of the aims of the National Literacy Act is to expand literacy services to persons with learning disabilities and facilitate a better understanding of this learning disorder and how to address it. As with the general definition of literacy, there is no national consensus on just what constitutes a learning disability. According to a 1987 study by the Federal Interagency Task Force on Learning Disabilities, 5 to 10 percent of the total population have learning disabilities. This means that as many as 12 to 24 million Americans have learning disabilities that hinder their ability to read. Experts estimate that those with learning disabilities are disproportionately represented among high school dropouts, the unemployed, the illiterate, and offenders.

If one thing is clear it is that the problem of illiteracy in this country is of disturbing proportions. It is equally clear that solutions to the problem have been ignored for far too long at the national level.

There is a growing consensus that the national effort to promote literacy and combat illiteracy has been too weak and that more substantial and comprehensive Federal leadership is needed. The goal of substantially reducing illiteracy by the year 2000 is now viewed as a significant, and necessary, step toward ensuring educational and economic opportunity for all Americans, and enhancing our Nation's economic competitiveness. In some respects, the Federal effort in this area has lagged behind State involvement. Some 38 States have implemented literacy initiatives and committed State resources to attack the problem.

As a nation, I believe that we must ensure that all those who need and want literacy services will receive them—without being subjected to waiting lists, inaccurate assessments, overcrowded classrooms, or inferior programs taught by poorly trained adult educators. The National Literacy Act of 1990 is intended to achieve these objectives.

Mr. President, I am pleased to note that the Literacy Act has received widespread support from most national literacy programs and from numerous State and local literacy programs across the country. A few of these organizations include: the Literacy Network, International Reading Association, Literacy Volunteers of America, United Way of America, ABC/PBS Project Literacy, the American Library Association, American Association of Community and Junior Colleges, American Vocational Association, Correctional Education Association, National Puerto Rican Forum, National Council of La Raza, Laubach Literacy Action, Association for Community Based Education, National Puerto Rican Coalition, American Jail Association, Coalition on Human Needs, Council of Chief State School Officers, Association of State Literacy Directors, National Council of State Directors of Adult Education, National Conference of State Legislatures, National Urban League, American Association for Adult and Continuing Education, State Directors of Vocational Education, OIC's of America, Alternative Schools Network, and the Council of Great City Schools.

Finally, Mr. President, I thank Patricia Fahy, who recently left my staff for an opportunity on the other side of Capitol Hill, for her years of dedication to this issue. Without her hard work and diligent efforts on the hearings and the legislation, the ideas would not

have been fully developed, and the agreement we are considering today would not have been reached.

I would also like to thank my colleagues who had agreed to cosponsor the National Literacy Act this year if we had needed to introduce it separately. I list them alphabetically: Senators ADAMS, AKAKA, BIDEN, BINGAMAN, BURDICK, COHEN, DODD, FOWLER, HARKIN, HATFIELD, HOLLINGS, JEFFORDS, KASSEBAUM, KENNEDY, KOHL, LEVIN, MIKULSKI, MITCHELL, PELL, REID, ROCKEFELLER, SARBANES, SHELBY, and WIRTH.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is considering today H.R. 751, the National Literacy Act of 1991. This measure was approved by the House of Representatives earlier this year.

This literacy legislation enjoys broad bipartisan support in both the House and the Senate. I have appreciated having the opportunity to work with Senators SIMON, PELL, and others in helping to shape this legislation. These provisions are based on agreements between the House and Senate which were reached last year as part of our negotiations on the Educational Excellence and Equity Act. Unfortunately, we were not able to take final action on this measure during the 101st Congress.

There is no doubt but that illiteracy is a serious problem in our Nation. We live in an increasingly complex society where both the quality of work and the quality of life are dependent upon comprehension of the written word. Yet, for far too many Americans, it is a daily struggle to read and understand bus schedules, application forms, notes from school, or safety instruction.

The literacy bill not only undertakes some important new initiatives but also attempts to use and coordinate more effectively the resources now available. It establishes a National Institute for Literacy, as well as State literacy resource centers, in an effort to offer central sources of information, research, and technical assistance, and to improve coordination of effort.

In addition, it strengthens and expands the teacher training and workplace literacy provisions of the Adult Education Act. Workplace literacy programs are further emphasized through the establishment of a national work force literacy assistance collaborative within the Department of Labor. Family literacy efforts are enhanced through modification of the Even Start Program, a program which brings together parents and their children to learn.

Other initiatives in the legislation include a family literacy public broadcasting program to permit the Corporation for Public Broadcasting to develop and distribute audio and video instructional materials. The bill also authorizes literacy challenge grants to permit public agencies and private organizations to operate or expand literacy programs which use full- or part-time volunteers.

Those who are involved in efforts to combat illiteracy must pool their efforts and ideas. Our capacity to develop effective programs must be strengthened through improved and expanded teacher training. Available pools of talent must be tapped from our businesses, our communities, and our homes.

These are the goals of the National Literacy Act, and I urge my colleagues to join in supporting it.

Mr. HATFIELD. Mr. President, I rise today in support of H.R. 751, the National Literacy Act of 1991. As an original cosponsor of last year's version of this legislation, I am particularly pleased that we are considering this legislation so early in the 102d Congress. Although the 101st Congress mobilized to respond to the massive problem of illiteracy in the United States, we ran out of time before a conference agreement could be reached.

One discouraging facet of the problem of illiteracy is the lack of hard data; estimates of its incidence range from 1 in 200 adults to 1 in every 2 adults in this country. Some of this disparity may be the result of different definitions of illiteracy, a problem in itself. There is, of course, a large difference between conventional illiteracy—not being able to read or write—and functional illiteracy—not being able to understand written instructions to accomplish specific tasks or functions.

Not only do we not know the magnitude of the problem, but even the estimates may be terribly skewed. Illiteracy is, in many cases, a hidden crisis. It embarrasses both its victims and our education systems. Illiteracy is a condition that many seemingly functional adults conceal as their secret shame.

Mr. President, I would like to highlight for my colleagues the work of just one private corporation in the battle against illiteracy. Coors Brewing Co. is conducting what may be the largest, most pervasive corporate program which directly addresses illiteracy in the country today. Last year, the company launched a $40 million, 5-year campaign with the goal of teaching half a million adults to read.

The Coors "Literacy: Pass It On" campaign provides annual grants of $250,000 to organizations such as the National Volunteer Literacy Campaign and Opportunities Industrialization Centers of America. The Coors Literacy Hotline, a nationwide toll-free number for use by both nonreaders and potential volunteers, received an amazing 31,272 calls in the year ending just last March, while the Coors Foundation for Family Literacy supports important literacy programs nationwide. In addition, using its wide network of distributors, the company stages concerts, benefits and special events to raise funds for local programs.

In my home State, Coors contributed more than $40,000 to the Oregon Literacy Council in 1990. This is a significant commitment in Oregon, where at least one in every five adults is thought to be functionally illiterate. Through its literacy program, this corporation provides a model of private sector initiatives and volunteerism for community improvement in my State and throughout the country.

The components of the National Literacy Act will encourage and enhance other efforts by public and private groups to eliminate illiteracy by the year 2000 by improving research, encouraging program development, and facilitating information dissemination.

The war against illiteracy is one I will always support; it is the battle to gain personal dignity, vocational opportunity, and—most importantly—hope.

PARENTS AS TEACHERS PROGRAM

Mr. BOND. Mr. President, I compliment my distinguished colleague from Illinois on his fine work on this bill, particularly on the Even Start Family Literacy Program.

I believe that this is the best section of the bill, as it is preventive in nature rather than reactive. Literacy is an intergenerational phenomenon, and it is within young families that we have the best chance of breaking the cycle.

My home State of Missouri has developed a wonderful literacy program that builds upon this concept, and one that I envision can make good use of Even Start Family Literacy Funding. The program equips parents with the skills they need to help maximize their child's health and development.

The curriculum is designed to strengthen the foundations of later learning—language and intellectual development, curiosity, and social skills—as well as to provide health screening for pre-school children to detect potential impairments early.

To achieve these goals, Parents as Teachers provides personalized home visits by trained parent educators, meetings with other new parents, and formal screening of vision and hearing.

Parents as Teachers is a proven success. Independent evaluations have shown that children participating in Parents as Teachers were significantly more advanced in language development than other 3-year-olds, had made greater strides in problem solving and other intellectual skills, and had demonstrated competencies that are predictive of and essential to later school achievement. In addition, Parents as Teachers may well prevent child abuse by teaching parents how to discipline without being abusive.

Mr. President, it is my hope that the Parents as Teachers Program in Missouri will be a model for other pro-

grams eventually funded under the Even Start Family Literacy Program. It makes sense to arrest the life-cycle of illiteracy in its early stages.

I ask my colleague whether or not he intends that States and public agencies currently operating Parents as Teachers and similar programs would be eligible to apply for funds under the Even Start Family Literacy Program. Effective programs now exist in many States. It is my hope that many of these entities will receive funds if and when they meet the other specifications in the legislation.

Mr. SIMON. While there are many effective Even Start Programs currently in operation, we also want to utilize the experience of those who are currently operating Parents as Teachers and similar programs to expand the benefits of these programs to families at risk for illiteracy. We have spent considerable time looking at the Parents as Teachers Program through development of this legislation and believe that it does have a positive impact on family literacy. It is our intent that all entities meeting the specific eligibility requirements under the Even Start Family Literacy Program, regardless of whether or not they are currently running similar programs, be eligible to apply for and receive funds under this title.

Mr. BOND. I thank the Senator.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill pass?

So the bill (H.R. 751), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

EXTENSION OF APPLICATION DEADLINE FOR SALVADORANS

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 2332, a bill to extend the application deadline for Salvadorans, just received from the House, be placed on calendar.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I object on behalf of our Republican colleagues.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, I understand the Senate has received from the House H.R. 2332, a bill to extend the application deadline for the Salvadorans. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 2332) to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

Mr. FORD. Mr. President, I ask for its second reading.

Mr. MURKOWSKI. Mr. President, on behalf of the Republican side, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

Mr. KENNEDY. Mr. President, late last year, after years of debate, Congress finally adopted temporary protected status for Salvadorans in the United States. This important provision, so ably championed by my colleagues Congressman JOE MOAKLEY and Senator DENNIS DECONCINI, was included within our Immigration Act of 1990.

Under the new program, Salvadorans were given 6 months to apply for this new temporary status. This 6 months expires this weekend on June 30.

Unfortunately, the first 5 months of the program were consumed by squabbles over appropriate fees for the program and regulations were not promulgated until May 22—with just 1 month left in the application period.

After years of civil war in El Salvador, and over 70,000 innocent civilians killed in the crossfire, it would be the ultimate tragedy if Congress did not permit a brief extension of the application period. We should be certain that every Salvadoran who needs the protection of this important new status must be given every opportunity to apply.

Mr. President, this is a modest step toward fairness, and an appropriate one, and I am pleased to join my colleagues to support of passage of this bill.

Mr. President, I ask unanimous consent that today's editorial in the New York Times in support of this measure be included in the RECORD.

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

[From the New York Times, June 26, 1991]

SALVADORANS, VICTIMS OF A GLITCH

Imagine someone from El Salvador who's living in the U.S. and is afraid to return home because of the civil war. Under a program approved by Congress last year, he would be granted safe haven and temporary work here in exchange for combined fees of $255.

Now imagine a Kuwaiti afraid to return home after the Persian Gulf war. He, too, could win safe haven and employment—but for a mere $50. Why the unequal treatment? An incredible glitch in the law. Amends are due the Salvadorans.

An overhaul of the immigration law last year established a process to protect foreigners trapped here because of civil strife or natural disaster at home. Under one section of the law, the Attorney General can grant temporary protected status to nationals of certain countries like Lebanon, Liberia and Kuwait. For a $50 fee, they're allowed to live and work in the United States for 6 to 18 months.

Another section of the law specifically singles out Salvadorans for protection, but makes no mention of a $50 fee; it merely authorizes the Immigration and Naturalization Service to charge a "reasonable" amount to cover program costs. The I.N.S., which says it's losing money on those who pay $50, is charging Salvadorans $75 to register, $60 for a work permit and $120 to renew the permit at six-month intervals. The $255 total has inhibited Salvadorans from registering.

With the registration deadline fast approaching, Congress isn't likely to reopen the entire law to change the fees. But the House is prepared to pass a new law extending the deadline in order to coax more Salvadorans to come forward. That's a small concession to fairness; the Senate and White House should go along.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the Republican Leader, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, his appointment of Rod DeArment, of Virginia, and Mary McAuliffe, of Virginia, as members of the Congressional Award Board.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86-380, appoints the Senator from Hawaii [Mr. AKAKA] to the Advisory Commission on Intergovernmental Relations, vice the Senator from Michigan [Mr. LEVIN], resigned.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BUMPERS. Mr. President, I will be very brief. This afternoon I spoke at length about the crime bill which, in my opinion, does not do an awful lot about crime, and about the amendment of the Senator from North Carolina which purports to be an antiquota bill

but which, in my opinion, goes much further and can create a lot of unintended mischief including, but not limited to, a tremendous intrusion into business decisions in this country. And if there is anything the business community does not need anymore of, it is the kind of intrusion that the amendment the Senator from North Carolina would mandate—not allow, but literally mandate.

But the real purpose was to add one thing which I forgot this afternoon. That is, the Senator from North Carolina described in graphic detail the so-called Daniel Lamp case out in Chicago where a lamp company had nothing but minorities. I do not know that much about the case, but I heard the Senator from North Carolina say that all the employees in the Daniel Lamp Co. were either black or Hispanic. The only nonminority persons in that company were the owner of the company and his father.

Now when that case first surfaced, to my knowledge it surfaced in an article by Mike Royko, who is a syndicated columnist with the Chicago Tribune. It used to be the Chicago Daily News, I guess. When that article first came out, we began to get mail in our office about it. And I must say when you read the Royko article, it literally made your blood boil to think that the EEOC was imposing a $148,000 fine on somebody who had nothing but minority employees.

Now I forget the mix of the employment, but as I recall the Senator from North Carolina said there were either 12 blacks and 8 Hispanics or 12 Hispanics and 8 blacks or somewhere in that vicinity, and they were fined $148,000.

Mr. President, my whole point is this. When we began to be inundated with mail from people who were incensed by the Royko article, we wrote to the Chicago EEOC for an explanation. They wrote back and said these records are confidential and we cannot tell you anything about this case. And I think they are right. I think that by law they are prohibited from sharing those records with me. I do not agree with that and I will talk about that in just a second. But my point is this, they leave me with the opportunity, because I did not see the records, of simply believing everything I read in the Mike Royko article and assuming that the Senator from North Carolina correctly portrayed the situation this afternoon.

I want to make this point. This administration has charge of the EEOC offices in this country. I can tell you that if I were President of the United States, based simply on the Royko article and not knowing any more about it than that, I would summarily fire everybody who had anything to do with that decision in that office regarding the Daniel Lamp Co.

Number two, I would see that the U.S. Treasury cut a check for $148,000 plus interest and refunded their money with a public apology.

Which brings me to this point: Maybe there is more to the Daniel Lamp Co. case than Mike Royko reported or 60 Minutes reported or any of the other people who deal in that kind of sensationalism reported. There may be more to it. Maybe these people are not as innocent as they seem. But on the face of it, that is exactly what I would do.

But I would not legislate on what I believe is a sort of unique, maybe not one case, but certainly a unique case. I would not legislate on the exception rather than the rule, which is what this body almost consistently always does.

You can always find some anecdotal evidence of somebody who got wronged in the system. If I were just guessing, I would say that perhaps at least once a week in this country some poor guy is convicted of a crime of which he is innocent. We do not scrap the whole criminal justice system because of that. We do the very best we can to make certain that innocent people are not convicted, and the system by and large works extremely well. I do not know of anybody that much wants to change the trial by your peers, the jury trial to sit in judgment on you. We do not scrap the system simply because a lot of guilty people have good, high-priced lawyers and go free.

I do not know who it was who said: "Better a thousand guilty men go free than one innocent man be convicted."

So we do not scrap that system simply because there is an occasional injustice of an innocent person being convicted, and we do not do it because of the much more common case of a guilty person going free. Therefore, we should not pass legislation here based on a columnist's story and a 60 Minutes story.

So, Mr. President, I am just simply saying if this case is egregious on the face of it, as it ought to be, even the President of the United States ought to publicly apologize to the Daniel Lamp Co. and send their money back with interest.

Finally, I am not at all sure, but I am going to check into whether or not it is really desirable to allow these EEOC offices to say, "We cannot share this information with you. These are private things." I understand some justification for that.

But when a United States Senator writes to the office and says, is this story true or false and what is going on here, and they write back and say, I am sorry we cannot share that with you, that is just like when the press asks a politician and he says, no comment. That means everything they have written is true.

When the EEOC says this is confidential, private information, we cannot share it with you, then the Mike Royko story and the 60 Minutes story becomes true. And if they do not want us to legislate on the exception rather than the rule, that information ought to be shared and, Mr. President, I intend to check into the possibility of amending the law to see that that information is not so confidential in the future just to avoid us making mistakes based on information we do not have.

Mr. President, 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. THURMOND. 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. THURMOND. Mr. President, I ask unanimous consent that an analysis of habeas corpus, and answers to questions submitted by California Attorney General Dan Lungren, be printed in the CONGRESSIONAL RECORD.

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

(DANIEL E. LUNGREN, ATTORNEY GENERAL OF CALIFORNIA)

REPORT ON DEATH PENALTY HABEAS CORPUS REFORMS

DEATH PENALTY HABEAS CORPUS REFORMS

Death penalty cases tend to focus the greatest public attention on federal habeas corpus. Although general habeas corpus reform is essential, the problems associated with capital litigation justify special legislation.* This Report and Analysis outlines particular areas of concern and discusses the proposals for dealing with them in S. 635 (Administration Bill) and S. 618 (or S. 1241) (the Biden Bills).* * * (Copies of the death penalty habeas corpus reform provisions of both bills are contained in the Appendices.)

Both bills contain an "opt in" feature which allows the states to accept the counsel requirements of the bill in exchange for expedited proceedings and strict limitations on successive petitions.[1] The usefulness of either bill, or any other similar proposal, in reducing the burden on the states and federal courts in reviewing state capital judgments thus depends upon the willingness of the states to accept the "opt in" requirements. If the provisions of the final legislation are too onerous or are substantially inconsistent with present state law, it is unlikely that California would accept them.

This report discusses the following central areas of death penalty habeas corpus reforms:

(A) Appointment of Counsel;
(B) Stays of Execution;
(C) Scope of Federal Review;
(D) Statute of Limitations;
(E) Limitation Period on Determining Petitions; and
(F) Certificates of Probable Cause to Appeal.

A. Appointment of counsel

1. Problem

Assuring that state criminal defendants have the assistance of competent counsel in reviewing a death judgment.

2. Current Law

Criminal defendants are constitutionally entitled to the effective assistance of counsel at trial and on direct appeal from their conviction. There is no federal constitutional right to counsel on state or federal collateral review and no constitutional right to the effective assistance of counsel on habeas corpus.[2]

California has adopted a unitary review procedure in capital cases. Counsel who handles the direct appeal of a death judgment is expected to prepare and file a habeas corpus petition in conjunction with the appeal.[3] Trial counsel does not handle the direct appeal or state habeas corpus proceedings. State prisoners challenging a death penalty judgment on federal habeas corpus have a statutory right to the appointment of counsel.[4] By rule of court, death row prisoners who file federal habeas corpus petitions in California are entitled to the appointment of counsel upon request. Preference is given to appointing the attorney who handled the state appeal and collateral proceedings.[5]

3. Proposals

a. S. 635 (Administration Bill)

Requires state rule of court or statute for appointment and compensating competent counsel in state post-conviction proceedings.[6]

Does not mandate particular standards or criteria which appointed counsel must satisfy.

Rule or statute must provide standards for competency of appointed counsel.

Counsel may not have represented defendant at state trial or direct appeal unless expressly requested by defendant.[7]

Authorizes state unitary procedure in which appeal and collateral review are handled in single proceeding by same attorney if rule of court or statute provides for appointment, compensation, and standards of competence for counsel.[8]

b. S. 618 (Biden Bill)

Requires state rule of court or statute for appointing and compensating competent counsel in capital cases.[9]

Applies to trials in which death penalty is sought and to appeals and collateral review of death judgments.[10]

Establishes minimum criteria based on experience and years of practice for capital counsel.[11]

Requires ex parte proceedings for appointment of investigators.[12]

Requires payment of reasonably necessary fees for counsel and investigators regardless of existing state compensation rates or limits.[13]

Counsel in collateral proceedings may not have represented defendant at trial or on appeal.[14]

No provision is made for unitary review procedures.

c. Common Provisions

Counsel must be appointed unless personally waived or defendant is not indigent.[15]

Ineffectiveness of counsel in state or federal collateral review will not justify reversal of state conviction or sentence.[16]

4. Analysis

S. 635 allows states to retain control over standards and compensation of capital counsel; S. 618 places arbitrary conditions on qualification of counsel.

California Supreme Court has promulgated effective standards on the appointment and compensation of counsel in capital appeals; their validity could be undercut by the provisions of S. 618.[17]

California's successful effort in state and federal courts to recruit civil attorneys to handle capital appeals and collateral review would be substantially undermined by S. 618.[18]

S. 618 arbitrarily focuses on years of practice but ignores local conditions and other grounds of counsel qualification.

S. 618 interferes with local and state control over appropriate compensation.

S. 618 could jeopardize capital judgments based solely on experience or compensation of counsel without considering the actual representation.

S. 618 establishes a cumbersome, mandatory procedure of trial and appellate court review whenever a death row prisoner rejects the appointment of counsel for state collateral proceedings.[19]

Neither bill indicates whether the state rule or statute on appointment of counsel is subject to review in federal court.

States could face endless and repetitive rounds of litigation on the adequacy of their standards.

S. 618 effectively eliminates California's unitary system of review in capital cases.

California could be required to recruit additional attorneys to relitigate state collateral issues already handled by appellate counsel.

There is no reason to prohibit counsel on appeal from handling state collateral review if that attorney did not try the case.

There is no justification for requiring ex parte proceedings on appointment of investigators on collateral review as provided in S. 618.

California allows confidential requests for investigative assistance at trial by statute and in state habeas corpus by supreme court standards.[20]

Discovery is limited in federal habeas corpus and should be justified on the record and subject to objection by the state.[21]

As a result of ex parte proceedings federal district court would have limited information about history of case and could authorize investigator for issues that are procedurally barred.

Both bills properly preclude reversal of a state judgment based on the effectiveness of counsel on collateral review.

5. Modifications and Recommendations

Adopt provisions of the Administration Bill in S. 635.

Support reform provisions which include the unitary review procedures, such as S. 635.

Reject S. 618 or any other proposal for explicit nationwide standards defining the qualifications of counsel.

Reject S. 618 or any other proposal which establishes explicit nationwide standards for trial counsel in state capital cases; the appointment of counsel mechanism should be limited to the state post-conviction process.

Establish mechanism for reviewing state rule or statute on appointment of collateral review counsel.

Preclude challenge to standards in habeas corpus attack on a state capital judgment.

Establish process for certifying state rule or statute through Administrative Office of the Courts or state bars.

Prohibit federal judicial review of certification or alternatively prohibit more than one such challenge.

B. Stays of Execution

1. Problem

Providing stays of execution so that death row prisoners can seek a petition for writ of habeas corpus in federal court, while limiting the use of stays when such prisoners initiate successive federal litigation.

2. Current Law

a. Initial Review

Practice on the setting of execution dates and showing necessary to justify a stay varies from state to state. In some cases the setting of a date is the only means of motivating the prisoner or his counsel to initiate challenges to the judgment. Where the prisoner is not represented by counsel, or where new counsel has recently been appointed, there may be limited time in which to prepare and file a habeas corpus petition. Substantial energy may be consumed in litigating the issuance of the stay.

By rule of court, the federal district courts in California automatically issue a stay of execution upon the filing of a first petition for writ of habeas corpus in a death penalty case, or upon the filing of a request for appointment of counsel to prepare such a petition. When available and willing to serve, the attorney who represented the prisoner on state appeal and collateral review will be appointed to handle the federal habeas corpus petition.[22]

b. Successive Petitions

When a prisoner has had one full round of federal habeas corpus review, stays of execution become a means for interminably and often needlessly preventing the state from executing its judgment. Although the United States Supreme Court has admonished federal courts to expedite their review of stay requests on successive petitions,[23] there is no uniformity in practice and lengthy delays can often occur.

If a prisoner attempts to raise a new claim in a successive petition, a recent United States Supreme Court decision requires the prisoner to show "cause" for not having raised the issue earlier and "prejudice" from refusal to consider the claim. If he cannot meet the cause and prejudice test, he may nevertheless be entitled to a hearing if he can make a colorable showing a factual innocence, thus implicating a fundamental miscarriage of justice.[24]

No specific rules govern stays to consider subsequent petitions in the district courts. By rule of court, the Ninth Circuit Court of Appeals authorizes a single circuit judge to issue a stay on a successive petition.[25] That authority was invoked in 1990 by a circuit judge to stay the execution of Robert Harris in conjunction with Harris' appeal of his third federal habeas corpus petition.[26]

3. Proposals

a. Common Provisions

Authorizes a federal district court to stay the scheduled execution of a state death row inmate upon request after the entry of an order appointing state collateral review counsel.[27]

Stay expires if prisoner fails to file petition in a timely manner, the petition is denied, or prisoner personally waives federal habeas corpus.[28]

b. S. 635 (Administration Bill)

In states with unitary review procedures the stay is authorized upon request after the entry of an order appointing counsel to handle the unitary review.[29]

After stay expires, no federal court may grant another stay unless each of the following conditions are met:

Prisoner raises a new claim;

Prisoner was justified in not raising the claim earlier (i.e., "cause" is shown); and

The claim, if true, would undermine confidence in the conviction.[30]

c. S. 618 (Biden Bill)

After a stay expires, no federal court may grant another stay unless prisoner makes any one of the following showings:

Prisoner raises a new claim;

Prisoner was justified in not raising the claim earlier (i.e., "cause" is shown); or

The claim, if true, would undermine confidence in the conviction; or

Stay is necessary to prevent miscarriage of justice.[31]

4. Analysis

Bills authorize a federal court to stay a state court execution of judgment before habeas corpus jurisdiction is established.

Neither bill specifically indicates when counsel should be appointed in federal court.

S. 618 contains no provision for states with unitary review procedures.

Miscarriage of justice exception for successive stays in S. 618 is undefined and potentially too broad because not tied to a showing of factual innocence.[32]

5. Modifications and Recommendations

Amend S. 635 to provide that counsel appointed to conduct state collateral or unitary review should also handle federal habeas corpus upon completion of state proceedings.

Amend S. 635 to specify that successive stays may be granted only if the request is accompanied by a petition for writ of habeas corpus which satisfies the requirements of the bill.

As amended adopt the Administration Bill, S. 635.

C. Scope of Federal Review

1. Problem

Defining the record upon which to base federal habeas corpus review, the circumstances under which additional evidence may be developed, and limits on federal review.

2. Current Law

a. Standard of Review

State court factual findings are entitled to a presumption of correctness unless the petitioner did not receive a full and fair hearing in the state courts. An evidentiary hearing may be ordered when there were no state proceedings or the state hearing was incomplete or inadequate and additional facts are necessary to fully review the alleged federal constitutional violations.[33] Except in its review of Fourth Amendment claims,[34] the federal court is not precluded from deciding issues that were fully and fairly litigated in the state courts.

Where claims are barred in state courts because of state procedural rules, the petitioner must show "cause" for the default and "prejudice" before a federal court may review it on habeas corpus.[35] An exception is made if the petitioner demonstrates a fundamental miscarriage of justice or makes a showing of factual innocence.[36]

b. Application of New Rules

A federal court reviewing a state criminal conviction on habeas corpus may not apply or announce new rules, as the United States Supreme Court held in *Teague v. Lane*.[37] A rule is new if it (a) was not dictated by precedent or (b) was susceptible to debate among reasonable minds.[38] The *Teague* rule was applied to bar claims raised in Robert Alton Harris' successive federal court attack upon his death judgment.[39] Absent that holding, California could be required to defend its judgment on the basis of rules neither in existence nor contemplated by law in effect at the time of Harris' trial and direct appeal.

3. Proposals

a. S. 635 (Administration Bill)

Federal court may not consider a new issue which was not raised and litigated in state court unless ("cause" is shown):

(1) state unlawfully prevented prisoner from raising issue;

(2) it is based on new retroactive right; or

(3) it is based on facts which the prisoner could not have reasonably discovered earlier.[40]

Federal court shall conduct evidentiary hearing necessary to complete the record.[41]

State court factual findings are presumed correct if based on a full and fair determination; prisoner has the burden of rebutting this presumption.[42]

Federal court may not grant relief on any claim that was fully and fairly adjudicated in state courts.[43]

b. S. 618 (Biden Bill)

Federal court shall conduct evidentiary hearing necessary to complete the record.[44]

Federal court shall consider otherwise barred claim:

(1) if failure to raise was due to ignorance or neglect of prisoner or counsel; or

(2) if failure to consider would result in miscarriage of justice.[45]

Federal court may refuse to consider claim which is barred under state law.[46]

Federal court may apply new rule based on purpose of rule, extent of reliance on prior law, and effect on administration of justice of applying new rule.[47]

A rule is new if it is a sharp break from United States Supreme Court precedent, but is not new because susceptible to debate among reasonable minds.[48]

4. Analysis

S. 618 is too lenient in excusing a state procedural bar based on ignorance or neglect of prisoner or counsel:

Based on subjective behavior of prisoner or counsel;

Encourages sandbagging of state courts;

Is inconsistent with recent United States Supreme Court decisioins;[49]

Punishes state because prisoner and attorney lack creativity.

S. 618 provides a miscarriage of justice exception for defaulted claims that is undefined and too open ended.

S. 618 overrules *Teague* v. *Lane* and other decisions prohibiting creation or use of new rules on habeas corpus and is inconsistent with concern for finality in state criminal cases.

In S. 635 the full and fair adjudication standard for state court factual and legal determinations best accommodates federalism concerns and allows federal habeas review where a federal court concludes that a constitutionally adequate process was not provided at the state level.

Hearing is full and fair for purposes of legal or factual issues only if decision is on merits, adjudication of facts and law is reasonable, adjudication is consistent with Federal procedural requirements, admissible new evidence does not undercut the state findings, and are no retroactive changes in federal law.[50]

5. Modifications and Recommendations

Amend S. 635 to clarify expressly full and fair adjudication standard for state court determinations. (see more extensive discussion in report on general habeas corpus reform porposals).

As amended adopt S. 635.

Reject any limitation on the recognition of state procedural bars.

Reject any effort to modify or overrule *Teague* v. *Lane*.

D. Statute of Limitations

1. Problem

Controlling delay in the filing of the petition for writ of habeas corpus in federal court.

2. Current Law

There are no express time limits on the filing of a federal habeas corpus petition. Prisoners will often wait until an execution date is set before seeking further review of a death penalty judgment.

3. Proposals

a. S. 635 (Administration Bill)

Petition for habeas corpus must be filed in district court within 180 days after an appointment of counsel order is entered by the state court with up to 60 days extension upon a "good cause" showing.[51]

In state with unitary review, petition must be filed with 180 days after an appointment of counsel order is entered by the state court.[52]

Time limit is tolled under the following conditions:

From date petition for certiorari following direct appeal is filed until petition is resolved.

From proper filing of petition for state collateral review until petition is resolved by state's highest court, but not including petition for certiorari from denial of state collateral remedies.

In unitary review state until transcript of trial is made available to counsel appointed to handle the appeal and collateral review.[53]

b. S. 618 (Biden Bill)

Petition must be filed in district court within 365 days after an appointment of counsel order is entered by the state court with up to 90 days extension upon a "good cause" showing.[54]

Time limit is tolled under the following conditions:

From date petition for certiorari following direct appeal is filed until petition is resolved.

From proper filing of petition for state collateral review until petition is resolved by state's highest court, including petition for certiorari from denial of state collateral remedies.

No provision is made for states with unitary review procedures.

4. Analysis

Under either proposal, the timing of the federal stay will depend upon when the state court first sets an execution date and when a stay is entered by the district court.

Where the same attorney handles state and federal collateral review, one year to file a federal habeas corpus petition is too long.

Six months may also be too long in many cases where there is no change in counsel.

Neither proposal allows tolling based on change of counsel in federal court.

S. 618 is inconsistent with California's unitary review procedure.

S. 618 provides an additional unnecessary delay while the prisoner seeks certiorari on denial of state collateral relief.[55]

Neither proposal precludes a prisoner from relying upon the counsel appointment provisions to obtain a federal court stay and then challenging the adequacy of the state's compliance with the counsel requirements; once the state appointment of counsel mechanism is determined to be adequate, it should not be the subject of relitigation in every case.

5. Modifications and Recommendations

Amend S. 635 to provide that petition must be filed within 90 days with allowance of an additional 90 days upon showing of "good cause."

Where new counsel is appointed in federal court, amend S. 635 to allow 180 days for filing of petition with allowance of additional 60 days upon showing of "good cause" and a written order by the district court explicating the finding of good cause.

Amend S. 635 to prohibit a prisoner who obtains a federal court stay based upon the appointment of state collateral or unitary re-

view counsel from challenging the adequacy of the state's counsel appointment procedures (once the state's procedures have been judicially determined to be adequate).

As amended adopt S. 635.

E. Limitation Period on Determining Petition

1. Problem

Limiting the length of time taken by the federal courts to determine habeas corpus petitions.

2. Current Law

There are no limits on the time a court may take to decide a habeas corpus petition, nor are such cases given any priority. Thus, a petition may linger for months, if not years, in the district court; additionally, lengthy delays between briefing and argument, and between argument and decision are not uncommon in the Ninth Circuit, particularly in capital cases. Equally egregious are the delays between a panel decision and grant or denial of a rehearing petition.[56] Although there are no limits on the time for the Supreme Court to grant or deny a petition for writ of certiorari, delays at that level are minimal.

3. Proposals

a. S. 635 (Administration Bill)

Requires federal district courts and courts of appeal to give priority to death penalty habeas corpus petitions.[57]

Establishes the following time limits:

180 days from filing of petition for district court to decide case.

180 days from filing of record for court of appeals to decide appeal.

180 days from grant of rehearing en banc to issue en banc decision.[58]

Time limits apply to first and all successive petitions and to any proceedings on remand from court of appeal or supreme court.[59]

Time limits will not justify stay to which prisoner is not otherwise entitled.[60]

Failure to meet time limits will not justify relief from state judgment.[61]

State may enforce time limits by writ of mandamus to court of appeal or supreme court.[62]

b. S. 618 (Biden Bill)

Contains no time limit provisions.

4. Analysis

Contains no time limit on court of appeals decision whether to grant rehearing en banc.

Strict limits on resolving appeal support adoption of issue-specific CPC.

Enforcement by writ of mandamus should be strengthened.

5. Modifications and Recommendations

Amend S. 635 to provide that petition for rehearing or suggestion for en banc must be granted or denied within 30 days after filing of petition; after 30 days petition will be denied as a matter of law.

Amend S. 635 to require district judges and court of appeal judges to certify every 30 days that no capital case exceeds the statutory time limits.

As amended adopt S. 635.

F. Certificates of Probable Cause to Appeal

1. Problem

Limiting the number and scope of appeals from denial of petitions for habeas corpus to those which are truly meritorious.

2. Current Law

If a petition for writ of habeas corpus is denied, the prisoner must obtain a certificate of probable cause to appeal [CPC] from the district court judge. If the certificate is denied, a court of appeals judge may grant it.[63] The court of appeals may not vacate an order granting a certificate.[64] The CPC authorizes a general appeal; it may not be limited with respect to the issues requiring further review.[65]

3. Proposals

Both proposals contain the following provisions:

Eliminates the CPC requirement for appeal of a first habeas corpus petition in a death penalty case.[66]

CPC still required for a successive petition.[67]

4. Analysis

Requires court of appeals to hear all issues raised and rejected in district court.

Eliminates a procedure which, if used properly, can screen and limit the scope of habeas corpus appeals to those issues which merit review.

5. Modifications and Recommendations

Amend S. 635 in either of the following ways:

Authorize circuit judge to issue CPC limited to specific issues; or

Authorize district judge to issue CPC limited to specific issues; circuit judge may overrule denial of CPC only on showing of abuse of discretion with statement of reasons.

As amended adopt S. 635.

FOOTNOTES:

**See* Report on General Habeas Corpus Reforms for a discussion of pending reform proposals in non-capital cases.

**On June 6, 1991, Senator Biden introduced a new omnibus crime package: S. 1241. The death penalty habeas corpus reform provisions contained in S. 618 and S. 1241 are identical. Because a final copy of S. 1241 was unobtainable at the time of printing, references to S. 618 are maintained in this Report.

1. *See* S. 635, 102d Cong., 1st Sess. §211 (proposed §2256); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256).

2. *See Murray* v. *Giarrantano*, _____ U.S. _____, 109 S.Ct. 2765, 2770 (1989); *Pennsylvania* v. *Finley*, 481 U.S. 551, 555 (1987); *Wainwright* v. *Torna*, 455 U.S. 586, 587–88 (1982).

3. Supreme Court Policies Regarding Cases Arising From Judgments of Death, Policy 3, *California Rules of Court, State* 815–816 (West 1991) [hereinafter Supreme Court Policies].

4. 21 U.S.C. §848 (q)(4)(B).

5. Rules, United States District Court (Eastern District of California), Rule 191(d)(1), *California Rules of Court, Federal* 95 (West 1991); Rules, United States District Court (Northern District of California), Rule 296–4(a), *Id.* at 231; Rules, United States District Court (Central District of California), Rule 26.8.4(a)(iii), *Id.* at 346; Rules, United States District Court (Southern District of California), Rule 295–2(d)(1), *Id.* at 557.

6. S. 635, 102d Cong., 1st Sess. §211 (proposed §2256(b)).

7. *Id.* (proposed §2256(d)).

8. *Id.* (proposed §2261).

9. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256(b)).

10. *Id.* (proposed §2261(a)).

11. *Id.* (proposed §2261(b)).

12. *Id.* (proposed §2261(c)).

13. *Id.* (proposed §2261(d)).

14. *Id.* (proposed §2256(d)).

15. S. 635, 102d Cong., 1st Sess. §211 (proposed §2256(e)); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256(c)).

16. S. 635, 102d Cong., 1st Sess. §211 (proposed §2256(e)); S. 618, 102 Cong., 1st Sess. §1002 (proposed §2256(e)).

17. *See* Supreme Court Policies, *supra*; California Rules of Court, rule 76.5, *California Rules of Court, State* 55 (West 1991); Standards of Judicial Administration Recommended by the Judicial Council, §20, *Id*, at 715.

18. For more on California's procedure for recruiting counsel in capital cases, *see* Millman, *Financing The Right To Counsel in Capital Cases*, 19 Loyola L.A. L.Rev. 383 (1985); Sowards, *And Now For Something Completely Different: Handling a Death Penalty Appeal*, California Litigation 12 (Spring 1989).

19. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256(c)(2)).

20. *See* Cal. Penal Code §987.9.

21. *See e.g., McKinney* v. *Paskett*, 735 F. Supp. 861 (D. Idaho 1990).

22. Rules, United States District Court (Eastern District of California), Rule 191(d)(1), Rule 191(h) *California Rules of Court, Federal*, 95–96 (West 1991); Rules, United States District Court (Northern District of California), Rule 296–4(a), Rule 296–8 *Id.* at 231–32; Rules, United States District Court (Central District of California), Rule 26.8.4(a)(iii), Rule 26.8.7 *Id.* at 346–47; Rules, United States District Court (Southern District of California), Rule 295–2(d)(1), Rule 295–2(h) *Id.* at 557–58.

23. *Barefoot* v. *Estelle*, 463 U.S. 880 (1983); *Delo* v. *Stokes*, _____ U.S. _____, 110 S.Ct. 1880 (1990); *Demosthenes* v. *Baal*, _____ U.S. _____, 110 S.Ct. 2223 (1990).

24. *McClesky* v. *Zant*, 111 S.Ct. 1454 (1991).

25. General Orders, United States Court of Appeals for the Ninth Circuit, General Order 6.3(e).

26. *Harris* v. *Vasquez*, 910 F.2d 724 (9th Cir. 1990) Noonan, J.).

27. S. 635, 102d Cong., 1st Sess. §211 (proposed §2257(a)); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2257(a)).

28. S. 635, 102d Cong., 1st Sess. §211 (proposed §2257(b)); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2257(b)).

29. S. 635, 102d Cong., 1st Sess. §211 (proposed §2261(c)).

30. *Id.* (proposed §2257(c)).

31. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2257(c)).

32. *Comapre McCleskey* v. *Zant*, 111 S. 1454 (1991).

33. 28 U.S.C. §2254(d).

34. *See Stone* v. *Powell*, 248 U.S. 465 (1976).

35. *Wainwright* v. *Sykes*, 433 U.S. 72 (1977).

36. *Murray* v. *Carrier*, 477 U.S. 478 (1986).

37. *Teague* v. *Lane*, 489 U.S. 288 (1989).

38. *Butler* v. *McKellar*, _____ U.S._____, 110 S.Ct. 1212, 1217–1218 (1990).

39. *Harris* v. *Vasquez*, 913 F.2d 606, 621–625 (9th Cir. 1990).

40. S. 635, 102d Cong., 1st Sess. §211 (proposed §2259(a)(1)).

41. *Id.* (proposed §2259(a)(2)).

42. *Id.* (proposed §2259(a)(1)).

43. *Id.* (proposed §2259(b).

44. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2259(a)(2)).

45. *Id.* (proposed §2259(b)(2)).

46. *Id.* (proposed §2259(b)(1)).

47. S. 618, 102d Cong., 1st Sess. §1003 (proposed §2255A).

48. *Id.* (proposed §2255A(c)).

49. *See Murray* v. *Carrier*, 477 U.S. 478, 488 (1986).

50. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 24–28 (1983).

51. S. 635, 102d Cong., 1st Sess. §211 (proposed §2258).

52. *Id.* (proposed §2261).

53. *Id.*

54. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2258).

55. *Id.* (proposed §2258).

56. *See, e.g., Harris* v. *Pulley*, 885 F.2d 1354 (9th Cir. 1988) (case argued November 5, 1986; submitted June 29, 1988; decided July 8, 1988; rehearing and rehearing en banc denied September 28, 1989).

57. S. 635, 102d Cong., 1st Sess. §211 (proposed §2262(a)).

58. *Id.*

59. *Id.* (proposed §2262(b)).

60. *Id.* (proposed §2262(c)).

61. *Id.* (proposed §2262(d)).

62. *Id.*

63. 28 U.S.C. §2253.

64. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 18–19.

65. *See, e.g., Van Pilon* v. *Reed*, 799 F.2d 1332, 1335 (9th Cir. 1986); *contra Vicaretti* v. *Henderson*, 645 F.2d 100, 101 (2d Cir. 1980).

66. S. 635, 102d Cong., 1st Sess. §211 (proposed §2260); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2260).

67. *Id.*

APPENDIX I

(S. 635, Title II(B), Death Penalty Litigation Procedures)

(President Bush Proposals)

S. 635

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Violent Crime Control Act of 1991".

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

TITLE II—HABEAS CORPUS

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title for subtitle A.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment to rules of appellate procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 210. Short title for subtitle B.
Sec. 211. Death penalty litigation procedures.

TITLE X—EQUAL JUSTICE ACT

Sec. 1001. Short title.
Sec. 1002. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 1003. General safeguards against racial prejudice or bias in the tribunal.
Sec. 1004. Federal capital cases.
Sec. 1005. Funding objective.
Sec. 1006. Extension of protection of civil rights statutes.

Subtitle B—Death Penalty Litigation Procedures

SEC. 210. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991."

SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws

of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within one hundred and eighty days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within one hundred and eighty days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within one hundred and eighty days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) the failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"§ 2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

APPENDIX II

(S. 618, Title X, Habeas Corpus Reform Act)

(Senator Biden Bill)

S. 618

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE II—DEATH PENALTY
Sec. 207. Racial Justice Act of 1991.
TITLE X—HABEAS CORPUS REFORM ACT
Sec. 1001. Short title.
Sec. 1002. Special habeas corpus procedures in capital cases.
Sec. 1003. Law controlling in Federal habeas corpus proceedings.

TITLE X—HABEAS CORPUS REFORM ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1002. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

Part VI of title 28 of the United States Code is amended by inserting following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Counsel in capital cases; trial and post-conviction; standards.
"2262. Law controlling in Federal habeas corpus proceedings; retroactivity.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2261 of this title.

"(c)(1) Upon receipt of notice that counsel has been appointed to represent a prisoner under sentence of death after the prisoner's conviction and sentence have been upheld on direct review in a State court of last resort or in the Supreme Court of the United States if application is made to that court, the State court of last resort shall enter an order confirming the appointment and shall direct its clerk to forward the record of the case to the attorney appointed.

"(2) Upon receipt of notice that counsel has been offered to, but declined by, a prisoner described in paragraph (1), the State court of last resort shall direct an appropriate court or judge to hold a hearing, at which the prisoner and the attorney offered to the prisoner shall be present, to determine whether the prisoner is competent to decide whether to accept or reject the appointment of counsel and whether, if competent, the prisoner knowingly and intelligently waives the appointment of counsel. The court or judge shall report its determinations to the State court of last resort, which shall review the determinations for error. If the State court of last resort concludes that the prisoner is incompetent and does not waive counsel, the court shall enter an order confirming the appointment of the attorney assigned to the prisoner by the appointing authority and shall direct the clerk to forward the record to the attorney appointed. If the court concludes that the prisoner is competent and waives counsel, the court shall enter an order that counsel need not be appointed and shall direct the clerk to forward the record to the prisoner.

"(3) Nothing in this section requires the appointment of counsel to a prisoner who is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner in State collateral proceedings shall have previously represented the prisoner at

trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the State court of last resort of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in the State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence;

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed; or

"(3) a stay and consideration of the requested relief are necessary to prevent a miscarriage of justice.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction and if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

Upon the development of a complete evidentiary record under this subsection, the district court shall rule on the merits of the claims properly before it.

"(b)(1) Except as provided in paragraph (2), a district court may refuse to consider a claim under this section if—

"(A) the prisoner previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused or would refuse to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the United States Supreme Court.

"(2) A district court shall consider a claim under this section if the prisoner shows that the failure to raise the claim in a State court was due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Counsel in capital cases; trial and post-conviction; standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2256(b) of this title shall provide for counsel to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

SEC. 1003. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

RESPONSE OF CALIFORNIA ATTORNEY GENERAL DANIEL E. LUNGREN TO QUESTIONS SUBMITTED BY SENATOR STROM THURMOND

Question 1. Mr. Attorney General, in your prepared statement you note that any reform undertaken by Congress will be incomplete unless it requires that federal courts defer to full and fair adjudications by State courts. How do you respond to those who claim that the "full and fair" standard of deference to state decisions will amount to a complete bar to federal habeas corpus review?

Answer. I would begin by emphasizing that federal habeas corpus should not be viewed as equivalent to an appeal from an inferior court. Rather, it is a limited collateral attack on a presumptively correct and final state court judgment.[1] Federal habeas is not designed to substitute for direct appeal in the state courts nor the original direct appeal in federal court; rather, it simply ensures that "state convictions comport with the *federal* law that was established at the time the petitioner's conviction became final."[2] A full and fair adjudication test, such as is proposed in S. 635, is consistent with this view of federal habeas corpus jurisdiction.

Significantly, the full and fair adjudication provision would not foreclose federal habeas review. Under this standard of review, a federal court could consider a post-conviction claim where constitutionally inadequate processes were employed, as well as the case in which the state court relied upon an unreasonable interpretation of applicable federal law.[3] The standard conserves judicial resources for these types of questions and, at the same time, respects reasonable state court rulings. We must also not overlook the fact that under our dual form of government, state and federal courts are equally bound to protect rights secured by the federal constitution, and federal courts ought to give full weight to the conclusion of a court of the last resort of another jurisdiction on federal constitutional issues, as is the usual federal practice on other matters.

Finally, it should be remembered the "full and fair" standard is not new. Deference by federal habeas courts to full and fair adjudications of federal constitutional questions by state courts had been the law in the United States, as set forth in *Ex Parte Hawk*, 321 U.S. 114, 118 (1944). For these reasons, it is one of the most important and needed reforms which the Congress should adopt.

Question 2. In your prepared statement, you discuss the Robert Alton Harris case. Harris has been on death row for twelve years. Please discuss the claims which Harris has raised in his most recent Federal petition and whether similar claims could be brought on successive petitions under the Biden proposal.

Answer. In his third federal habeas corpus petition, filed in March of 1990, Robert Alton Harris alleged he was entitled to relief for the following reasons:

(1) He was not provided with competent psychiatric assistance;

(2) He was denied his right to effective assistance of counsel;

(3) Newly discovered evidence of brain damage and mental disorders require a new penalty trial;

(4) The prosecution's psychiatric expert gave "false" testimony in the form of his opinion that Harris was an "antisocial personality" or "sociopathic or psychopathic personality";

(5) The state trial court erred in ruling on Harris' motion to modify the sentence of death; and

(6) The State utilized a government agent to interrogate Harris after his right to counsel attached.

An evidentiary hearing on the government agent claim was recently held in United States District Court pursuant to an order of the U.S. Court of Appeals for the Ninth Circuit. The District Court reported to the Ninth Circuit that the claim was "false in every particular" and was based on the testimony of a witness about whom the District Court stated, "I am convinced beyond a reasonable doubt—though I know that is not the burden or the issue here—and to a moral certainty, that Mr. Abshire (the alleged agent) has lied and lied repeatedly in this court, in this most serious case."

To specifically respond to your quesion, S. 618 would permit successive petitions on federal habeas corpus and allow the entering of stays of execution upon the showing of any one of the following circumstances:

(1) upon a showing of "cause"; or

(2) a factual showing which undermines the federal court's confidence in the State jury's determination of guilt; or

(3) to prevent a miscarriage of justice.[4]

My department has concluded that these provisions would permit the proliferation of successive petitions like Robert Alton Harris's third petition.

Currently, as the United States Supreme Court held in *McCleskey* v. *Zant*, 111 S.Ct. 1454, 113 L.Ed.2d 517 (1991), a successive petition filed by a state prisoner constitutes an abuse of the writ if the claim[s] could have been raised in the earlier petition with due diligence. An otherwise abusive petition would be excused only where there is a showing of "cause" (an external barrier to raising the claim) and "actual prejudice". A second excuse applies if the petitioner demonstrates "factual innocence."

Current law requires "cause" and "actual prejudice" in the conjunction, or factual innocence, thus limiting successive petitions to only those which are truly deserving of review. S. 618 presents its exceptions in the disjunctive, thus providing a much greater likelihood that petitioners would be allowed to litigate successive petitions. Further, its exceptions are far more expansive than current law.

S. 618 allows successive petitions where a petitioner's failure to raise an issue is "the result of State action in violation of the Constitution or laws of the United States."[5] In his third petition Harris claimed State action prevented him from raising his government agent claim in a prior petition. In the May 1991 evidentiary hearing, the district court, applying *McCleskey*, rejected this claim as an abuse of the writ (in addition to finding it false on the merits) holding it did not warrant a hearing on the abuse of the writ issue because the petitioner could not show "cause" and "prejudice." The Supreme Court reached the same conclusion in *McCleskey*. However, because S. 618 is drafted in the disjunctive, the petitioner would simply need to show the failure to raise the issue was the result of State action. No more need be shown.

Another exception under S. 618 which opens the door to successive petitions is in the context of the Supreme Court recognition of a new Federal right that would otherwise be barred from retroactive application.[6] Inasmuch as S. 618, proposed §2255A redefines "new rules" in an exceedingly narrow manner and consequently undermines the restrictive retroactivity analysis of *Teague* v. *Lane*, 489 U.S. 288 (1989), this excuse also opens the door to successive petitions. In Harris's third petition, he claimed he was entitled to retroactive application of a "new rule" regarding psychiatric assistance. The argument was rejected under the current state of the law.

Lastly, S. 618 contains a "catchall provision" to allow a stay and litigation of a claim to prevent "a miscarriage of justice."[7] "Miscarriage of justice" is not defined in S. 618. The phrase is extremely vague and open-ended. Harris's attorneys argued in connection with each of the claims in the third petition that the claimed violation of constitutional rights constituted prejudicial error or a miscarriage of justice. Absent a narrow definition of that phrase, one can expect that provision to be the source of unlimited federal habeas review. This is particularly possible if the Congress adopts the "miscarriage of justice" standard used in S. 618 in light of and after the narrow "miscarriage of justice" standard used in *McCleskey*, which was employed as a colorable showing of factual innocence. Consequently, adoption of the Biden formulation against the background of the *McCleskey* rule, could suggest to a federal court that Congress intended a "miscarriage of justice" standard which was far broader than that applied in *McCleskey*.

Question 3. It is clear that you are troubled with the Biden proposal. It appears the bill would reverse Supreme Court precedent by abandoning the cause and prejudice standard of *Wainwright* v. *Sykes* for review of procedural default claims. This standard would be changed despite the fact that qualified counsel would be appointed under these proposals. Such a change in law would result in there being no bar to litigating any claim on the merits in Federal court at any time. Please discuss the long term effect of this amendment and whether the States would suffer as a result of it.

Answer. The first long term net effect to states with capital punishment statutes would probably be a continuation of the status quo, since it is unlikely that California, or any other state, would opt into a system which allowed substantial federal supervision of the state provisions for appointment of counsel, while providing a less effective system of habeas corpus review than presently exists. Moreover, S. 618 does not contain general habeas corpus reform, thus

[1] *Barefoot* v. *Estelle*, 463 U.S. 880, 887 (1983).

[2] *Sawyer* v. *Smith*, 110 S.Ct. 2822, 2830, 111 L.Ed.2d 193, 206 (1990) (emphasis in original).

[3] See S. Rep. No. 226, 98th Cong., 1st Sess. 25–27 (1983).

[4] S. 618, proposed §2257(c).

[5] S. 618, proposed §2257(c)(1)(A).

[6] S. 618, proposed §2257(c)(1)(B).

[7] S. 618, proposed §2257(c)(3).

denying all states the benefits of your bill, S. 635.

For those states which might nonetheless opt into the proposal under S. 618, a second long term effect of abolishing the procedural default rule of *Wainwright* is that states will have less reason for observing their own procedureal default rules. States will be litigating "new" claims in federal court years after the state trial. This would likely result in more retrials and probably more acquittals since retrials years later often put the prosecution at an extreme disadvantage. Defense counsel will have no incentive to raise their claims in state court in a timely manner.

Implicit in your question is the importance and value of the procedural default rule in *Wainwright*. No better explanation for the rule has been written than that of Chief Justice Rehnquist's in *Wainwright*. There, Chief Justice Rehnquist explained that state objection rules serve multiple practical purposes:

(1) They ensure that records are made with respect to claims when memories are freshest, not years later in a federal habeas hearing;

(2) they bring potential error to light at the earliest opportunity, thus allowing the error to be corrected and, if the objection is successful or potentially meritorious, force any early conclusion of the proceedings in the defendants' favor;

(3) they require defendants to raise their objections in a timely manner and prevent "sandbagging" in which defendants take their chances on an acquittal while preserving a reversible error for appeal; and

(4) they focus on the state trial court as the "main event" in a criminal proceeding.

Abandoning the *Wainwright* test means that state procedural rules will have no significance and will also be judicially uneconomical.[8]

I agree that the long-range effect of S. 618 will be the same as if the statute explicitly abolished the *Wainwright* rule. Initially, S. 618 makes federal court consideration of defaulted claims "permissive" since it merely provides that a "district court may refuse to consider a defaulted claim." There is no guidance as to how courts will determine whether or not they "may" consider such claims.

Next, S. 618 replaces the "cause and prejudice" test by allowing a defendant to raise a defaulted claim if the default was due to the "ignorance or neglect of prisoner or counsel." The United States Supreme Court has rejected such an open-ended excuse for a default.[9] First, such a standard does nothing to serve the state's legitimate interest in preserving its state objection rules. Second, federal courts would have to hold evidentiary hearings to determine the reasons for a trial counsel's default. Third, despite the deceptively simple categories of "ignorance" and "neglect," they are labels of uncertain dimension. Fourth, a defendant should not be able to secure review of a defaulted claim, unless his counsel was constitutionally ineffective. However, such a claim itself should first be litigated in state courts and not used as an excuse for raising a defaulted claim in federal court. The practical effect of permitting claims on the basis set forth in S. 618 is to return to the now-defunct *Fay* v. *Noia* "deliberate bypass" standard.[10] The court concluded that "cause" must depend on showing an objective factor external to the defense that impeded defendant's compliance with the state's procedural default rules. Finally, your question, of course, also pinpoints an internal contradiction of S. 618. Since it requires competent counsel, there is no need for a looser procedural default standard. Assuming the appointment of competent counsel, there is no need for relief from default due to the ignorance or neglect of counsel.

Moreover, it is important to note that the mere failure of counsel to raise a particular objection does not mean that counsel was constitutionally ineffective. The constitutional guarantee of a fair trial and competent counsel does not mean that a counsel must recognize and raise every conceivable constitutional claim.

Finally, S. 618 also permits the raising of a defaulted claim if there is a potential for a "miscarriage of justice." This is normally defined as a "colorable showing of factual innocence." This exception to the procedural default rule already exists, as recently noted in *McCleskey* v. *Zant*. However, there is no assurance that the definition of "miscarriage of justice" will not be expanded to include a federal judge's subjective determination of a "miscarriage of justice" in a particular case.

Question 4. Both the Specter and the Biden bills include an additional new section which would overturn the Supreme Court's ruling in the case of *Teague* v. *Lane*. It would require that all Supreme Court rulings which are decided after a defendant's trial, direct appeals, and prior habeas petitions must be retroactively applied. In your opinion, does this essentially do away with the goal of habeas corpus reform—to ensure finality of litigation in capital cases?

Answer. The Supreme Court has apparently answered this question with a resounding yes. First, the Court has noted that "interests of comity and *finality* must also be considered in determining the proper scope of habeas review."[11] Within the specific context of the non-retroactivity doctrine, the Court has added, "Application of constitutional rules not in existence at the time a conviction became final *seriously undermines* the principle of *finality* which is essential to the operation of our criminal justice system. Without finality, the criminal law is deprived of much of its deterrent effect."[12] Finality is also impaired when court judgments are set aside on the basis of new rules which were not available at the time the state court applied prevailing precedent. To the extent that one settled goal of federal habeas reform is to encourage finality, both S. 618 and S. 19 detract from this objective. Furthermore, these measures are inconsistent with another goal of federal habeas reform—to reestablish the role of the states as the primary enforcers and arbiters of state laws.

The limited nature of the non-retroactivity doctrine of *Teague* should also be stressed. The Supreme Court has only held, as a general rule, that new rules should not be applied on collateral review in the first instance.[13] At the same time, the Supreme Court has held that new rules must be applied to cases pending on direct review when a new rule is adopted.[14]

The *Teague* rule itself is not a per se rule of non-retroactivity. There are two significant exceptions to that rule. First, a new rule would apply retroactively if it would decriminalize a defendant's conduct or render the defendant ineligible for a certain type of punishment. Thus, in *Penry* v. *Lynaugh*, 492 U.S. 302 (1989), the court reached the merits of Penry's claim that it was cruel and unusual punishment to execute a mentally retarded person since such a "new rule" would have placed a certain class of individuals beyond the power of the state to punish by death. Second, a new rule will apply retroactively if it is a watershed rule of criminal procedure necessary to the fundamental fairness and accuracy of the criminal proceeding. In other words, *Teague* will not bar the retroactive application of "bedrock procedural elements essential to the fairness of the proceeding." However, *Teague* will bar retroactive application of "new rules" that would exclude evidence of guilt[15] or which would inject extraneous elements in penalty determinations.[16]

Prior to *Teague*, the standard normally applied to retroactivity was the so-called *Linkletter* standard. Under this standard, the court examined the purpose of the new rule, the reliance placed upon the previous rule, and the effect on the administration of justice. This rule, of course, was very subjective. It also lead to inconsistent and unsatisfactory results.[17] Moreover, the *Linkletter* standard was inadequate to ensure the finality of state court judgments since it permitted many new rules to be applied retroactively long after state proceedings had concluded.[18]

However, as I read S. 618, it would do more than simply restore the now defunct *Linkletter* standard. First, unlike the *Linkletter* rule, the Biden bill establishes a presumptive rule that new rules will be retroactive. Second, it actually narrows the definition of a "new rule" beyond the definition developed in the Linkletter line of new cases. Under the Linkletter line of cases a "new rule" was defined as a "clear break with the past" in which the court explicitly overruled a past precedent of the court, disapproved a practice that the court had arguably sanctioned in prior cases, or overturned a longstanding practice that lower courts had uniformly approved. S. 618 obliterates this definition of a "new rule" by defining a new rule as a "sharp break" from precedent that explicitly and substantially changes the law even though "reasonable minds" (i.e., state and federal lower courts) could have disagreed on the potential existence of this new rule. Thus, even if the Supreme Court decision disapproved a practice that the court had previously sanctioned or overturned a practice that almost all courts had previously approved, it would not be creating a "new rule" and that rule would apply retroactively. S. 618 does not just overrule *Teague*, it actually is a regression from the unsatisfactory *Linkletter* test.

My department has concluded that S. 19 is equally unsatisfactory since it merely provides that a district court must apply fundamental constitutional rights. My department believes that this amorphous and subjective standard will cause extended litigation and inconsistency in the federal court system.

The *Teague* rule, especially as it has been interpreted, offers a comparatively clear, precise definition of a "new rule" and also

[8] See 433 U.S. 72, 88–91 (1977).

[9] *Murray* v. *Carrier*, 477 U.S. 478 (1986).

[10] Id. at 487–92.

[11] *Teague* v. *Lane*, 489 U.S. 288, 308 (1989) (emphasis added).

[12] *Id.* at 309 (emphasis added).

[13] Of course, this general rule of non-retroactivity has two important exceptions. *Teague*, 489 U.S. at 311; see also *Sawyer v. Smith*, 110 S.Ct. 2822, 111 L.Ed.2d 193, 211 (1990).

[14] *Griffith* v. *Kentucky*, 479 U.S. 314 (1987).

[15] *Butler* v. *McKellar*, 494 U.S. 407 (1990).

[16] *Saffle* v. *Park*, 494 U.S. 484 (1990).

[17] *Griffith*, 479 U.S. at 321–26; *Teague* v. *Lane*, 489 U.S. 288 (1989).

[18] See, e.g., *Teague* v. *Lane*, 489 U.S. at 302–05.

offers easy to apply exceptions. Unlike the prior standards, it will not generate extended litigation and inconsistency.

RESPONSE OF CALIFORNIA ATTORNEY GENERAL DANIEL E. LUNGREN TO QUESTIONS SUBMITTED BY SENATOR CHARLES E. GRASSLEY

Question 1. For those states without a death penalty, why should the President's proposal be preferred over the chairman's bill? I'm especially interested in hearing why deference to "full and fair" state court adjudications of a petitioner's claims is a key element of the president's proposal?

Answer. I believe states without a death penalty should prefer the President's bill for two primary reasons. First, the Administration's bill (S. 635, Title IIA) is the only one which contains provisions for general habeas corpus reform. These reforms are essential to redress unnecessary delay and piecemeal litigation for non-capital cases.

Second, all states should be concerned with the problems under the habeas corpus process which have largely arisen in the capital case area. The lack of finality under these cases has eroded public confidence in the overall ability of our criminal justice system to impart fair and certain justice. Further, the lack of final judicial resolution has mitigated the deterrent effect of the death penalty. To the extent that a lessened public confidence and deterrent effect spill over and impact the entire criminal justice system, all states should be concerned. The administration's bill best redresses these problems encountered under the status quo with capital cases. Furthermore, to the extent that the federal courts are concerned with lengthy and repetitious capital litigation, they are not able to devote time to resolving litigation emanating from non-capital states. In other words, capital litigation affects non-capital states as well by causing delay throughout the federal court system.

Significantly, the "full and fair adjudication" standard is included in the Administration proposal for both the general and capital habeas corpus reforms. My department has concluded that this standard of federal court review is an essential part of any meaningful reform effort for several reasons. First, it reinstates the same standard of federal review which the U.S. Supreme Court had previously employed.[1] Second, this standard affords proper deference to state court rulings in state proceedings. If federalism is to be given any meaning, reasonable state court rulings should not be set aside by a federal court merely because the federal court disagrees with the result and has the last opportunity of review. Third, federal review of state court judgments is preserved for those cases which had constitutionally inadequate processes. In this manner, precious judicial resources are conserved and the central purpose of habeas corpus review is retained.

Finally, I note also that Congress has already recognized the ability of local courts to take primary responsibility for enforcing the criminal laws. In 1970, Congress created a local court system for the District of Columbia and transferred to that system jurisdiction over local criminal and civil cases.[2] It also established a system of post-conviction, collateral review and precluded further review of a Superior Court order denying relief unless the local remedy was inadequate or ineffective. In 1977, the Supreme Court held that federal district courts could not entertain habeas corpus petitions challenging convictions in the District of Columbia courts under 28 U.S.C. §2255.[3] Although District of Columbia judges do not have life tenure, they, like the "elected judges of our state courts are fully competent to decide federal constitutional issues."[4] Unless it is shown that the local remedy was inadequate or ineffective (i.e., the prisoner was denied a full and fair hearing), it must be presumed that District of Columbia judges correctly resolved constitutional issues.[5] It is reasonable to apply a similar test to the decisions of independent state court judges.

Question 2. There are all sorts of horror stories floating around that if the President's habeas proposal were enacted into law, capital defendants will suddenly be reduced to one round of review of their cases.

But that isn't exactly the case, is it? Including state habeas corpus review and a round of federal habeas review, won't capital defendants still have the ability to seek collateral review of their cases multiple times—aside from the appeals of the capital convictions on direct review?

Answer. Your question emphasizes the intended collateral nature of federal habeas corpus review. First, federal habeas corpus review follows what should be the "main event," including the trial and review by the state's highest court and the U.S. Supreme Court, as well as state collateral review. Only then may the habeas petition be filed in federal court. At this level, review will likely encompass review by the district court, appellate court and, finally, the U.S. Supreme Court. As a general rule, all available claims should be presented by the petitioner in comprehensive state and federal judicial review.

Nonetheless, in answer to your question, there is still opportunity for a capital defendant to seek collateral review of his case multiple times beyond the first "round." Even under current law as set forth in *McCleskey* v. *Zant*, 111 S.Ct. 1454, 113 L.Ed.2d 517 (1991), a prisoner may have a second (or successive) federal habeas petition considered if he can show "cause" for not having raised the issue before and "prejudice" from refusal to consider the claim. Further, even, if he cannot make this showing, he can always make a colorable showing of factual innocence and have a successive petition considered.

Each legislative proposal adopts the Powell Committee approach recognizing that a central objective of reform is to guarantee one full, fair and adequate round of post-conviction review to a state prisoner. The question then concerns what limits should be placed on any successive petitions. I believe successive petitions should always be permitted where a sufficient showing of factual innocence is presented and the petitioner was precluded from making this presentation in an earlier petition (e.g., "cause" is shown). This is the approach under S. 635, proposed section 2257(c). In contrast, the recommendation under S. 618, proposed section 2257(c), would repeal current law under *McCleskey* v. *Zant*, by permitting a successive petition where (a) an undefined miscarriage of justice is presented; or (b) cause is shown; or (c) a factual showing of innocence is made.

Question 3. Would you agree with the characterization that the habeas corpus provision in the chairman's crime bill is more permissive than current law?

Answer. My department has concluded, after careful study, that several of the provisions in S. 618 are more permissive than current law. These provisions cast doubt on whether S. 618, if left unchanged, would redress the current problems of unnecessary delay and repetitious, piecemeal litigation permitted under the habeas corpus process. Instead, S. 618 may, in fact, encourage delay and repetitive litigation.

First, as already noted, S. 618, proposed section 2257(c), would leave an open window for successive petitions under the undefined "miscarriage of justice" standard. Second, it would permit subsequent petitions upon a more relaxed showing of any one of three events: (a) cause; or (b) a factual showing of innocence; or (c) a miscarriage of justice. In this regard, S. 618, although drafted prior to the recent *McCleskey* ruling, would overturn the now current law articulated in *McCleskey*.

Third, S. 618, proposed section 2259(b)(2), would require a district court to consider a claim for the first time in federal court where the state prisoner showed the claim was not presented in state court "due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice." Once again the "miscarriage of justice" standard is undefined. Further, the subjective behavior of the prisoner could mandate a new claim be considered in federal court for the first time. Supreme Court case law would also be overturned by this provision since claims which were not omitted due to constitutionally ineffective assistance of counsel but were excluded due to the mere ignorance or neglect of counsel must be considered.[6]

Fourth, S. 618, proposed section 2255A, is more permissive than current law since it would (a) change the definition of when a "new rule" could be applied on collateral review and (b) permit this narrowed "new rule" standard to be applied on collateral review upon the court's discretion. This repeals the doctrine of non-retroactivity under *Teague* v. *Lane*.[7]

Specifically, the chairman's bill, S. 618, proposed section 2255A, is more permissive than current law, as it will allow more rulings (which are pronounced after the completion of the defendant's direct review, but before the federal habeas proceeding) to apply retroactively at the time of the federal habeas proceeding. The bill not only overturns *Teague* versus *Lane's* rule of non-retroactivity for such rulings,[8] but it changes the definition of when a rule is "new" for retroactivity consideration. Before *Teague* versus *Lane*, if a recently-pronounced ruling was a "new" rule, i.e., a clear break from prior precedent, it would not have been applied retroactively, unless certain considerations compelled its retroactive application.[9] The bill does not merely return to pre-*Teague* law; it goes much further by redefining "new" rule to mean a "sharp break from precedent . . . that explicitly and substantially changes the law."[10] Therefore, a greater class of such recently-pronounced rulings will not be "new" rules under proposed section 2255A, and, thus, they must be applied retroactively. This gives the defendant the

[1] See *Ex Parte Hawk*, 321 U.S. 114, 118 (1944).

[2] See *Palmore* v. *United States*, 411 U.S. 389, 392–393, n.2 (1973).

[3] *Swain* v. *Pressley*, 430 U.S. 372 (1977).

[4] 430 U.S. at 383.

[5] Id.

[6] See *Murray* v. *Carrier*, 477 U.S. 478, 488 (1986).

[7] 498 U.S. 288 (1989).

[8] *Teague* versus *Lane*, 489 U.S. 288 (1989).

[9] See *Linkletter* v. *Walker*, 381 U.S. 618, 636 (1965); see also *Stovall* v. *Denno*, 388 U.S. 293, 297 (1967).

[10] S. 618, proposed §2255A, subsection (c).

benefit of every rule, no matter how minor, that may be pronounced years after his conviction is final, and the opportunity in each case to litigate the issue anew in a federal habeas proceeding.

Question 4. A law firm from California—that apparently has represented, on a pro bono basis, just one California death row inmate in his federal post-conviction appeals—has written to me regarding the habeas corpus reform proposal contained in the President's crime bill.

In one part of its letter, the firm—and I'm summarizing here—contends that if the federal courts are overburdened with habeas corpus petitions by criminal defendants generally and death row inmates in particular, the problem is not with abuse of the federal habeas statute, but in the administration of the death penalty at the investigative, trial, and state court appeals levels.

In light of your experience, what do you believe are the real problems with the administration of the death penalty?

Answer. The basic problem with the administration of the death penalty is that in death penalty cases the defense focus is different than in other criminal cases. In other criminal cases, the legitimate objective of the defense is that the lawfully prescribed punishment not be inflicted except after a fair trial and presentation of legally admissible evidence sufficient to prove guilt beyond a reasonable doubt. In death penalty cases, the focus of most individual defense lawyers, the organized defense bar, groups opposed to capital punishment, and some members of the judiciary is on preventing enforcement of the law irrespective of the fairness of the proceedings, the guilt of the accused, or the heinous nature of the offense.

In the vast majority of death penalty cases, there is little, if any, doubt of the defendant's guilt. Consequently, at every stage of the proceedings, there is a strong motive for delay. Because of the view that "death is different," some judges at every level entertain motions and permit delays which would not be countenanced in any other type of case. Finally, many federal judges subscribe to the fiction that they are more capable of protecting federal constitutional rights than their state brethren, thus, abetting those organized opponents of capital punishment whose obdurate vow is that the law shall not be obeyed.

The experience of my department is that the administration of the death penalty at the state level in California is not the problem. The penalty is sought in appropriate cases, there are numerous procedures in place to insure that the defendant is competently represented, and juries return death verdicts where warranted. Appeal to the state supreme court is automatic, with provision for new appointed counsel and simultaneous collateral review.

I also reject the premise that the states should somehow bear some of the responsibility (or blame) for delay in capital cases. These are state proceedings involving state laws and the enforcement of state judgments. It is both desirable and logical that state courts should engage in intense, painstaking scrutiny of these cases.

The real problem is that once necessary and proper state review is concluded, these cases are then subjected to another round of repetitious review in federal court. This review amounts to reopening the cases for new claims, new discovery, and new evidence. It renders the state proceedings largely meaningless. Frequently, these proceedings occur years after the original murder and state proceedings. Such delay usually puts the state at extreme disadvantage. The history of California's Harris case, as well as similar experiences with multiple reviews of individual convictions in Washington, Arizona, Nevada, and Montana, illustrates that much of the delay results in federal habeas corpus proceedings.

I agree with the Powell Committee Report that successive petitions in federal court are one of the chief problems in administration of the death penalty. We know now that defendants have deliberately sat on claims in order to raise them in successive petitions. The recent rendering of the United States Supreme Court decision in *McCleskey* v. *Zant* has proven this in California. In light of that decision, we have found many counsel are now asking for further time to add new claims to their petitions for fear they will not be able to raise them later in successive petitions. Of course, if defense counsel had been trying to raise all available claims in the first petition, there would be no need for that additional time now in light of *McCleskey*. The record suggests some counsel may have been sandbagging certain claims because they believed they would be able to raise them later in successive petitions under more generous pre-*McCleskey* standards.

Question 5. Please give your comments about the following proposals:

a. The provision of competent, adequately compensated counsel from trial onwards;

b. A procedural default provision under which a claim would not be barred if the petitioner could show that the issue was waived due to ignorance or neglect of prior counsel;

c. The ability of federal courts to apply the constitution as interpreted at the time they review the case; and

d. A provision allowing consideration in appropriate circumstances of successor petitions that raise issues undermining confidence in either the guilt or sentencing determination.

Answer. a. The central question of an appointment of counsel mechanism at the trial stage concerns whether this determination should be made by the state or the federal government. As a matter of federalism, I believe only the state can legitimately make this decision. After all, the trial involves a state proceeding concerning the enforcement of state laws. Respect must be afforded to the integrity of state procedures.

I am also pleased to report that California has an effective appointment of counsel mechanism for state trials. This demonstrates that states can develop adequate procedures for their judicial forums.

With regard to post-conviction review, as I noted in my testimony, states will be given the chance to decide whether to "opt in" to reform proposals containing appointment of counsel mechanisms.[11] The greater the federal intrusion into the state's ability to develop effective standards for post-conviction review, the less likely, I believe, will states voluntarily participate in any reform. For these reasons, and those set forth in my testimony, I support the approach embodied within S. 635, proposed section 2256.

b. This proposal, included under S. 618, proposed section 2259(b)(2), would encourage sandbagging of state courts. If an unfavorable result is obtained in state court, a petitioner can present a new claim in federal court (which the state court never had a chance to consider), contending merely that it was not previously asserted due to the ignorance or neglect of prior counsel. New counsel would be encouraged to go on fishing expeditions to discover new claims under such tenuous grounds. Finally, the proposal manifests absolutely no respect for the integrity of state proceedings. All the time and energy of state judicial resources devoted to reaching a particular result could be disregarded in federal court under the new claim based upon grounds which the state court was not afforded an opportunity to rule upon.

c. Federal courts are generally not entitled in a habeas corpus case to apply the law as interpreted at the time they review the case, which is often years after the state trial, but must look to the law as it existed when the state courts reviewed the judgment. In contrast, if the law changed on direct review between state trial and appeal, the state courts are obligated to apply the new law.[12] If changes occurred after the case became final on direct appeal, however, the state should not be penalized for failing to anticipate such changes, nor should a federal habeas corpus court be allowed in most cases to create or expand the law.[13] State courts should be relied upon to provide good faith interpretations of federal constitutional law. On collateral review federal courts should do no more than ensure that the state courts have done so except when the state court error falls within one of the Teague exceptions.

d. A provision, such as in S. 635, allowing a successive petition when the prisoner raises claims which, if true, undermine confidence in the conviction is adequate to protect prisoners whose factual innocence is resonably in doubt.

I would strongly disapprove of a provision for successive petitions that raise issues "undermining confidence" in the sentencing determination; I agree with provisions for successive petitions that raise issues undermining the confidence in guilt determinations. While there is superficial appeal to the notion a prisoner ought to be able to raise multiple times on federal habeas claims concerning his sentencing, there are important reasons why sentencing claims should be treated differently from claims of innocence. First, the opportunity to present sentencing issues in state and federal direct review and in a single federal habeas petition is sufficient to have these issues fully considered. If there is any doubt about the sentencing phase in a capital case, it should be raised as soon as possible. Further, the prisoner and his counsel have every incentive to raise all relevant sentencing issues as soon as possible.[14] These are issues readily in the apprehension of the prisoner and his counsel and can be explored immediately after trial. Additionally, issues relating to the reliability of sentencing are not the kind of matters to appear suddenly and unexpectedly late, years after the trial or after the conviction is final. Matters implicating the factual innocence of the prisoner, on the other hand, may well arise after trial or when the conviction becomes final. Thus, it is appropriate to permit successive petitions when the guilt determination is in doubt; the same rationale does not apply to claims concerning sentencing determinations.

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[11] See Testimony, at 12-15 (May 7, 1991).

[12] *Griffith* v. *Kentucky*, 479 U.S. 314 (1987).

[13] *Teague* v. *Lane*, 489 U.S. 288 (1989).

[14] Judicial Conference of the United States, Report and Proposal of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, Lewis F. Powell, Jr., Chairman, at 17 (Aug. 23, 1989).

Question 6. I believe that the tradition regarding deference to state procedural rules should be maintained, even in capital cases.

No litigants have a greater incentive to withhold claims for use in later proceedings than capital defendants, for whom delay results in effective abridgement of their sentences.

If claims can be heard in federal habeas corpus proceedings because of the "ignorance or neglect" of the capital defendant—even though he was represented by counsel during trial, appeal of his case, and state post-conviction proceeings—don't we create an invitation to abuse?

Answer. Certainly, this proposal places much of the development of habeas claims within the control of the prisoner. Sandbagging of state courts would be permitted by prisoners under this provision. Instead of working with appointed counsel to develop all possible claims for review in state court, a prisoner can preserve potential "new" claims merely by showing his or her "ignorance or neglect" in failing to present this claim earlier. As already noted, our recent experience with counsel seeking new time to expand their petitions in light of *McCleskey* illustrates that abuse was already occurring in the context of successive petitions. The imposition of a "cause" and "prejudice" test for successive petitions shows what an effective test it is to prevent sandbagging and abuse.

Question 7. As you are aware, currently, the law applied in reviewing a case in federal habeas corpus proceedings is normally the law in effect at the time the judgment in the case became final—which is at the end of the state's highest court's direct review.

This reflects the common sense notion that courts must comply with existing controlling precedent.

Otherwise, state courts would be expected to exercise prophetic powers and anticipate new rules that may be generated in subsequent decisions handed down years later.

Would you explain how the provisions in the chairman's bill contrast with the operation of current law?

Answer. The two modifications to current law are noted in the fourth part of my response to question 3. Thus, there are two main effects under S. 618, proposed section 2255A. First, a stringent definition of "new rule" means that a greater class of Supreme Court rules must be applied retroactively on collateral review. Under S. 618, a new rule is defined as "a sharp break from precedent . . . that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final." Second, even the small class of potential "new rules" under S. 618 may be applied retroactively upon the discretion of the court, after weighing three factors: (1) the purpose of the new rule; (b) whether a different rule has been relied upon by law enforcement; and (c) the effect of the new rule on the administration of justice. Consequently, S. 618 would repeal the Supreme Court general rule against retroactive application of new rules on collateral review.

Question 8. Even under current law, aren't sufficiently important later decisions applied retroactively—including decisions that categorically limit the power of the state to prohibit conduct or to impose a penalty?

Answer. Yes, the Supreme Court recognizes in *Teague* v. *Lane* that it should not adopt an absolute rule against applying new rules for the first time on collateral review. Two significant exceptions to the general rule were identified, including the one you note in your question. This exception was applied by the Supreme Court later that term in *Penry* v. *Lynaugh*, 492 U.S. 302 (1989). The petitioner contended that the Eighth Amendment prohibits the execution of a prisoner who was diagnosed as mentally retarded. Because an affirmative answer to that question would exclude an entire class of prisoners from facing the death penalty, the Court reached the issue, but ultimately rejected it on the merits.[15]

Question 9. In your opinion, why is it important to accord finality to state judgments that reflect reasonable interpretations of existing precedent?

Answer. State courts are co-equal partners with federal courts with identical duties to apply constitutional principles. To fail to accord finality to reasonable state court interpretations of existing precedent disregards the role and ability of the state courts in our federalism form of government. Additionally, principles of finality, central to our criminal justice process, are promoted when federal courts are not permitted to re-examine reasonable state court rulings. Justice Harlan explained the value of finality very well in *Mackey* v. *United States*, 401 U.S. 667, 690–91 (1971). Justice O'Connor has noted that these values apply to both capital and noncapital cases. See *Penry* v. *Lynaugh*, 492 U.S. 302, 313–14 (1989); see also *Teague* v. *Lane*, 489 U.S. 288, 314 n.2 (1989).

Question 10. And, finally, do you believe that if the Congress reforms the federal habeas corpus statute in a fundamental and meaningful way, will the new statute reduce the commission of crime in the United States?

Answer. This question, suggested by others, misplaces the policy focus in the reform debate. To the extent that federal habeas corpus reform may limit the number of prisoners whose convictions are reversed, or allow the states to focus resources on new charges which might otherwise be diverted to defending judgments in federal court, there may be some impact on the crime rate. Moreover, we cannot overlook the fact that the deterrent effect of criminal punishment will be restored as greater finality to state court judgments is attained. Those who suggest otherwise would have to show that punishment has no effect as a deterrent to crime.

The more significant public policy reason for reform, however, is to increase the confidence of crime victims and the general public in the ability of the criminal justice to protect them and punish the guilty in a fair and certain manner. The multi-year odyssey of California's Harris case through the Ninth Circuit has cast doubt on the ability of the criminal justice system to handle such cases. A single, timely federal habeas proceeding, as provided in S. 635, will provide adequate federal court review, while protecting the interests of law-abiding citizens. Thus, it is clear that the reforms need not be justified solely on the basis of the crime rate.

Mr. THURMOND. Mr. President, I hope we go ahead with this crime bill. The people of this country are demanding a stronger crime bill.

There is an amendment that has been offered here by the distinguished Senator from North Carolina. We should just vote on it and move on, and get on with the crime bill. If the amendment does not suit some people, just vote against it. If they are for it, they will vote for it.

But we ought to get on and pass this crime bill. There is no sense in holding up this matter. Here it is, 9:37 tonight, and we have a lot of work to do.

It is my hope we will not delay action on this matter, hour after hour. Today we have done very little except pass one good piece of legislation, to follow the President's recommendation on the crime bill. But I suggest we not delay further the vote on the Helms amendment and move on; move on. The amendment is before the Senate. He is entitled to have a vote on it. But let us get through with it so we can pass this crime bill.

I hope the Senate will not delay longer, but we take action and get something done.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

Mr. MITCHELL. Mr. President, for the information and convenience of Senators who are not present on the Senate floor, who are in contact with their offices, it is my intention, as soon as Senator HELMS arrives, to ask unanimous consent that there be 20 minutes of debate, equally divided, on the Helms amendment prior to a motion to table that amendment.

Therefore, those Senators who are not present can anticipate that if the request is agreed to, a vote will occur 20 minutes thereafter. I hope very much that we will be able to propound this request shortly and proceed from there. The request will further ask that if the Helms amendment is tabled, the Senate proceed to vote on or in relation to the Symms amendment, without any intervening action or debate.

So as soon as all of the interested principals are present on the Senate floor—which I am advised will be momentarily—I will make this request. I hope and anticipate that it will be agreed to and that there will be two votes coming up in the near future. Those Senators who are at locations other than the Capitol may want to make their plans accordingly.

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

[15] 492 U.S. at 329–30.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 30 minutes for debate equally divided between Senator HELMS and Senator BIDEN prior to a motion to table the Helms amendment; and that if Senator HELMS' amendment is tabled, the Senate proceed to vote on or in relation to the Symms amendment No. 377 without any intervening action or debate.

Mr. HELMS. Reserving the right to object, and of course I shall not object because this is the moment I have been waiting for for nearly 2 days, and I thank the majority leader.

Mr. GRAMM. Reserving the right to object, Mr. Leader, as I understand the second part of the request, it was that if the Helms amendment is tabled, then there would be no intervening business between its tabling and the vote on the Symms amendment; is that right?

Mr. MITCHELL. That is right.

Mr. GRAMM. Mr. President, on the basis of that, I would have to object.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 30 minutes for debate, equally divided between Senators HELMS and BIDEN, prior to a motion to table the Helms amendment; that if Senator HELMS' amendment is tabled, the Senate proceed to vote on or in relation to the Symms amendment No. 377, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I now yield the floor.

The PRESIDING OFFICER. The Chair will announce under the unanimous-consent agreement, there is 30 minutes divided on Senator HELMS' amendment No. 378.

Who yields time on the amendment?

The Chair will announce that if no one yields time, time will be charged equally divided.

The Chair will observe the time is, in fact, running and equally divided under the order.

Mr. HELMS. Mr. President, I yield whatever time the distinguished Republican leader may require.

The PRESIDING OFFICER. The Republican leader is recognized for whatever time he may consume.

Mr. DOLE. Mr. President, I thank my colleagues.

I wonder if we might have order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senate will please come to order.

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, earlier today when the distinguished Senator from North Carolina offered his amendment, I raised certain questions about the amendment, particularly with reference to voluntarily making special efforts to seek out and recruit minorities for someone's applicant pool, which is called race-based affirmative action in the traditional sense, and that is what we call the good affirmative action. It is not quotas but it is something that has been used by a lot of people.

In response to that, the distinguished Senator from North Carolina and I had a colloquy. And then to make certain there would be no misunderstanding on either side of the aisle, I then attempted to modify the pending amendment with the following language:

> Nothing in this amendment prohibits an employer, employment agency, labor organization or joint labor-management committee from establishing affirmative action programs designed to recruit qualified minorities and women for its applicant pool.

My view was, if that proviso were added, that I did not know of anyone who could not vote for the amendment. Because the distinguished Senator from North Carolina pointed out that I had erroneously interpreted the amendment, which I apparently had—his amendment; but that to make certain there was no misunderstanding, he has willing to accept the modification. The yeas and nays had been ordered. It took unanimous consent and as the majority had every right to do, as does anybody on either side, the majority leader had objected.

I had indicated earlier that unless I could more fully understand the so-called Helms amendment that I would not vote to table the amendment but I would vote against the amendment on an up-or-down vote. It was following that that we had the colloguy, following that that we offered the amendment, which I still think makes a great deal of sense and I would hope—in fact I will make one additional attempt to get unanimous consent to modify the pending amendment before the vote. I will not do it now. I will give notice to the manager.

Because, it seems to me, with that language, everybody could support the amendment. Otherwise, you are going to be asked, well, you voted to table the Helms amendment so you are for quotas. To me, it is that simple.

While I understand that this may not be directly dealing with the crime bill, I just saw one amendment on Alzheimer's disease that does not deal with the crime bill either. We are going to be accepting a number of amendments that do not directly deal with the crime bill.

So I urge my colleagues, I urge my colleagues on both sides, to take a look. We will have it down here on the table. Take a look at the modification we attempted to offer so that nobody would misunderstand the intent of the original amendment.

I hope we would not table the amendment by the distinguished Senator from North Carolina because I think if we do not table it, then we will come back and make the modification, then we can all vote for the amendment as modified. Because, with the amendment, race-based affirmative action would be protected. It is traditional. And I just give you one example.

For example, there would not be any doubt about it that this amendment as modified—but even without modification, but with the modification there is no doubt about it—it would allow an employer with a predominately white work force to widen its applicant's pool specifically to recruit minority and women applicants. Accordingly, the employer could affirmatively recruit minority applicants by placing ads in newspapers which have a primarily minority readership. The same employer could ask the minority and civil rights groups for referrals of minority applicants.

That was the correct reading of the amendment as we had indicated in our exchange, in our colloguy. But to make certain, let me point out again the Senator from Kansas attempted to modify the amendment so there would be no doubt about it. We will make that attempt one more time before a motion to table is made.

I thank my colleague.

Mr. JOHNSTON. Will the distinguished minority leader yield?

Mr. DOLE. I yield.

Mr. HELMS. On this time?

Mr. JOHNSTON. Mr. President, can the minority leader tell me why we ought to be dealing with this subject at this time when the civil rights bill is coming up soon?

Mr. DOLE. Well, I raised that question, I might say to my friend from Louisiana. It seemed to me there are negotiations going on now. I understand there may be some positive movement in all directions. I am not suggesting where it is coming from. But it is like a lot of other amendments that are offered; certainly the Senator from North Carolina has a right to offer the amendment. He has offered the amendment. And it seems to me that one way to make certain that everybody understands it clearly is to have the amendment modified; everybody vote for it. It will be 100 to zip. And then we will be on to something else.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged against both parties equally.

Mr. GRAMM. Mr. President, I ask the distinguished Senator from North Carolina to yield me 2 minutes.

Mr. HELMS. Certainly.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. GRAMM. Mr. President, I want to be sure I understand what the reference to subsection (e) means. If you read the amendment, the amendment is as clear as an amendment can be; the amendment says that it is unlawful to practice quotas. But it makes a reference to an exception in subsection (e), and I want to be sure that I understand that exception.

Is this the exception that says, for example, if you have a Baptist church and you are going out to hire a preacher that you have the right to look at only applicants who are Baptists preachers?

Mr. HELMS. Of course.

Mr. GRAMM. That is basically what subsection (e) means.

Mr. HELMS. And this is the inaccurate claim that has been made by the other side all day long, and it simply is not so. I thank the Senator for raising the question.

Mr. GRAMM. So subsection (e) basically allows, in those cases where language, knowledge, religion, or gender is an important part, or religious preference is an important part of the underlying activity as is currently recognized in law, that those protections would not be upset by this amendment.

Mr. HELMS. The Senator is absolutly correct, and that is the point I tried to make, but I was shouted down by the other side in trying to obfuscate the whole issue and cause confusion. I appreciate the Senator asking that question.

Mr. GRAMM. Mr. President, I ask unanimous consent that subsection (e) be printed in the RECORD.

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

BUSINESSES OR ENTERPRISES WITH PERSONNEL QUALIFIED ON BASIS OF RELIGION, SEX, OR NATIONAL ORIGIN; EDUCATIONAL INSTITUTIONS WITH PERSONNEL OF PARTICULAR RELIGION

(e) Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

Mr. GRAMM. Mr. President, I think if people read that they will see, in fact, the distinguished Senator from North Carolina is right.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator from Delaware yield me 2 minutes?

Mr. BIDEN. I yield 2 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. JOHNSTON. Mr. President, this is a very, very serious and difficult subject. It should not be considered on the crime bill. We need to look at this very carefully. At risk here are the rights of employees, people who apply for jobs, women, blacks, others. At risk here are also the rights of employers.

Under this amendment, as I read it, if an employer complies with a Federal court order to adhere to some affirmative action program, he would be violating this law. If he complies with this law, he would be violating the Federal court order. Maybe that is not so. But why do we not take time on this when the civil rights bill comes up and consider it?

This thing comes up out of nowhere, when no one has their lawyers considering it. If this were the only time to consider this, then, OK, let us vote; let us all walk the plank. But this is not the only time. This is not the right time to consider this. It is too serious to just bring up a nongermane amendment on a crime bill which the President asked for us to pass in 100 days. I think it is not the 105th day.

Why do we not take our time on a very serious subject like this?

I am going to vote to table not because there is not merit to the whole subject matter. There is. But there is enough merit to the subject matter that we ought to give it deliberate consideration, consider the rights of everyone involved, employees as well as employers.

I wish my friend from North Carolina would consider it in that light and think about delaying this until the civil rights bill comes up.

Mr. HELMS. Is the Senator asking me a question? I will answer it on your time.

Mr. BIDEN. No, the Senator from Delaware does not yield any more time for that purpose.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. What did you say?

Mr. BIDEN. I will be delighted to hear the answer on the time of the Senator from North Carolina, but not the time of the Senator from Delaware.

Mr. HELMS. I have already answered that question over and over again. Let me say——

The PRESIDING OFFICER. The Senator from North Carolina is recognized on his time.

Mr. HELMS. Let me say again, as I have said over and over and over, this amendment does not—does not—affect court-ordered consent decrees which are covered in section 106(g) of title VII. This amendment is an amendment to section 703(j) which has nothing to do with court-ordered consent decrees.

I say again, what we have here, and I say it with great affection for Senators on the other side because we will be working together on the next issue of crime, but this is politics. They have not wanted to vote for far more than 24 hours. They have figured and figured and figured some way to bypass me, to deny me a vote. And I would not have it.

I will say to the Senate right now, if you vote down tonight, I am going to be right back on this bill and I am going to be right back on the next bill because this is a crime bill and what Federal Government and Federal courts are doing to the small business people and others and the working people of this country is a crime, and I submit that it does belong on the crime bill. That is my answer.

The PRESIDING OFFICER. The Chair will observe that the Senator from North Carolina controls 6 minutes and 12 seconds. The Senator from Delaware controls 10 minutes and 45 seconds.

Who yields time? The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. BIDEN. Mr. President, I find it absolutely fascinating that here we are, after all the Herculean efforts on the part of my Republican colleagues, as well as my Democratic colleagues, to get a crime bill after the President of the United States has been beating us up and about the head on a daily basis for the need for a crime bill, after 400 speeches on this floor about how rampant crime is, we hear from a brilliant Senator, who is a nonlawyer, who does not know the law any better than anyone else in here, making assertions about a complex subject that I am confident none of us would be willing to go to court with him representing us on that issue, not based on his intentions or his intelligence, but on his knowledge of the law.

We have had no hearings on this. There are a group of Republican Sen-

ators, Democratic Senators, and administration officials who are meeting almost around the clock trying to work out an agreement on a civil rights bill, a civil rights bill about to come to the floor. And I hear my brilliant friend from North Carolina stand up and say this is a crime issue. Well, tell that one to my mother, whose friend got mugged in the parking lot. Tell that to the person downtown, who is getting mugged as I speak. Tell that to the person who, in fact, just had their son killed in a drive-by shooting. Tell that to the person who just found their son lying in a gutter with an overdose of drugs because some drug kingpin filled him full of drugs, all of which we deal with in this bill. This is ludicrous. This is absolutely ludicrous.

If the Senator from North Carolina does not want a crime bill, just say so, say he does not want a crime bill. Anybody who votes for the Senator from North Carolina is voting against the dealth penalty, is voting against the reform of habeas corpus, is voting against changing the exclusionary rule, is voting against helping local police officers, is voting against fighting crime, and there is not a woman or man in here who does not know that.

Notwithstanding the fact it is 10 after 11 and, as John Pastore used to say, "After 7 o'clock, reason escapes this Chamber"; notwithstanding that even at 10 after 11 in this Chamber everybody, with what little reason they still possess, understands that all we are doing is delaying the ability of police in this country to fight crime, to satisfy the political interests of the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Time allocated to the Senator has expired. Who yields time?

The Chair will observe that the Senator from North Carolina controls 6 minutes and 10 seconds. The Senator from Delaware controls 7 minutes and 18 seconds.

If no one yields time, the time allocated will be equally divided.

Mr. STEVENS. Mr. President, will the Senator from North Carolina yield me 2 minutes?

Mr. HELMS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina controls 6 minutes 10 seconds.

Mr. STEVENS. Mr. President, this was an interesting statement of the Senator from Delaware, but that is not the issue. The issue as I view it is whether or not the Senator has a right to modify an amendment. This was a legitimate request to modify this amendment. I know that the yeas and nays have been ordered. But the issue before the Senate will be before us again, because this amendment has not been modified.

And I really think that in this instance the people who vote against tabling are voting as a matter of comity. The Senator has a right to modify if he seeks to modify and have the issue before the Senate on an up or down vote or on a tabling motion on an issue, without question, of what this amendment really means.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. I ask the distinguished Senator from Delaware to yield me just 1 minute to respond to the Senator from Alaska.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. MITCHELL. Mr. President, I will tomorrow provide to the Senator from Alaska numerous occasions on which a Republican majority leader or a Republican Senator refused to permit modification of an amendment. The Senator very well knows, my good friend, this has occurred on many occasions in this Chamber. Not once to my recollection did the Senator from Alaska protest when it was done by a Republican majority leader or make the statement he just made.

I think the record should be very clear this has occurred on a regular basis in the Senate; indeed, the current distinguished Republican leader, in an analogous situation, has objected to modification.

So I do not think any implication ought to be left that this is inappropriate, uncommon, not having occurred many times in the past decade with the majority leaders of both parties.

Mr. STEVENS. Mr. President, did I use my full 2 minutes?

The PRESIDING OFFICER. The Senator has a minute remaining.

Mr. STEVENS. I might say to my good friend, that does not make it right. And it does not answer the question of whether or not we will not be back again tomorrow on this same amendment, because the Senator from North Carolina will in fact use his right to bring the issue again before us, and it will not speed completion of this bill.

Mr. BIDEN. Mr. President, I yield myself 10 seconds.

The RECORD should show that the Senator from North Carolina insisted that the yeas and nays be given on his amendment, No. 1. No. 2, that if we are talking about justice, let us deal with crime and not, as the Senator acknowledged, pulling the wool over the eyes of the Senator from Delaware and sliding in an amendment on a different subject.

Mr. HELMS. Now, Mr. President, that is beyond the pale.

The PRESIDING OFFICER. The Senate will be in order. Who yields time?

Mr. HELMS. I yield myself 10 seconds.

That is beyond the pale. I did not pull any highjinks on the Senator. I followed the rules of the Senate. I always do. And I resent any implication to the contrary. Now, what the Senator does not like is he was sleeping at the switch last night. That is what happened. The first amendment was laid down, and I laid down a second-degree amendment. And that is well within the Senate's rules.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired. Who yields time?

Mr. BIDEN. I yield myself 5 seconds. The Senator is right. We have colloquial expressons in different parts of the country. He fooled me under the rules. I thank the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, will the Senator from North Carolina yield to the Senator from Wyoming 1 minute?

Mr. HELMS. Certainly.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. WALLOP. Mr. President, I would say to the distinguished majority leader that there have been many times when, as he said, under the rules the minority did not permit the change. But there had been, as I recall, many times when the minority did. It is a question of making a judgment as to what is right.

Human freedom in America is a political issue, and it has always been and is entitled to be. Merit is a political issue in America, has always been, and is entitled to be. Nondiscrimination is a political issue in America, has always been, and is entitled to be. And the right to choose is a policital issue, it has always been, and is entitled to be.

And so the reason not to modify this amendment is solely and completely to avoid having the amendment become attractive enough so that the majority will lose on an issue on which it does not choose to lose. That is fair enough, and that is a political issue, and that is also what will be judged.

I salute the Senator from North Carolina for his amendment. I salute the minority leader for his attempt to modify it, and I figure that——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. If the Senator is allowed to modify, it is clear that the Senator from North Carolina will prevail. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina controls 2 minutes 17 seconds. The Senator from Delaware controls 4 minutes 44 seconds.

Mr. HELMS. Mr. President, obviously they are letting the clock run out so they can have the last word, and that is fine. I yield to the Senator from Idaho.

Mr. SYMMS. I thank my colleague.

Mr. President, I commend the Senator from North Carolina for raising this issue.

Under most circumstances, the traditions and rules of the Senate do not re-

quire that an amendment be germane in order to be offered to a piece of legislation. The underlying Biden bill deals with a broad range of issues, ranging from State limitations on political activities by law enforcement officers to the imposition of racial quotas in sentencing in capital crimes. The Helms amendment falls squarely in the footsteps of provisions contained in this bill to require that the death penalty be imposed in accordance with racial quotas.

I commend my friend from North Carolina for having the courage to introduce this amendment and face this issue head on. The issue of preferential policies and quotas is admittedly not popular with the liberal politicians and social engineers who have turned the principle of nondiscrimination into a requirement of race consciousness.

The United States was founded on the principles of equal opportunity, individual ability, and hard work. Discrimination on the basis of a person's skin color or gender is not only un-American—it is inefficient. By giving jobs and promotions to people because of their ethnicity or sex, we are rejecting competence and ability in favor of skin color and gender. Job performance and output are subordinated to the importance of "correcting" natural racial and gender discrepancies in different fields of employment. The potential effects are more than just a drop in productivity and results. If these trends continue, our Nation will be further divided into racial blocs, thus contributing to an escalation of racial hostility and conflict, the very problems we seek to abolish.

The Helms amendment would return our country to its roots: nondiscrimination, equal opportunity, emphasis on individual ability. For this reason, I urge the adoption of this amendment.

I just remind my colleagues that under the Biden bill, the underlying bill, many people in my part of the country call it a gun control bill, not a crime bill. But be that as it may, this bill deals with a broad range of issues ranging from State limitation on political activities by law enforcement officers to the imposition of racial quotas in sentencing in capital crimes, which I think was taken out of the bill. But it was in it when it started. And the Helms amendment follows squarely in the footsteps of those provisions contained in this bill to require that death will be in accordance with racial quotas.

So I do not think it is out of order, and I want to compliment my colleague because basically the Helms amendment would simply return the country to its roots of nondiscrimination, equal opportunity, and the emphasis on individual ability. That is all it is about.

I think that is why we ought to be voting for it, and we ought to vote on it once a week between now and the end of this session of Congress.

I yield back the floor.

Mr. HELMS. How much time do I have?

The PRESIDING OFFICER. The Senator from North Carolina controls 45 seconds.

Mr. HELMS. I yield to the distinguished minority leader.

The PRESIDING OFFICER. The minority leader is recognized for 45 seconds.

Mr. DOLE. Mr. President, let me just make an inquiry of the manager. If I should reoffer the amendment I offered earlier which was objected to, would there be another objection?

Mr. BIDEN. Yes, there would be, at this moment.

Mr. DOLE. Right. It probably would not do me any good to offer it then.

I have the answer I thought I would receive. I am not trying to overdo it here, but I do think the Senator ought to take another look at this amendment. If we can vote not to table this amendment, then I think we can get together on something we can all support. But I recognize that it would be objected to.

Mr. BIDEN. But we would be happy to look at it.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired. The Senator from Delaware controls 4 minutes 44 seconds.

Mr. MITCHELL. Mr. President, I ask the Senator to yield that time to me.

Mr. BIDEN. No—Yes, I yield the remainder of time to the majority leader.

Mr. MITCHELL. Mr. President, several of our colleagues, led by Senator DANFORTH, are making a genuine, good faith, and we all pray, ultimately successful effort, to develop a civil rights bill to preserve equal opportunity for women, the disabled, religious minorities, and racial minorities.

They are doing their best to secure what both sides in this debate claim they want: Fair opportunity for every American worker to compete in the marketplace.

President Bush says he wants to see equal opportunity in the workplace. He says that we have to overturn several Supreme Court rulings to achieve that goal. I agree that we should seek equal opportunity in the workplace. I agree that we have to reverse several Supreme Court decisions to do that.

The pending amendment will do nothing to achieve that objective. It will instead exacerbate what is and has been throughout our Nation's history the most divisive and tragic social issue, the problem of unequal treatment based on race or sex. It will inject the obviously highly politicized issue of quotas into the crime bill now before the Senate. The amendment does not fulfill what President Bush says he wants to see in the civil rights bill. It does nothing whatever to reverse the Supreme Court rulings the President says should be reversed.

At the same time it is equally clear that this proposal does nothing whatever to add to the President's goal of getting a crime bill enacted. In fact, it produces just the opposite result. It delays votes and decisions still to be made on the crime legislation.

This amendment has been defended on the grounds that it will make illegal the use of quotas. But that is not what the amendment says. Nowhere in the amendment does the word quota appear. It ought to be obvious to each of us that if you want to outlaw something you outlaw that thing and not something else. The language of the amendment does not do that. It does not even use the word quotas. If you want to outlaw quotas, all you have to do is to have an amendment that outlaws quotas. This does not even make quotas an unlawful employment practice.

No one in this Senate can now say what this amendment means because no one knows. There have not been any hearings on it. Does this amendment mean that veterans preference, so important to veterans of our armed services, would become an unlawful employment practice? No one knows. Is a vote for this amendment a vote against American veterans? No one knows. I think Senators deserve a definitive answer to that question before they go ahead and approve and vote for language that could call into question the employment preferences we put into place for the millions of American veterans.

Does the amendment mean that court orders to reverse a pattern of racial hire or sex-based promotion can be obeyed but that voluntary efforts by an employer to protect women are illegal? No one knows the answer to that because there have been no hearings; there has been no discussion.

The fact of the matter is everyone here knows this amendment does not belong on this crime bill. The Senator from Missouri has been trying for weeks to negotiate an agreement on the civil rights bill, and we all expect that we are going to be taking that bill up in the very near future. We hope the result will be an agreement that will be produced under Senator Danforth's leadership.

We want to get a crime bill passed. The distinguished Senator from South Carolina has worked night and day with his whole heart and soul to pass a crime bill. I do not agree with some of the points he wants in the bill. He does not agree with my views, but he is dedicated to passing the crime bill, as is the Senator from Delaware.

Everybody knows that this amendment has nothing to do with the crime bill. I hope my colleagues will agree

that we ought to table this amendment, not approve something that no Senator fully comprehends the significance of. There have not been a single moment of hearings. There has been no opportunity to examine the implications of this, which could have an enormous effect and unforeseen consequences on millions of people in our society.

I urge my colleagues to join me in tabling this amendment so that we can be in a position to proceed, hopefully in the near future, to complete action on this important crime legislation.

Mr. DOLE. May I have 5 seconds?

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Kansas be permitted to take whatever time he wants.

Mr. DOLE. I never speak after the majority leader. But I want to make the point that if the amendment is not tabled, I will be prepared to offer a modification.

The PRESIDING OFFICER. All time has expired on this amendment.

Mr. MITCHELL. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—71

Adams	Durenberger	Metzenbaum
Akaka	Exon	Mikulski
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Nickles
Bingaman	Gore	Nunn
Bond	Gorton	Packwood
Boren	Graham	Pell
Bradley	Harkin	Reid
Breaux	Hatfield	Riegle
Bryan	Heflin	Robb
Bumpers	Inouye	Rockefeller
Burdick	Jeffords	Roth
Byrd	Johnston	Rudman
Chafee	Kassebaum	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Specter
Daschle	Leahy	Wellstone
DeConcini	Levin	Wirth
Dixon	Lieberman	Wofford
Dodd	McCain	

NAYS—28

Brown	Coats	Craig
Burns	Cochran	Dole
Domenici	Lott	Smith
Garn	Lugar	Stevens
Gramm	Mack	Symms
Grassley	McConnell	Thurmond
Hatch	Murkowski	Wallop
Helms	Pressler	Warner
Hollings	Seymour	
Kasten	Simpson	

NOT VOTING—1

Pryor

So, the motion to lay on the table the amendment (No. 378) was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 377

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered on the amendment of Senator SYMMS, amendment No. 377.

The question is on agreeing to the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—60

Baucus	Garn	Nunn
Bond	Gore	Pressler
Boren	Gorton	Reid
Bradley	Gramm	Riegle
Breaux	Grassley	Robb
Brown	Hatch	Rockefeller
Bryan	Heflin	Roth
Burns	Helms	Rudman
Byrd	Hollings	Sasser
Coats	Johnston	Seymour
Cochran	Kassebaum	Shelby
Craig	Kasten	Simpson
D'Amato	Kerrey	Smith
Daschle	Lott	Specter
DeConcini	Lugar	Stevens
Dixon	Mack	Symms
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Exon	Murkowski	Warner
Ford	Nickles	Wofford

NAYS—39

Adams	Durenberger	Levin
Akaka	Fowler	Lieberman
Bentsen	Glenn	Metzenbaum
Biden	Graham	Mikulski
Bingaman	Harkin	Mitchell
Bumpers	Hatfield	Moynihan
Burdick	Inouye	Packwood
Chafee	Jeffords	Pell
Cohen	Kennedy	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Simon
Danforth	Lautenberg	Wellstone
Dodd	Leahy	Wirth

NOT VOTING—1

Pryor

So the amendment (No. 377) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

At 1:35 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 919) to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; without amendment.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1775. An act to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal;

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special protected status for Salvadorans;

H.R. 2525. An act to amend title 38, United States Code, to codify the provisions of law relating to the establishment of the Department of Veterans Affairs, to restate and reorganize certain provisions of that title, and for other purposes; and

H.R. 2622. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1992, and for other purposes.

At 6:43 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 49) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991; without amendment.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2686. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

At 8:36 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the joint resolution (S.J. Res. 159) to designate the month of June 1991, as "National Forest System Month"; without amendment.

The message also announced that the House has passed the following joint resolution; in which it requests the concurrence of the Senate:

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

The message further announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 175. Concurrent resolution providing for an adjournment of the House from June 27, 1991, to July 9, 1991 and an ad-

journment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991, or Tuesday, July 2, 1991 to July 8, 1991.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1775. An act to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal; to the Committee on Armed Services.

H.R. 2622. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2686. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2525. An act to amend title 38, United States Code, to codify the provisions of law relating to the establishment of the Department of Veterans' Affairs, to restate and reorganize certain provisions of that title, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2332. An Act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1508. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the conversion of the training and audiovisual services at Fort Rucker, Alabama, to performance by contract; to the Committee on Armed Services.

EC-1509. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the commissary and storage warehousing function at Fort Jackson, South Carolina, as an in-house function; to the Committee on Armed Services.

EC-1510. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the commissary storage and warehousing function at Fort Rucker, Alabama, as an in-house function; to the Committee on Armed Services.

EC-1511. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize travel and transportation allowances for members of the uniformed services directed to perform overnight duty within the limits of their duty station at a location other than their residence or normal duty location in unusual or emergency situations; to the Committee on Armed Services.

EC-1512. A communication from the Acting Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, an advance copy of an amendment to the Kuwait Assets Control Regulations; to the Committee on Banking, Housing, and Urban Affairs.

EC-1513. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting, pursuant to law, the annual report on the activities and expenditures of the Independent Television Service; to the Committee on Commerce, Science, and Transportation.

EC-1514. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the authority to recall members of the Coast Guard Ready Reserve to active duty for emergency augmentation of regular forces; to the Committee on Commerce, Science, and Transportation.

EC-1515. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Strategic Petroleum Reserve for the period January 1 to March 31, 1991; to the Committee on Energy and Natural Resources.

EC-1516. A communication from the Acting Assistant Administrator of the Environmental Protection Agency (Office of Policy, Planning, and Evaluation), transmitting, pursuant to law, a report entitled "Policy Options for Stabilizing Global Climate"; to the Committee on Environment and Public Works.

EC-1517. A communication from the Director of the National Ocean Pollution Program Office, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, a report entitled "Review of Fiscal Year 1992 Agency Requests for Appropriations to Support Ocean Pollution Research, Development, and Monitoring Programs"; to the Committee on Environment and Public Works.

EC-1518. A communication from the Administrator of General Services, transmitting, pursuant to law, informal copies of certain lease and construction prospectuses; to the Committee on Environment and Public Works.

EC-1519. A communication from the Chairman of the Prospective Payment Commission, transmitting, pursuant to law, a report on the costs of administering blood clotting factors to individuals with hemophilia; to the Committee on Finance.

EC-1520. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act and the Internal Revenue Code of 1986 to make changes related to the old-age, survivors, and disability insurance program and the supplemental security income program, and for other purposes; to the Committee on Finance.

EC-1521. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty-day period prior to June 20, 1990; to the Committee on Foreign Relations.

EC-1522. A communication from the President of the United States, transmitting, pursuant to law, a report assessing possible additional nuclear risk reduction measures; to the Committee on Foreign Relations.

EC-1523. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report entitled "Program Status of Preparations for Further Limitations on Nuclear Testing for 1990"; to the Committee on Foreign Relations.

EC-1524. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-43 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1525. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-44 adopted by the Council on June 9, 1991; to the Committee on Governmental Affairs.

EC-1526. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-45 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1527. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-46 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1528. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the semiannual report on audit, inspection, and investigative activities for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1529. A communication from the Inspector General, Department of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department Labor, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1530. A communication from the Inspector General, General Services Administration, transmitting, pursuant to law, the semiannual report on audit, inspection, and investigative activities for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1531. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 18, United States Code, to protect keys, keyblanks, or keyways used in security applications by the Department of Defense; to the Committee on the Judiciary.

EC-1532. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served; to the Committee on Labor and Human Resources.

EC-1533. A communication from the Secretary of Education, transmitting, pursuant to law, a report with respect to the recommendations contained in the report of the National Council on Vocational Education; to the Committee on Labor and Human Resources.

EC-1534. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the annual report of the Smithsonian Institution for 1990; to the Committee on Rules and Administration.

EC-1535. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend section 3413 of title 12, United States Code, to add an exception authorizing financial institutions to disclose to the Department of Veterans Affairs the names and addresses of their customers who are receiving payments, by direct deposit or Electronic Funds Transfer into their accounts, of compensation, Dependency and Indemnity Compensation or pension benefits under title 38, United States Code; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-158. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Agriculture, Nutrition, and Forestry.

"RESOLUTION No. 8

"Whereas, the health of Minnesota's dairy industry, which is now in crisis, is key to the economic well-being of the state of Minnesota; and

"Whereas, agriculture is the number one revenue-producing industry in Minnesota, and the dairy industry produces the largest share of this revenue; and

"Whereas, the current milk price is the lowest farmers have received since September, 1978; and

"Whereas, the present milk support price of $10.10 per hundredweight fails to meet dairy farmers' minimum costs of production; and

"Whereas, Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past two weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industry in the state; and

"Whereas, the income of dairy farmers will be further reduced by an assessment of five cent per hundredweight on nearly ten billion pounds of Minnesota milk in 1991, which is just the latest in a continuing string of increases in fees and assessments paid by dairy farmers; and

"Whereas, federal milk marketing orders are discriminatory and skewed to give unfair advantage to large corporate farms of the West and South, suppressing milk prices in the Upper Midwest and inflating prices by several dollars per hundredweight in nontraditional dairy areas; and

"Whereas, the dairy farmer has taken more substantial cuts in federal support than any other sector of our economy and agriculture itself, starting with repeal of the April, 1981, six-month price support adjustment for inflation and a continuous series of cuts and reductions in the price support base and fee and assessment increases paid by dairy farmers on milk production in every decision made by the President and Congress; and

"Whereas, the Minnesota House and Senate and the Minnesota Governor are committed to preserving the family farm structure and Minnesota's small dairy farmers, now; therefore, be it

"*Resolved by the Legislature of the State of Minnesota*, That it urges the President, Congress, and the Secretary of Agriculture to immediately respond to the crisis in the Midwest dairy industry by reopening the dairy provisions of the 1990 federal farm law to insure that Minnesota and Midwest dairy farmers receive cost of production plus a reasonable profit for their products; be it further

"*Resolved*, That the United States Secretary of Agriculture should immediately take action to alleviate the Minnesota and Midwestern dairy crisis by modifying and changing the federal milk marketing order system so as to eliminate the discriminatory provisions from the orders that pay more for milk to Western and Southern producers than paid to Midwest dairy farmers and encourage increased dairy production in markets distant from the Upper Midwest, depressing prices for Minnesota producers: be it further

"*Resolved*, That Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk price supports by $2.30 per hundredweight, an increase that will allow Midwest producers to break even on costs of production; be it further

"*Resolved*, That the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the Chair of the House of Representatives Committee on Agriculture, the Chair of the Dairy Division of the House of Representatives Committee on Agriculture, Minnesota's Senators and Representatives in Congress, and the United States Secretary of Agriculture."

POM-159. A resolution adopted by the Board of Directors of the Admiral Nimitz Foundation urging the posthumous restoration of the highest ranks held by Admiral Kimmel and General Short; to the Committee on Armed Services.

POM-160. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"RESOLUTION

"Whereas, Loring Air Force Base has played an important role in the strategic defense of the United States for more than forty years and, by virtue of its geographic location, is uniquely qualified to continue that role; and

"Whereas, the State of Maine, and in particular the northern portion of the State, has long demonstrated its enthusiastic and continuing support for the United States military; and

"Whereas, the economy of northern Maine is strongly related to Loring Air Force Base and would face extreme difficulty in recovering from the effects of the closure of this base; and

"Whereas, the study that underlay the decision by the Secretary of Defense to propose the closing of Loring significantly underestimated the economic effects of the loss of such a major facility on the State and on Aroostook County; and

"Whereas, the proposal to close Loring Air Force Base is not in the best interests of the security of the United States or of the people of Maine; now, therefore, be it

"*Resolved*, That We hereby indicate our strong opposition to the proposed closure of Loring Air Force Base; and be it further

"*Resolved*, That We support the vigorous efforts of the Governor of Maine, members of our Congressional delegation and the people of Aroostook County to overturn this decision at the federal level; and be it further

"*Resolved*, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to maintain an active Air Force presence at Loring Air Force Base; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States; to the Honorable Richard Cheney, Secretary of Defense; to the Honorable James Courter, Chair of the Military Base Closure and Realignment Commission; to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; and to each Member of the Maine Congressional Delegation."

POM-161. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Armed Services:

"RESOLUTION

"Whereas, Homestead Air Force Base is located in the City of Homestead, in Dade County, Florida, and is one of South Florida's largest employers, paying $152 million to 8,700 civilians and military workers and purchasing $40.7 million in equipment and supplies in 1990, and

"Whereas, Homestead Air Force Base supports a population of 12,125, 6,000 of which live on base and 6,125 of which live off base, and

"Whereas, Homestead Air Force Base is the command center of the 31st Tactical Fighter Wing, the first mission of which is to execute directed tactical fighter missions against enemy forces, supplies, communications, and equipment, and the second mission of which is the operation of the United States Air Force Conference Center, and

"Whereas, Homestead Air Force Base is also the base for the 482nd Tactical Fighter Wing, the 301st Air Rescue Squadron, the Florida Air National Guard Interceptor Group, the 31st Medical Group—Air Transportable Hospital, the 1942nd Communications Squadron, the 726th Tactical Control Squadron, the Inter-American Air Force Academy, and 27 other units, and

"Whereas, Homestad Air Force Base employs 8,721 people, including 2,187 civilians, supports 14,475 jobs off base, had a $430 million positive impact on the local economy in 1990, and provides a commissary and other facilities which are used by 21,000 military retirees in Dade County each month, and

"Whereas, Homestead Air Force Base has been an important part of Dade County since World War II and 600 personnel from the base participated in the Persian Gulf War, and

"Whereas, closing Homestead Air Force Base would have a severely detrimental ef-

fect upon the local economy and on the military preparedness of the United States in the Caribbean area, now, therefore, be it

"*Resolved by the House of Representatives of the State of Florida*, That the House of Representatives of the State of Florida urges the United States Congress to retain Homestead Air Force Base in Homestead, Florida, as an active military base and to remove Homestead Air Force Base from the preliminary list of military bases under consideration to be closed by Congress, be it further

"*Resolved*, That copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-162. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"H. CON. RES. 271

"Whereas, the garment manufacturing, wholesaling, and retailing industries in Hawaii were threatened last year when Congress seriously considered proposed federal Textile and Apparel legislation, that would have limited growth in the importation of textiles and apparel to one percent per year above 1989 levels and imposed a quota auctioning pilot program; and

"Whereas, informed sources indicate that a similar bill will be introduced in Congress this session; and

"Whereas, the endangerment of the garment manufacturing, wholesaling, and retailing industries in Hawaii would have a direct and negative impact on the State's economy through the loss of jobs, loss of tax revenue, increased prices for apparel, and decline in Hawaii's unique aloha-wear apparel industry; and

"Whereas, moreover, resident and visitor consumers will have to bear the brunt of the negative impact in the following manner:

"(1) Consumers will be precluded from purchasing desired imported merchandise due to the inability of the market to expand to meet consumer demand and those consumers who seek low-priced merchandise will discover that their choices will be severely limited;

"(2) With the textile and apparel import growth limited to one percent of 1989 levels, there will be virtually no allowance for changes in fashion, consumer preferences, or growth for exporting countries; and

"(3) The limited expansibility of the market and the removal of low-priced imported goods from the market will result in consumers paying higher prices in the future and the middle- and lower-income consumers will suffer most; and

"Whereas, according to 1990 State Data Book, there were 963 apparel and accessory retail stores with payrolls in Hawaii which accounted for $578.5 million in sales in 1987 and 389 apparel and accessory stores without payrolls in Hawaii which accounted for an additional $16.4 million in sales in 1987; and

"Whereas, there were 3,683 with or without payroll retail trade establishments, other than eating and drinking places, which employed a total of 111,000 workers statewide in 1989 and when this is factored with the total number of apparel and accessory retail stores, it is estimated that a total of 41,070 retail jobs in the apparel and accessory retail trade would be negatively impacted by the proposed federal legislation; and

"Whereas, when the conventional 1.6 garment industry employment multiplier is considered, the end result may lead to a negative direct, indirect, and induced impact of some 66,000 jobs on the overall textile and apparel retail employment market; and

"Whereas, as estimated by the Tax Foundation of Hawaii, the 1988 per capita state income tax burden showed an average of $923.25 per person with a corresponding per capita burden for state general excise tax of $301.75, thus providing for an aggregate annual tax burden totaling $1,225 per person; and

"Whereas, when 41,070 textile and apparel retail workers are considered as a group, at least $50.3 million in annual state tax revenues would be affected, and when the conventional 1.6 employment multiplier is applied, the affected state tax revenues would further jump to more than $80.5 million per year; and

"Whereas, the garment industry in Hawaii is important to the State's economy, being the fourth-largest employer and producer of manufactured goods in the State, with annual gross sales of $165 million on wholesale value-based shipments, of which Hawaii sales account for 65–70 percent of these revenues while export sales account for 30–35 percent balance; and

"Whereas, the manufacturing component of the garment industry in Hawaii involves over one hundred businesses, employing approximately 3,300 production and 800 nonproduction workers, and total gross revenues of $71 million; and

"Whereas, the directly associated retail distribution component of the Hawaii garment industry provides an estimated 45,000 direct employment opportunities that would be unfavorably affected; and

"Whereas, when the conventional 1.6 garment industry employment multiplier is considered, the direct, indirect and induced negative impact result may unfavorably affect 72,000 Hawaii employment opportunities; and

"Whereas, when 45,000 textile-to-garment manufacturing, wholesaling and retailing industry workers are jointly considered, at least $55.1 million annual state tax revenues would be adversely affected; and

"Whereas, when the garment industry employment multiplier is applied, the affected state tax revenues would jump further to more than $88.2 million per year; and

"Whereas, the garment industry in Hawaii revolves around a distinctive Hawaii aloha-wear look that is part of the local lifestyle and that is favored and purchased by visitors to Hawaii and residents, alike, as well as significantly contributing to the State's economy as a value-added true Hawaii export; and

"Whereas, the distinctive Hawaii look arises from patterns designed in Hawaii, shipped to Japan and other Pacific Rim countries for fabrication, returned to Hawaii, and manufactured into garments; and

"Whereas, the local garment industry's need for these textiles cannot be served by mainland suppliers, because the typical Hawaii manufacturer's order for fabric is a run of three thousand yards, which is economically feasible, while the minimum yardage order for mainland cloth manufacturers is nine thousand to fifteen thousand yards, or three to five times as large, which puts an undue economic burden on Hawaii's manufacturers by forcing inventory oversupply and cash flow constraints; and

"Whereas, the aloha-wear look so typical of Hawaii products involves the use of small fabric runs with up to five different color combinations per run and the use of thirteen and more screens to provide additional design colorations, but mainland mills accept a maximum of eight or nine screens thereby precluding the more complex Hawaii designs from being run by a mainland mill; and

"Whereas, mainland and Japanese printers use different processes and ink—the mainland printers use pigment chemistry while the Japanese use a dye-stuff ink process which permits the popular 'reverse' print typical of the Hawaii look; and

"Whereas, mainland manufacturers are reluctant to seek Hawaii business as the Hawaii-designed textiles are generally in a print and color format that mainland mills are unwilling to consider and in print runs so limited that no mainland supplier will produce them; and

"Whereas, the proposed limits on textile imports will dramatically affect the Hawaii market, first by sharply limiting an increase in amount of textiles that can be brought in, causing a reversal of Hawaii's growth in sales to resident and visitor populations and the further development of a healthy export market; and

"Whereas, even more drastically, the proposed quota auctioning pilot program might eliminate Hawaii from the imported textile market completely, as Hawaii manufacturers are comparatively small and lack the economic clout necessary to competitively bid against the large mainland manufacturers and importers who would be bidding for large segments of this quota; and

"Whereas, the newly restructured Harmonized Tariff Schedule is already effectively administered and enforced by the United States Customs Service to ensure the national textile and apparel industry's adequate protection of imported merchandise as limited under the Textile and Apparel Quota system that has been in place for many years; now, therefore, be it

"*Resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring*, That the President of the United States and the United States Congress are urged to oppose the proposed federal Textile and Apparel legislation and federal action wich further restricts the importation of textiles and apparel intended for Hawaii's garment manufacturing, wholesaling, and retailing industries; and be it further

"*Resolved*, That Hawaii's Congressional Delegation specifically oppose the limitation on growth in the importation of textiles and apparel to one percent per year, and vigorously oppose the imposition of a quota auctioning pilot program which would likely create a market in the buying and selling of quotas, thus seriously injuring small businesses throughout the Nation and raising prices of these necessities for American consumers; and be it further

"*Resolved*, That Hawaii's Congressional Delegation seek a special exception for imports under any federal Textile and Apparel legislation to ensure the continuation of the manufacture and sale of Aloha attire as an expression of Hawaii's unique 'Aloha Spirit'; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; members of Hawaii's congressional delegation; the Governor; the Director of Business, Economic Development, and Tourism; the Director of Labor and Industrial Relations; the Director of Taxation; and the President of the U.S. Chamber of Commerce."

POM-163. A resolution adopted by the City Council of Sweetwater, Florida urging Congress to amend the Fair Labor Standards Act by excluding the public sector from provisions thereof; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997; and

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

(The following nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID:

S. 1377. A bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, Mr. HOLLINGS, Mr. HATFIELD, and Mr. SHELBY):

S. 1378. A bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress; to the Committee on Foreign Relations.

By Mr. EXON (for himself and Mr. SYMMS):

S. 1379. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on Finance.

By Mr. BOND:

S. 1380. A bill to provide access to prenatal care, housing, nutrition, and parenting skills for needy families, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself, Mr. AKAKA, Mr. DECONCINI, and Mr. DASCHLE):

S. 1381. A bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation; to the Committee on Armed Services.

By Mr. BENTSEN (for himself and Mr. GRAMM):

S. 1382. A bill to authorize the Secretary of the Interior to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. GRAHAM):

S. 1383. A bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health-care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes; to the Committee on Armed Services.

By Mr. THURMOND:

S. 1384. A bill to extend the temporary suspension of duty on certain chemicals; to the Committee on Finance.

S. 1385. A bill to extend the temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

S. 1386. A bill to suspend temporarily the duty on Phospholan; to the Committee on Finance.

S. 1387. A bill to suspend temporarily the duty on acet-p-anisidine; to the Committee on Finance.

S. 1388. A bill to suspend temporarily the duty on diazo-2,1,4-suflonic acid and its salts; to the Committee on Finance.

S. 1389. A bill to suspend temporarily the duty on 2,4-dinitro aniline; to the Committee on Finance.

S. 1390. A bill to suspend temporarily the duty on 3-amino-acetanilide-4-suflonic acid; to the Committee on Finance.

S. 1391. A bill to suspend temporarily the duty on chloranil; to the Committee on Finance.

By Mr. BRYAN (for himself and Mr. MCCAIN):

S. 1392. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE:

S. 1393. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain amounts received in connection with certain combinations or acquisitions of partnerships where there are not certain dissenters' rights; to the Committee on Finance.

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 1394. A bill to simplify certain provisions of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1395. A bill to assist in the development of microenterprises and microenterprise lending; to the Committee on Finance.

By Mr. RIEGLE:

S. 1396. A bill to reduce the column 1 general rate of duty on Flurbiprofen; to the Committee on Finance.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, and Mr. SHELBY):

S. 1397. A bill to condition funding for coproduction with South Korea of the F-16 aircraft on receipt by Congress of the relevant Memorandum of Understanding (MOU) and to extend the 30-day congressional review period until the MOU is received; to the Committee on Armed Services.

By Mr. REID (for himself, Mr. GRAHAM, and Mr. DURENBERGER):

S. 1398. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE (for himself, Mr. LUGAR, Mr. AKAKA, and Mr. DODD):

S. Res. 146. A resolution expressing the sense of the Senate regarding the recent volcanic disaster in the Philippines; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 1377. A bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes; to the Committee on Labor and Human Resources.

EXPANSION OF LOAN REPAYMENT PROGRAMS FOR AIDS RESEARCH

Mr. REID. Mr. President, after being in Washington as a Member of Congress for almost 9 years, I made my first visit recently to the National Institutes of Health. These institutes are, without question, the foremost biomedical research facilities in the world. It is an area where the United States is clearly, without question, in the forefront of medical research.

I developed, prior to going to the National Institutes, a great respect and appreciation for the work done by these institutes. But this personal tour that I took closely showed me how impressive and even exciting these institutes are.

For example, when I visited one of the institutes called the Neurological Disorders and Stroke Institute, the director, one Dr. Murray Goldstein, acquainted me with the evolution of really a great discovery.

During the course of his being the head of that institute a number of scientists came to him and said, we need your permission to do work on an investigation we are doing. They believed that by administering large doses of corticosteroids to an individual immediately after an accident could slow down and in many instances stop paralysis.

Their first test was a failure. They came back to him later and said could we try it again. He agreed. Still a failure.

The third time they came back he said, we have spent enough money on this, I think it is time you went to something else. They in effect begged him to allow them to do another test. The work that they had done in their laboratory showed that the administration of these steroids to patients immediately after an injury would stop paralysis. He called together a group of scientists to review the proposed research and after much talk and analysis they decided once again to try this test.

It worked. After the third try it worked. They administered the substance in mass quantities and found if given to a trauma victim within an hour of injury degeneration of the spine could be halted. A miraculous finding recently done. And now, Mr. President, in all medical facilities in the country, in trauma centers all over this country, this substance is available.

The interesting thing is that this treatment which not only will save much misery and heartaches for the individual who is injured but his family and friends, and the medical costs involved, hundreds of thousands of dollars over the lifetime of the patient, the administration of this drug costs less than $100.

These are the kinds of things going on not far from the Nation's Capitol at our National Institutes of Health. I could continue, Mr. President, about the seemingly miraculous—not seemingly, they are miraculous—discoveries that are being made at the National Institutes of Health.

And it is important to point out that the institutes work on vastly different projects. But even though that is the case I did encounter a recurring theme as I visited these institutes. NIH does not pay salaries compared to those offered by the private sector, those private sector facilities do biomedical. These institutes have difficulty recruiting scientists, and once they are recruited great difficulty in keeping scientists.

When one considers the amount of debt amassed by both medical doctors and Ph.D.'s during their training, it comes as no surprise that recently graduated scientists cannot accept lower paying jobs offered by this biomedical research center. This is the case in many, many instances, in fact most.

Currently there are existing at NIH a very successful approach to attracting scientists to the facility to do research in the area where shortages of researchers exist, and this is specifically this the area of AIDS investigation and research. In that area, there is a program that allows the NIH to help repay the loans that these scientists have incurred receiving their education.

This program, the AIDS Loan Repayment Program, permits the NIH to attract researchers to work in the area of AIDS, where a desperate shortage exists, by repaying each year of service to NIH a predetermined amount of researcher educational loans.

Mr. President, I want to extend this excellent program to allow the National Institutes to Health to attract scientists in other areas where shortages of researchers exist, such as in the area of Alzheimers disease, cancer and heart disease, to name a few.

Extension of the AIDS Loan Repayment Program to other specialties takes on an ever greater significance when one considers that in 1990 approximately 80 percent of medical students borrowed money to finance their education. The average debt in 1990 for medical students was over $46,000, and 20 percent had debts well over $50,000. Not surprisingly, debt levels for minority students were even higher than other students.

As the National Institutes of Health is reauthorized in this Congress, I urge my colleagues to support the finest biomedical research facility in the world and in particular ensure that the Institutes remain capable of attracting scientific research personnel. It is harder and harder for them to do that.

I urge and recommend that my colleagues also find the time in their extremely busy schedules to visit the National Institutes of Health, an area where this country remains in the forefront, and I think we should continue to remain in the forefront. I believe that the bill I introduce today will allow us to do that.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, Mr. HOLLINGS, Mr. HATFIELD, and Mr. SHELBY):

S. 1378. A bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements, unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress; to the Committee on Foreign Relations.

ARMS EXPORT CONTROL ACT AMENDMENTS

Mr. DIXON. Mr. President, Senators BYRD, BOREN, D'AMATO, FORD, HATFIELD, HOLLINGS, and SHELBY today join me in sending an important bill to the desk and asking for its consideration. This legislation, which amends the Arms Export Control Act, deals with an issue my colleagues will readily recognize as a longtime concern of mine. Indeed, this is not the first time I have introduced legislation to safeguard Congress' right, as well as duty, to review the memoranda of understanding and all relevant documents that are part of agreements entered into by the President of the United States and foreign governments.

I continue to bring this issue up, Mr. President, because we have unfortunately experienced all too many times a situation where Congress has practically had to threaten the administration before we received the critical cooperation we should have gotten from the outset. This is a grave problem—it shows a sloppy attitude on the part of the administration toward national security measures and it threatens the very integrity of our democratic governing process.

This process we adhere to with such respect and admiration was instituted by the founders of this Nation, who made it forcefully clear they did not want their country run exclusively by any one branch of government. They were wise enough even then to foresee the dangers of a system lacking the necessary checks and balances. Thus, while the President is given the responsibility for conducting negotiations with foreign nations, it is Congress to whom the Constitution in article 1, section 8, gives authority to "regulate commerce with foreign nations." The Constitution could not be more clear—Congress has the right to access any and all pertinent documents because the same Congress has the responsibility to make informed decisions on foreign commerce. Surely anyone can understand it is difficult for Congress to make informed decisions when denied necessary information.

That is why, Mr. President, I am today introducing legislation designed to remind the administration of its duties under the law, indeed, under the constitution. This bill does not withdraw or impede the President's authority to negotiate sales agreements. What this bill does is merely to require the administration to give the Speaker of the House and the President pro tempore of the Senate the actual memorandum of understanding and any side letters of agreement involved in foreign contracts for the coproduction or codevelopment of major defense equipment. The bill also says that the 30 day period which Congress has for consideration of the agreement will not begin unless Congress has received these documents.

Our bill is designed to end once and for all the President charade in which we in Congress are continually asked to approve an agreement between the President and a foreign government, while nobody—nobody at all—in the Senate or the House is permitted to look at the document before we act. We want no more rubberstamps, Mr. President. I urge my colleagues to take careful note of this bill, and the serious nature of what the administration has been doing by asking us to approve something sight unseen. Without a doubt, this is something none of us would do in conducting our private business; we can hardly do any less in conducting public business. All we are asking is that Congress be given the resources it needs to responsibly carry out its share of the governing process.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

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

S. 1378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 36 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this section, no Presidential certification

under subsection (b), (c), or (d) shall be deemed to have been received by the Congress, for purposes of any such subsection, if the certification is made with respect to a sale, export, or agreement required by a memorandum of understanding (MOU) between the United States and a foreign government for the coproduction or codevelopment of major defense equipment, unless the President, before such MOU entered into force with respect to the United States, transmitted the text of such MOU and any related document (including exchanges of letters between the governments) to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

By Mr. EXON (for himself and Mr. BOND):

S. 1379. A bill to prohibit the payment of Federal benefits to illegal aliens, to the Committee on Finance.

PROHIBITING FEDERAL BENEFITS OF ILLEGAL ALIENS

Mr. EXON. Mr. President, I rise to introduce legislation to prohibit the payment of direct Federal financial benefits to illegal aliens. This legislation will help deter illegal immigration and reduce unintended Federal spending.

In 1986, the Congress attempted to control illegal immigration into the United States. Unfortunately, illegal immigration persists. One reason is that a powerful magnet for illegal immigration still remains. That attraction to illegal immigration is the real or perceived availability of U.S. Government benefits to illegal aliens.

Today, I rise to introduce legislation to establish a government-wide policy that directs Federal financial benefits not be paid to illegal aliens unless specifically provided by the Immigration and Nationality Act.

Over the years, the Congress has crafted ad hoc qualifications in Federal benefit statutes. At times, due to congressional inaccuracy on expansive court interpretations, these statutes have been used to provide Federal financial benefits to illegal aliens.

This situation has led to the payment of unemployment, Social Security, health care and housing benefits to individuals who have no legal right to even be in the United States.

In an era of massive Federal deficits, even small instances of waste, fraud and abuse cannot be tolerated.

The Federal Government must insure that limited Federal funds go to their intended beneficiaries. The Congress made good progress in requiring verification of status for certain entitlement programs and in authorizing the systematic alien verification for entitlement programs better known as the save program.

However, these steps contained in the Immigration Reform and Control Act of 1986 can only be as effective as the interpretations of the various underlying benefit statutes.

Our Nation faces large Federal deficits and the constraints of the Gramm-Rudman law. Federal dollars paid to an illegal alien, sympathetic or otherwise, are literally dollars taken away from one of our own citizens.

This legislation gives the Congress an opportunity to set the record straight. This measure is both a means to control illegal immigration and means to control budget deficits. Without the real or perceived attraction to Federal benefits, illegal immigration will be deterred. Without the seepage of benefits away from intended beneficiaries, money will be saved.

Similar legislation was adopted by the Senate as an amendment to the immigration reform bill last year. Unfortunately, the provision was dropped in conference for reasons unknown to this Senator.

Simply put, Mr. President, this legislation states that Federal benefits should not go to those who are in the United States illegally. If my colleagues feel as I do, that taxpayer's dollars should not go to illegal aliens, I ask them to join me in support of this measure.

By Mr. BOND:

S. 1380. A bill to provide access to prenatal care, housing, nutrition, and parenting skills for needy families; to the Committee on Labor and Human Resources.

FAMILIES IN NEED ACT

Mr. BOND. Mr. President, every single day in this country more than 100 babies under the age of 1 die. That is more than 40,000 every year. Another 30,000 babies are stillborn. And an additional 11,000 babies born this year will have long-term disabilities because of low birthweight.

We have all heard these terrible statistics about infant mortality. But perhaps the most tragic element of the deaths of these children is that many, if not most, are preventable. We know that we can do better.

We know that whether or not a pregnant woman and her child have access to adequate housing, affordable health care, and sufficient nutrition help determine whether or not the child will reach its first birthday. We also know that much of infant mortality is due to preventable behaviors such as smoking, drinking, and using drugs. With additional investment and a multifaceted approach, we can help families in crisis get the support they need.

Mr. President, today I am introducing the Families in Need Act of 1991, legislation which attacks the tragedy of infant mortality on several fronts: housing, health care, nutrition, and behavior. I ask that a copy of the bill and a legislative summary be included in the RECORD, and I urge that my colleagues take a look at all of the provisions. I know that all of my colleagues are concerned about the problem of infant mortality—many have been working hard on the issue for a number of years—and through this bill I hope to make a contribution to the debate over how best to fight this problem.

Today, however, I would like to highlight a few of what I believe are the more crucial provisions.

First, access to prenatal care: Last year nearly 75,000 American women received no prenatal care—at all. In many areas of this country, lack of access to any type of health-care services is an obvious and formidable barrier for a pregnant woman seeking prenatal care. Half a million rural residents live in counties with no physician trained to provide obstetric care; and almost one-third of all rural residents live in areas desperately short of physicians of any type.

Community health centers serve as our front line of health-care services for the uninsured and indigent. I favor increased appropriations for the vital health-care services they provide. In addition, the Families in Need Act would expand access to health care in rural and underserved urban areas through satellite Health Centers and Mobile Clinics.

The bill provides incentives for physicians to practice in rural areas and care for pregnant women and infants, and expands the Comprehensive Perinatal Care Program operated through community health centers.

In addition, the bill attempts to bring the Federal health and welfare system into the 20th century by setting up computerized one-stop shopping, so that our neediest citizens do not have to make their way to a variety of different locations and fill our reams of paperwork in order to obtain benefits. Instead, one application would be filled out, and both agencies and clients would know immediately who was eligible for what type of assistance. Even more important, Federal spending could then be shifted from paperwork and bureaucracy to providing needed services.

It might surprise some of my colleagues to learn that birth defects are the leading cause of infant mortality in this country. The health consequences of the infants born with birth defects who survive cost this nation billions of dollars each year for health care and special education, not to mention the cost in human terms. Yet, the cause of most birth defects is still unknown.

This bill would place the Centers for Disease Control in charge of coordinating nationwide birth defects surveillance programs at the State level that will help us discover the clues needed for critically important research into the causes of birth defects. CDC would then coordinate and fund research efforts and develop birth defects prevention strategies and programs. I find it unbelievable that we are not already doing that, yet CDC has not had the resources to perform these activities.

It might also surprise my colleagues to learn that despite the preferences

contained in the public housing law, there are families who cannot obtain housing to avoid family breakup. There are thousands of families across this country whose children have been placed in foster care, not because of any abuse or neglect, but simply because the family cannot find adequate housing. These families are supposed to have preference for housing under current law, but that's not the way it works. So, last year during reauthorization of the housing bill, we passed a new program called "Family Unification." This provides a separate pot of section 8 money for families who've been separated because of lack of housing. The problem is, we didn't fund it this year. I trust that will change as we consider appropriations this year. The Families in Need bill provides additional funds for the Family Unification Program and authorizes it permanently.

Mr. President, despite increasing societal recognition of single and even teenage parenthood, the fact is that many poor pregnant women have nowhere to go. Whether shunned by family, or runaways, these women—often teenagers—are unable to obtain public housing and must drift from shelter to shelter. This legislation would set up a Maternity Housing Assistance Program for private or public nonprofit agencies who wish to serve this special population. Those receiving assistance would have to provide additional support services or referrals to prenatal care, job and education training, parenting skills, and the like. The provisions in my bill are similar to those proposed by some of my colleagues in the adoption coalition, and I hope that we can get the ball rolling on this important type of housing assistance.

One of the most important aspects of the Families in Need legislation is increased funding for the Women, Infants, and Children [WIC] Special Supplemental Nutrition Program. There is widespread support for this program, and I believe it is one of Congress' sacred cows that is really worth keeping. Unlike so many other Federal programs, WIC is well-run, and produces both qualitative and quantitative results. Study after study shows that the program more than pays for itself through Medicaid savings in the first 30 days of an infants' life, not to mention what it saves in terms of human suffering and medical costs beyond the first 30 days.

Mr. President, the March of Dimes, the American College of Obstetricians and Gynecologists and the National Association of Community Health Centers have endorsed this bill.

Finally, Mr. President, we know that the impact the Federal Government can have on the lives of any needy individual is limited. To a great extent, the ability of one to overcome his or her negative circumstances depends on the person. Ultimately it is the individual who must make the choice—every day—to engage in constructive behavior in order to move forward. Certainly this applies to a pregnant woman, who has more than one life at stake. Yet, it is shameful for us not to provide the resources these women need to help them make the choice to strengthen their lifes. We must take steps to help these families in crisis.

Mr. President, this is an important targeted program to meet some immediate needs that have been identified by organizations in my State and by national organizations, as I have indicated, in letters of endorsement.

I ask that my colleagues take a look at these proposals. I intend to present them as amendments on appropriate legislation and urge committee hearings on them. I look forward to working with my colleagues to address some very important needs that have been addressed most recently by the National Commission on Children.

I believe in this case, we have presented some affordable programs that are vitally needed and can provide significant results.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of the bill be printed in the RECORD; that letters of endorsement from the March of Dimes Birth Defects Foundation, the National Association of Community Health Centers, the American College of Obstetricians and Gynecologists also be printed in the RECORD.

I also ask unanimous consent that a table showing a summary of the spending represented by this legislation be printed in the RECORD.

The PRESIDING OFFICER. Does the distinguished Senator ask the entire bill be included, or a summary of the bill?

Mr. BOND. The bill and a summary.

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

S. 1380

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Families in Need Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—HOUSING

Sec. 101. Increase in assistance to promote family unification.
Sec. 102. Projects assisting homeless pregnant and postpartum women.
Sec. 103. Transitional housing vouchers for pregnant and postpartum women.
Sec. 104. Aid to shelters for women victims of domestic violence.

TITLE II—ACCESS TO HEALTH CARE, CHILDHOOD IMMUNIZATIONS, PROGRAM SIMPLIFICATION AND OUTREACH FOR WOMEN AND INFANTS

Sec. 201. Comprehensive perinatal care program.
Sec. 202. Childhood immunizations.
Sec. 203. Obstetric provider shortage areas.
Sec. 204. Malpractice insurance assistance.
Sec. 205. Volunteer outreach activities for improvements in prenatal care.
Sec. 206. Public Health Service Act programs to improve prenatal and perinatal health.
Sec. 207. Coordination of surveillance and leadership activities concerning birth defects.

TITLE III—NUTRITION

Sec. 301. Authorization of appropriations for special supplemental food program for women, infants, and children (WIC).

TITLE I—HOUSING

SEC. 101. INCREASE IN ASSISTANCE TO PROMOTE FAMILY UNIFICATION.

Section 8(x)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)(1)) is amended by striking "$35,000,000 on or after October 1, 1991" and inserting in lieu thereof "$50,000,000 on or after October 1, 1991, by $55,000,000 on or after October 1, 1992, by $60,000,000 on or after October 1, 1993, and such sums as are necessary thereafter".

SEC. 102. PROJECTS ASSISTING HOMELESS PREGNANT AND POSTPARTUM WOMEN.

(a) TECHNICAL ASSISTANCE TO PROJECTS ASSISTING HOMELESS PREGNANT AND POSTPARTUM WOMEN.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended—

(1) by designating the last paragraph as paragraph (7); and

(2) by adding at the end the following new paragraph:

"(8) Technical assistance for community nonprofit organizations to begin and expand projects, with preference given to those entities assisting homeless pregnant and postpartum women.".

(b) SET ASIDE TO FUND PROJECTS ASSISTING HOMELESS PREGNANT AND POSTPARTUM WOMEN.—Section 428(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(b)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(3) not less than $5,000,000 shall be allocated to projects assisting homeless pregnant and postpartum women.".

(c) SECRETARY'S DISCRETION TO LOWER MATCHING FUNDS REQUIREMENTS.—Section 425(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385(a)) is amended by adding at the end the following: "Upon a determination by the Secretary that a recipient of assistance under section 423(a) has demonstrated great need, as measured by criteria relating to the extent of homelessness that are contained in a regulation to be prescribed by the Secretary, the Secretary may reduce the amount of matching funds required by this section to an amount equal to 30 percent of the total cost of the project funded.".

SEC. 103. TRANSITIONAL HOUSING ASSISTANCE FOR PREGNANT AND POSTPARTUM WOMEN.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to provide assistance in accordance with section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) to provide housing assistance for pregnant and postpartum women.

(b) DUTIES OF SPONSORS.—A sponsor who enters into a contract under this section

shall provide, or refer pregnant and postpartum women to providers of, appropriate supportive services, including but not limited to the following:

(1) Room and board.

(2) Prenatal care.

(3) Parenting skills education.

(4) Treatment for substance abuse problems.

(5) Nutrition counseling.

(6) Vocational and educational counseling.

(7) Transportation to other facilities.

In addition, each sponsor shall maintain a drug-free environment for pregnant and postpartum women assisted under this section.

(c) TERM OF ASSISTANCE.—Contracts for assistance under this section shall provide for assistance payments for a period not longer than 1 year.

(d) SPONSORS.—Contracts under this section may be entered into with sponsors who are public or private nonprofit organizations.

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall promulgate regulations to implement this section within 180 days from the date of its enactment.

(f) INCOME ELIGIBILITY GUIDELINES.—The eligibility of women for assistance under this section shall be determined in accordance with the same guidelines applicable under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(g) AMOUNT OF PAYMENT.—The amount of a monthly payment pursuant to a contract under this section may not exceed $80 per day.

(h) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995.

SEC. 104. AID TO SHELTERS FOR WOMEN VICTIMS OF DOMESTIC VIOLENCE.

(a) PREFERENCES.—Section 303 of the Family Violence Prevention and Services Act (42 U.S.C. 10402) is amended—

(1) in subsection (a)(2)(B)(ii), to read as follows:

"(ii) in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of—

"(I) community-based projects of demonstrated effectiveness carried out by nonprofit private organizations, particularly projects the primary purpose of which is to operate shelters for victims of family violence and dependents of the victims, and projects that provide counseling, alcohol and drug abuse treatment, self-help services to abusers and victims, and referral to medical care; and

"(II) projects serving pregnant women and women with dependent children."; and

(2) in subsection (b), by inserting "(B)(ii)(II)," after "clauses".

(b) AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title $70,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $80,000,000 for fiscal year 1994, and $85,000,000 for fiscal year 1995.".

TITLE II—ACCESS TO HEALTH CARE, CHILDHOOD IMMUNIZATIONS, PROGRAM SIMPLIFICATION AND OUTREACH FOR WOMEN AND INFANTS

SEC. 201. COMPREHENSIVE PERINATAL CARE PROGRAM.

(a) MIGRANT HEALTH CENTERS.—Section 329 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, the Secretary shall give priority to using the amounts described in paragraph (2) in each fiscal year to expand the comprehensive perinatal care program through the provision of grants to entities that have not received a grant under such program prior to the date of enactment of this subsection, but that are otherwise eligible to receive such grants, and through the provision of supplemental grants to grantees receiving assistance under this section in amounts that are less than the amounts required for the needs of such grantees.

"(2) The amount referred to in paragraph (1) for a fiscal year shall be an amount equal to that amount of funds appropriated in such fiscal year to carry out the comprehensive perinatal care program that is in excess of the amount appropriated to carry out such program in fiscal year 1991, adjusted in such fiscal year to reflect the current services baseline as determined by the Congressional Budget Office.".

(b) COMMUNITY HEALTH CENTERS.—Section 330 of such Act (42 U.S.C. 254c) is amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding any other provision of law, the Secretary shall give priority to using the amounts described in paragraph (2) in each fiscal year to expand the comprehensive perinatal care program through the provision of grants to entities that have not received a grant under such program prior to the date of enactment of this subsection, but that are otherwise eligible to receive such grants, and through the provision of supplemental grants to grantees receiving assistance under this section in amounts that are less than the amounts required for the needs of such grantees.

"(2) The amount referred to in paragraph (1) for a fiscal year shall be an amount equal to that amount of funds appropriated in such fiscal year to carry out the comprehensive perinatal care program that is in excess of the amount appropriated to carry out such program in fiscal year 1991, adjusted in such fiscal year to reflect the current services baseline as determined by the Congressional Budget Office.".

(c) HOMELESS HEALTH.—Section 340 of such Act (42 U.S.C. 256) is amended by adding at the end thereof the following new subsection:

"(t) EXPANSION OF PROGRAMS.—

"(1) GRANTS.—Notwithstanding any other provision of law, the Secretary shall give priority to using the amounts described in paragraph (2) in each fiscal year to expand the comprehensive perinatal care program through the provision of grants to entities that have not received a grant under such program prior to the date of enactment of this subsection, but that are otherwise eligible to receive such grants, and through the provision of supplemental grants to grantees receiving assistance under this section in amounts that are less than the amounts required for the needs of such grantees.

"(2) AMOUNT.—The amount referred to in paragraph (1) for a fiscal year shall be an amount equal to that amount of funds appropriated in such fiscal year to carry out the comprehensive perinatal care program that is in excess of the amount appropriated to carry out such program in fiscal year 1991, adjusted in such fiscal year to reflect the current services baseline as determined by the Congressional Budget Office.".

SEC. 202. CHILDHOOD IMMUNIZATIONS.

Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247b(j)(1)) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) Notwithstanding any other provision of law, the Secretary shall ensure that entities receiving assistance under section 329, 330 or 340 are permitted to participate, in accordance with clause (ii), in the bulk vaccine purchasing program administered with amounts made available under this paragraph.

"(ii) To be eligible to receive vaccines under this subparagraph, an entity of the type referred to in clause (i) shall submit a request for such vaccines with the appropriate State or local health department that is part of the Centers for Disease Control vaccine distribution system. Such request shall be specific as to the amount and type of vaccine requested.

"(iii) A State or local health department that receives a request under clause (ii), shall include such request in the request that is submitted by such State or local health department to the Centers for Disease Control for the purchase of vaccines under this paragraph.

"(iv) The Centers for Disease Control shall purchase vaccines according to requests received from State or local health departments and distribute such to State or local health departments. Upon receipt of vaccines, the State or local health departments shall notify an entity submitting a request under clause (ii) that such request has been approved and that the vaccines under such request are available for use by such entity.".

SEC. 203. OBSTETRIC PROVIDER SHORTAGE AREAS.

Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (a)(1)—

(A) by striking out "term 'health professional shortage area' means" and inserting in lieu thereof "terms 'health professional shortage area', obstetric provider shortage area', and 'pediatric provider shortage area' mean";

(B) by striking out "determined to be a health professional shortage area" and inserting in lieu thereof "determined to be a health professional shortage area, obstetric provider shortage area, or a pediatric provider shortage area"; and

(C) by striking out "designation as a health professional shortage area" and inserting in lieu thereof "designation as such an area";

(2) in subsection (b)—

(A) by inserting ", obstetric provider shortage areas, or pediatric provider shortage areas" before the period in the matter preceding paragraph (1); and

(B) by adding at the end thereof the following new paragraphs:

"(4) With respect to obstetric provider shortage areas, in establishing by regulation criteria for the designation of such areas, population groups, medical facilities, and other public facilities in the States as such areas the Secretary shall give priority to the consideration of—

"(A) the low birthweight incidence in the area;

"(B) the degree of access to obstetric care available to the Medicaid-eligible population in the area; and

"(C) the infant mortality rate in the area.

"(5) With respect to pediatric provider shortage areas, in establishing by regulation criteria for the designation of such areas, population groups, medical facilities, and other public facilities in the States as such areas the Secretary shall give priority to the consideration of—

"(A) the size of the pediatric population in an area; and

"(B) the degree of access to pediatric care available to the Medicaid-eligible population in the area.";

(3) in subsection (d)(1), by inserting ", obstetric provider shortage areas, or pediatric provider shortage areas" after "shortage areas;

(4) in subsection (e), by inserting after "professional shortage area" each place that such occurs ", obstetric provider shortage areas, or pediatric provider shortage areas";

(5) in subsection (f), by inserting after "professional shortage area" ", obstetric provider shortage area, or pediatric provider shortage area";

(6) in subsection (g), by inserting after "professional shortage area" ", obstetric provider shortage area, or pediatric provider shortage area"; and

(7) in subsection (h), by inserting after "professional shortage areas" ", obstetric provider shortage areas, or pediatric provider shortage areas".

SEC. 204. MALPRACTICE INSURANCE ASSISTANCE.

Subpart III of part D of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by adding at the end thereof the following new section:

"SEC. 338M. ASSISTANCE FOR THE PAYMENT OF MALPRACTICE INSURANCE COSTS.

"(a) CORPS MEMBERS.—

"(1) AUTHORITY.—The Secretary may provide assistance to eligible National Health Service Corps members to assist such members in paying the costs associated with the acquisition of certain malpractice insurance.

"(2) ELIGIBILITY.—To be eligible to receive assistance under paragraph (1), an individual shall—

"(A) have been assigned by the National Health Service Corps to the area in which the individual is currently practicing;

"(B) have been in continuous practice in such area;

"(C)(i) be an obstetrician-gynecologist, family physician, osteopathic physician, certified nurse midwife, or nurse practitioner who is providing obstetric services; or

"(ii) be a pediatrician, family physician, nurse practitioner or osteopathic physician providing pediatric services;

"(D) certify that such individual will use such assistance to defray the costs associated with the purchase of malpractice insurance of the type described in paragraph (3);

"(E) prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require; and

"(F) meet any other requirement that may be established by the Secretary.

"(3) MALPRACTICE INSURANCE.—Assistance provided to an individual under this subsection shall be used to defray the costs associated with the purchase of a reporting endorsement to provide coverage for a claim filed in connection with services performed during the period covered by this section after the insurance covering the service provided under this section would otherwise have terminated.

"(4) AMOUNTS OF ASSISTANCE.—The amount of assistance provided to an individual under this subsection shall be based on the period of service of such individual. Such member shall be eligible for assistance in an amount equal to—

"(A) 10 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 2-year period nor more than a 3-year period;

"(B) 30 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 3-year period nor more than a 4-year period;

"(C) 50 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 4-year period nor more than a 5-year period;

"(D) 75 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 5-year period nor more than a 6-year period; and

"(E) 100 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 6-year period nor more than a 7-year period.

"(5) REDUCTION IN ASSISTANCE.—If an individual receiving assistance under this subsection discontinues the service of such individual in the assigned service area prior to the date on which such service obligation is scheduled to terminate, the assistance provided to such individual shall be reduced in accordance with paragraph (4) based on the time such individual actually served.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"(b) GRANTS FOR SERVICE IN CERTAIN AREAS.—

"(1) IN GENERAL.—The Secretary may award grants to States for the purpose of establishing State programs to award compensation to eligible individuals to assist such individuals in paying the costs associated with the acquisition of malpractice insurance.

"(2) ELIGIBILITY.—

"(A) GRANT FROM SECRETARY.—To be eligible to receive a grant under paragraph (1), a State shall prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) ASSISTANCE FROM STATE.—To be eligible to receive assistance from the State under a grant awarded under paragraph (1), an individual shall—

"(i) certify to the State that such individual provides obstetric services or that the individuals will begin providing obstetric services as a condition of receiving such assistance in a health professional shortage area, a medically underserved area, or an obstetric care shortage area;

"(ii) certify to the State that such individual accepts patients without regard to whether the women are Medicaid-eligible;

"(iii) be a physician, osteopathic physician, certified nurse midwife or nurse practitioner; and

"(iv) meet any other requirement that may be established by the State.

"(3) AMOUNT OF GRANT.—The amount of compensation provided to an individual under this subsection shall equal not more than 25 percent of the costs associated with the acquisition of malpractice insurance by such individual, or the difference between the cost of acquiring malpractice insurance for providers that do not provide obstetrics and the cost of acquiring such insurance for providers that do provide obstetrics, or any other amount as determined by the State and approved by the Secretary.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $9,500,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.".

SEC. 205. VOLUNTEER OUTREACH ACTIVITIES FOR IMPROVEMENTS IN PRENATAL CARE.

(a) IN GENERAL.—Title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended by adding at the end thereof the following new part:

"PART D—OTHER VOLUNTEER ACTIVITIES

"SEC. 131. VOLUNTEER OUTREACH ACTIVITIES FOR PREGNANT WOMEN AND CHILDREN.

"(a) EXPANSION OF ACTIVITIES.—The Director, using authority provided under this title, shall use amounts appropriated under section [501(f)] in each fiscal year to expand volunteer outreach activities that are targeted at communities with high concentrations of pregnant women who receive inadequate prenatal care, such as comprehensive home visiting programs, transportation to obstetric services, or assistance with applications for public benefits.

"(b) TARGETED POPULATION.—Volunteer activities conducted under subsection (a) shall be targeted at high risk communities as identified by—

"(1) high proportions of women with delayed prenatal care or inadequate numbers of prenatal care visits;

"(2) high rates of substance abuse, including tobacco, alcohol, crack/cocaine, or other substances; or

"(3) high rates of infant mortality or low birthweight births.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501 of such Act (42 U.S.C. 5081) is amended by adding at the end thereof the following new subsection:

"(f) There are authorized to be appropriated to carry out part D of title I, $1,000,000 for fiscal year 1992, $1,500,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for each subsequent fiscal year.".

SEC. 206. PUBLIC HEALTH SERVICE ACT PROGRAMS TO IMPROVE PRENATAL AND PERINATAL HEALTH.

Title XI of the Public Health Service Act (42 U.S.C. 300b-1 et seq.) is amended—

(1) in the title heading to read as follows:

"TITLE XI—GENETIC DISEASES, BIRTH DEFECTS, SUDDEN INFANT DEATH SYNDROME, HEMOPHILIA PROGRAMS, AND PRENATAL AND PERINATAL HEALTH"; and

(2) by adding at the end thereof the following new part:

PART D—PROGRAMS TO IMPROVE THE HEALTH OF PREGNANT WOMEN, INFANTS, AND CHILDREN

"SEC. 1141. SATELLITE HEALTH CENTERS OR MOBILE CLINICS PROGRAM.

"(a) GRANTS.—The Secretary may award grants to eligible entities for the establishment of satellite health centers or mobile clinics programs to expand the availability of obstetric care services in urban and rural areas that are designated as health professional shortage areas, medically underserved areas, or obstetric professional shortage areas or pediatric professional shortage areas.

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be an entity that is—

"(A) a Federally qualified health center under section 1905(l)(2)(B) of the Social Security Act; or

"(B) a State or local health department;

"(2) prepare and submit to the Secretary an application at such time, in such form,

and containing such information as the Secretary may require;

"(3) assurances that such entity will coordinate with existing services and providers of care;

"(4) assurances that the proposed program will provide services in a cost-effective manner, as determined by the Secretary; and

"(5) meet any other requirements determined appropriate by the Secretary.

"(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applicant entities that demonstrate that amounts received under such grant will be used to expand the availability of services in areas with high rates of infant mortality and little or no access to obstetric services.

"(d) USE OF FUNDS.—An entity shall use amounts provided under a grant received under subsection (a) to expand the availability of obstetric and primary care services, using the most cost-effective means possible, through the establishment of—

"(1) satellite health centers that provide such obstetric and primary care services (the costs of transporting personnel from existing health centers to satellite health centers may be paid for with such grant funds); or

"(2) a mobile clinics program under which funds may be used to establish mobile clinics, or assist existing clinics in expanding the provision of services, to provide such obstetric and primary care services where needed on a mobile basis.

"(e) MAINTENANCE OF EFFORT.—No grant may be made to an entity under this section unless the Secretary determines that there such entity has provided satisfactory assurances that amounts made available under such grant for any period will be used so as to supplement and, to the extent practicable, increase the level of State, local and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local and other non-Federal funds.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, $60,000,000 for fiscal year 1993, $65,000,000 for fiscal year 1994, and such sums as may be necessary for each subsequent fiscal year.

"SEC. 1142. COMPUTERIZED INTEGRATION OF SERVICES DEMONSTRATION PROGRAM.

"(a) GRANTS.—The Secretary may award grants to States for the establishment of Statewide computerized Federal and State program eligibility programs, as described in subsection (c).

"(b) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under subsection (a), to—

"(1) design and implement, on a Statewide basis, a computerized system that permits any qualified individual as determined by the State involved in an eligibility determination to have access to recipient or applicant specific eligibility and application information through on-line access concerning all Federal and State programs, and to submit applications on-line for benefits under section 17 of the Child Nutrition Act of 1966, title XIX of the Social Security Act, Federal public housing programs, or other Federal assistance programs; or

"(2) provide for the processing of electronic claims for reimbursement to health care providers under programs, such as those under title XIX of the Social Security Act, that are administered by the State.

"(d) REPORT TO THE SECRETARY.—States receiving grants under this section shall prepare and submit to the Secretary a report that shall include information on the success of the State's program, problems encountered, a description of the program, the effect the program has had on availability of services to pregnant women, infants, and children, and any other information determined appropriate by the Secretary.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 1992.

"SEC. 1143. NATIONAL INFANT HEALTH PUBLIC INFORMATION CAMPAIGN.

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish a National Infant Health Public Information Campaign that shall be designed to educate the general public concerning—

"(1) infant mortality and the risk factors associated with such;

"(2) the need for prenatal care and healthy lifestyles for pregnant women; and

"(3) other messages as determined appropriate by the Secretary; and

"(b) REPORT.—Not later than June 1, 1992, the Comptroller General of the United States shall conduct a study and prepare and submit, to the appropriate committees of Congress, a report that makes recommendations concerning legislation that should be enacted to make changes in Federal law to simplify the application processes and the administration of Federal and State programs that provide services to pregnant women, infants and children, if such changes may be implemented without compromising the general integrity of such programs.

SEC. 207. COORDINATION OF SURVEILLANCE AND LEADERSHIP ACTIVITIES CONCERNING BIRTH DEFECTS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317A, the following new section:

"SEC. 317B. COORDINATION OF SURVEILLANCE AND LEADERSHIP ACTIVITIES CONCERNING BIRTH DEFECTS.

"(a) PURPOSE.—The Centers for Disease Control shall coordinate nationwide birth defects surveillance, prevention, epidemiology and other activities.

"(b) CLEARINGHOUSE.—The Centers for Disease Control shall serve as the national clearinghouse for the collection and storage of data and information generated from birth defects monitoring programs. Such data collection shall be integrated in a manner that enables research into the causes of birth defects to be coordinated.

"(c) GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control, may award grants to or enter into cooperative agreements with States to enable such States to establish or enhance State birth defects monitoring programs for the purpose of collecting data on the incidence of birth defects.

"(2) APPLICATION.—To be eligible for a grants or cooperative agreements under paragraph (1), a State shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may prescribe, including—

"(1) assurances satisfactory to the Secretary that the data collected through the State program will integrate with other surveillance data being collected concerning birth defects;

"(2) assurances that the State program will collect data concerning birth defects outcomes according to classification guidelines prescribed by the Centers for Disease Control;

"(3) assurances that the State will make all data collected under the State program available to the Secretary in a format suitable for use in integrating the data with data collected from other sources as specified by the Secretary; and

"(4) any other assurances as the Secretary may require.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to enable such States to—

"(1) develop State birth defects monitoring programs; and

"(2) develop uniform methods for birth defects surveillance.

"(e) OTHER GRANTS.—The Secretary may award grants to or enter into cooperative agreements with States, political subdivisions of States, and other public and nonprofit private entities for—

"(1) the conduct of epidemiologic research using data collected by the State birth defects monitoring programs and integrated by the Centers for Disease Control to conduct further research into the causes of birth defects;

"(2) demonstration projects for the prevention of birth defects; and

"(3) to conduct of public information and education programs for the prevention of birth defects.

"(g) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section unless the Secretary determines that the State has provided satisfactory assurances that funds made available under such a grant will be used to supplement and, to the extent practical, increase the level of State, local and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local and other non-Federal funds.

"(h) PREVENTION STRATEGIES.—The Secretary shall develop, evaluate and implement birth defects prevention strategies designed to reduce the incidence of birth defects in cases where etiology is known or suspected.

"(i) AMOUNTS IN LIEU OF CASH.—The Secretary, at the request of a grant or cooperative agreement recipient under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventative agents) or equipment furnished the recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee.

When the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the recipient and for the purpose of carrying out a program with respect to which the grant or cooperative agreement under subsection (a) is made. The amount by which any such grant or agreement is so reduced shall be available for payment by the

Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant or agreement is based, and such amount shall be deemed as part of the grant or agreements and shall be deemed to have been paid to the recipient.

"(j) ANNUAL CONFERENCE.—The Secretary shall convene an annual birth defects conference to discuss recent findings on birth defects epidemiology and surveillance activities.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

TITLE III—NUTRITION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

The first sentence of section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) is amended by striking "and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994" and inserting "such sums as may be necessary for fiscal year 1991, $2,700,000,000 for fiscal year 1992, $3,100,000,000 for fiscal year 1993, and $3,500,000,000 for fiscal year 1994".

MARCH OF DIMES
BIRTH DEFECTS FOUNDATION,
Washington, DC, June 26, 1991.

Hon. CHRISTOPHER BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR BOND: The March of Dimes is very pleased to strongly endorse the health care legislation you are introducing today as an important step toward addressing many of the health concerns facing our country.

We commend you for your comprehensive, targeted approach to many problem areas, but we are particularly gratified that you place so much emphasis on programs needed to reduce our nation's disgraceful infant mortality rate. Among developed nations, the USA ranks next to last in this most basic measure of the health status of a country's population. As you well know, the short term and long term economic and social cost of birth defects and low birthweight babies is too heavy to sustain and represents a vital statistic crying for action.

Your provisions relating to expanding the Centers for Disease Control's Birth Defects Monitoring Program, so that all states can benefit from national studies identifying the causes of birth defects and how to prevent them, as well as the provisions relating to the obstetrician shortage and the expansion of Community Health Centers Perinatal Care Programs, all will make a significant difference in combating infant mortality.

Thank you again for your efforts on behalf of America's pregnant women and babies. We know as Governor of Missouri you were involved in this effort and we appreciate and value your continued leadership at the national level. We look forward to working toward passage of your legislation through our 131 State chapter offices and 2 million volunteers across the country. Please call upon us anytime we can be of assistance.

Sincerely,

KEITH HENDERSON,
Director, Government Policy and Legislative Affairs Office.

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, June 19, 1991.

Hon. CHRISTOPHER BOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: We are pleased to support the Families in Need Act of 1991, a bill which includes a number of health care provisions which would further extend access to care for low-income women and children.

The bill would provide for establishment of satellite health centers and mobile clinics in areas with high infant mortality rates; would include migrant, community, and health care for the homeless programs in the CDC federal vaccine bulk purchasing program, enabling them to spend federal dollars more efficiently; and would enable more health centers to establish comprehensive perinatal care programs or to expand current programs to serve more women and infants.

Only 300 of 550 health centers have received funding to establish comprehensive perinatal care programs, and many of the programs that received grants were funded at levels inadequate to meet local needs. Nevertheless, preliminary data from these programs indicate that such funding makes a real difference in achieving positive health outcomes. Furthermore, health care for the homeless programs, some of which focus on women and children, have received no such enhanced funding. And finally, there is a need to extend health centers or satellite centers to the hundreds of medically underserved communities in both rural and urban areas which currently have no source of ongoing comprehensive primary care, especially for their low-income and uninsured populations.

Your bill also contains other valuable provisions, including provision of housing assistance for pregnant and postpartum poor or homeless women, Section 8 vouchers for families whose children are in imminent danger of being placed in foster care due to the family's inability to locate housing, and other important housing-related provisions.

We thank you for your attention to these important measures to assist low-income families with both housing and health care.

Sincerely,

TOM VAN COVERDEN,
Executive Director.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, June 25, 1991.

Hon. CHRISTOPHER BOND,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: On behalf of the American College of Obstetricians and Gynecologists, an organization representing more than 30,000 physicians specializing in the delivery of health care to women, I would like to express our support for the Families In Need Act of 1991.

Not only does this bill address access to adequate pregnancy-related care by increasing the number of obstetric providers in underserved areas, but it also addresses the socioeconomic factors associated with infant mortality by providing non-medical factors such as, housing assistance, nutritional support, and parenting skills training. Progress toward decreasing our nation's infant mortality rate remains stagnant, it is clear that we need action. We believe the Families In Need Act of 1991 makes a contribution in our effort to reduce infant mortality.

We appreciate your leadership in introducing this important legislation and look forward to working with you to assure its passage.

Sincerely,

HAROLD A. KAMINETZKY,
Director, Practice Activities.

LEGISLATIVE SUMMARY OF THE FAMILIES IN NEED ACT OF 1991

(Purpose: To provide access to prenatal care, housing, nutrition and parenting skills for needy families, and for other purposes.)

TITLE I—HOUSING SERVICES AND SUPPORT FOR FAMILIES IN NEED

Family unification program

This McKinney Act program provides Section 8 vouchers to women whose children have been placed in foster care primarily because of lack of housing, or immediate threat of homeless. A child welfare services agency would have to verify to the local public housing authority that a child was removed primarily because of a housing problem prior to a voucher being issued. The program carries a two year authorization; no funds were appropriated for FY '91. This legislation would reauthorize the program permanently. The authorization would be increased from $35-$50 million in 1992, and by $5 million each of the following two years.

Transitional housing discretionary authority

Amend the McKinney Act transitional and supportive housing program to include discretionary authority for the Secretary to reduce the state and project sponsor match requirement in areas of great need. Social services agencies who provide services under the McKinney Act often have difficulty meeting the 50% match requirement. Services provided to pregnant and postpartum women were not sufficient to meet the need in '89 and '90.

Additional technical assistance for transitional and supportive housing projects serving pregnant and postpartum women will also be provided under this section.

Maternal housing vouchers

Authorize $25 million to provide housing vouchers for pregnant and postpartum women to be used in public or private nonprofit institutions. Additional support services such as prenatal care, job counseling, long-term housing assistance, parenting skills training, etc., would be provided in addition to housing. Pregnant women meeting Section 8 housing guidelines would be eligible; the program would be carried out in accordance with the existing Section 8 housing program.

Aid to shelters for women victims of domestic violence

Amend Family Violence Prevention and Services Act by authorizing an increase of $36 million over the current level for shelter assistance in 1992, and by $5 million each year after until 1995. Preference given to projects serving pregnant women and/or women with dependent children.

TITLE II—HEALTH CARE FOR WOMEN, INFANTS AND CHILDREN IN NEED

The Leading Cause of Infant Mortality: Birth Defects

Coordinate nationwide birth defects research and prevention efforts

Places the Centers for Disease Control (CDC) in the leadership role for the coordination of nationwide birth defects surveillance and prevention activities. Provides grants to states through CDC to establish or enhance birth defects monitoring programs and provides for important and much-needed research into the causes of birth defects.

Access to Health Care

Satellite health centers and mobile clinics

Increase access to obstetric care and primary health services by creating a competitive grant program for Federally Qualified Health Centers (FQHCs),[1] and State and local health departments to develop Satellite Health Centers or Mobile Clinics. Priority for grants is given to areas with high infant mortality rates.

Expand access to childhood immunizations

Increase access to vaccinations by amending the current federal bulk purchasing program administered by the Centers for Disease Control (CDC) to include community health centers. The federal government administers a bulk purchasing program for vaccines that is administered by CDC. Vaccine is purchased at negotiated lower rates and distributed to state and local health departments. This provision would simply include CHCs in the bulk purchasing program so that federal dollars overall are spent more effectively.

Expand comprehensive perinatal care program

Expand access to health care for poor women and children in underserved areas by expanding the Comprehensive Perinatal Care Program (CPCP) operated through the community health centers. Directs the Department of Health and Human Services (HHS) to give first priority to establishing or enhancing CPCP programs with funds that are appropriated for community and migrant health centers above the FY91 current services baseline.

Obstetric provider shortage areas

Creates Obstetric Provider Shortages Areas to identify areas of the country critically short of access to obstetric health care services including access by patients who are medicaid-eligible and to provide an instrument to direct federal resources to these underserved areas.

Pediatric provider shortage areas

Similarly, creates a new designation for areas critically short of access to pediatric health care including access by patients who are medicaid-eligible.

Payment for NHSC tail insurance costs

Encourage health professionals to join the National Health Service Corps (NHSC) and remain practicing in a rural underserved area by authorizing the NHSC to pay for malpractice tail coverage for certain corps personnel—Ob/Gyns, pediatricians, family physicians, osteopathic physicians, certified nurse midwives, nurse practitioners—on a sliding scale for increased years of service in a shortage area. [2 years—10%, 3 years—30%, 4 years—50%, 5 years—75%, 6 years—100%]

Effort to increase access to obstetric services in underserved areas

Encourage providers to practice in shortage areas and provide obstetric health services by providing funds for States to directly compensate certain physicians, osteopathic physicians, nurse midwives and nurse practitioners that practice in a shortage area for the cost of adding obstetrics to their current malpractice insurance or for up to 25% of the cost of their malpractice insurance. To be eligible, these health professionals must accept patients without regard to whether the patient is medicaid-eligible.

Program Simplification and Outreach

Computerized one-stop shopping

Simplifies the eligibility and application process for federal and state-administered programs for women, infants, children and others by creating a computerized one-stop shopping application process. Program computerization would also include electronic processing of health providers' reimbursement claims for programs administered by the state.

VISTA volunteer outreach programs

Authorizes a new VISTA program to develop volunteer home visitation programs and other volunteer outreach programs for pregnant mothers, the children and their families. These programs successfully and cost-effectively promote the health of pregnant women and the children.

National infant health campaign

Increase awareness of the need for prenatal care, childhood immunizations and healthy lifestyles for pregnant women through a national public information campaign.

TITLE III—NUTRITION

Women, infants, children special supplemental food program

Amend the Child Nutrition Act by increasing the authorization for the special supplemental food (WIC) program to $2.7 billion in 1992, to 3.1 billion in 1993, to 3.5 billion in 1994, to 4.0 billion in 1995 and to 4.5 billion in 1996. If all amounts are appropriated, this will result in full funding of the WIC program by 1996.

AMERICAN FAMILIES IN NEED—OVERALL SPENDING SUMMARY (FISCAL YEAR 1992)

[In millions of dollars]

Title I—Housing Services and Support for Families in Need	
Family unification program	$15.0
Nonprofit assistance	5.0
Maternal housing vouchers	25.0
Domestic violence shelters aid	36.0
Subtotal	81.0
Title II—Health Care for Women, Infants and Children in Need	
Birth defects:	
Birth defects surveillance, research and prevention	15.0
Access:	
Satellite and mobile clinics	50.0
Expand access to childhood immunizations	40.0
Pediatric and obstetric care shortage areas	2.0
NHSC tail insurance	5.0
25 percent of malpractice costs	9.5
Program simplification and outreach:	
Computerized one-stop shopping	6.0
VISTA volunteer outreach	1.5
National infant health campaign	2.0
Subtotal	131.0
Title III—WIC Special Supplemental Food Program	
Full funding for women, infants, children special supplemental food program	256.0
Total	468.0

By Mr. BENTSEN (for himself and Mr. GRAMM):

S. 1382. A bill to authorize the Secretary of the Interior to construct and test the Lake Meridith salinity control project, New Mexico and Texas, and for other purposes; to the Committee on Energy and Natural Resources.

LAKE MEREDITH SALINITY CONTROL PROJECT

• Mr. BENTSEN. Mr. President, today I am again introducing legislation to help ensure a reliable supply of quality drinking water for the people of the Texas Panhandle. This bill will authorize the Bureau of Reclamation to work with the Canadian River Municipal Water Authority [CRMWA] to reduce the salt content of the water supplied to their 11 member cities from Lake Meredith. Those member cities have a combined population of nearly 450,000.

Lake Meredith has had salt problems since its construction, and the problem has gradually worsened over the years. Chloride concentrations have ranged from 300 milligrams per liter to over 400 milligrams per liter under drought conditions. The maximum level recommended by health and environmental agencies for drinking water is 250 milligrams/l. These excessive levels of salt reduce the utility of a water supply. Salty water tastes bad, causes excessive corrosion, and sometimes is considered unhealthy for those on low-salt diets.

The people of the panhandle area are deserving of a quality source of water, and that water can be made available if the Federal Government will assist in the planning, design, and construction of a project to remove salt from the Canadian River which flows into Lake Meredith. Studies by private consultants and by the Bureau of Reclamation have shown that 70 percent of the salt entering the lake originates in a shallow brine aquifer just downstream from Ute Dam near Logan, NM. This brine aquifer is under artesian pressure and is leaking into the river. In a 1985 report by the Bureau of Reclamation, it was recommended that the most cost-effective solution to the problem is interception of the brine at the source by well pumping and disposal by deep well injection.

This project is essential for the Texas Panhandle to maintain an adequate supply of quality drinking water in the future. And the beauty of this project is that the CRMWA and its member cities are prepared to operate and maintain the project and to pay for the cost of construction. All they ask for is the technical expertise of the Bureau of Reclamation in designing and building the project.

This bill will authorize funds to be appropriated to the Bureau of Reclamation to pay for verification, design preparation, and constuction management, which is estimated to be 33 percent of the total project cost. The rest would be paid by the CRMWA. Cost estimates of the total project have ranged as high as $9 million. This strong commitment of non-Federal dollars to solve a problem is commendable and should be recognized by passage of this bill. This bill will protect a water supply and a Federal investment. If the salt problem is not solved, underground water sources will be drained, economic opportunities will decrease, recreation and fish and wildlife will be threatened.

[1] FQHCs are community health centers plus other centers referred to as "look alikes" because they meet the same criteria as CHC—located in an underserved area, charge on an ability-to-pay basis, take any patient who walks through the door, etc.—but do not receive a federal CHC grant.

Each year of delay puts another 30,000 tons of salt in Lake Meredith. If the salt problem is not solved and Lake Meredith continues to be flooded with salt, Lake Meredith could eventually be rendered useless.

Water is an essential element. Through activities of the Bureau of Reclamation, water supplies have been developed for many areas of our country. Today I ask that we protect an investment that the people of the Texas Panhandle and the Federal Government have made jointly. The member cities of Amarillo, Borger, Pampa, Plainview, Lubbock, Slaton, Tahoka, O'Donnell, Lamesa, Brownfield, and Levelland are eager and willing to work for quality water. This bill will provide a plan to assure a reliable drinking water supply for the Texas Panhandle.

In the last Congress the Senate passed similar legislation, recognizing the significance of this project and the seriousness of the problem. However, the legislation has not been finally enacted into law. Enough studies have been conducted and enough time has passed. The time is now to begin the process of reducing the salt content of Lake Meredith. This bill will accomplish the objective, providing a reliable water source for years to come.●

By Mr. McCAIN (for himself, Mr. GRAHAM, and Mr. MACK):

S. 1383. A bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes; to the Committee on Armed Services.

MILITARY DISABLED RETIREE PROTECTION ACT

Mr. McCAIN. Mr. President, I rise today to introduce the Military Disabled Retiree Protection Act of 1991, legislation to correct an inequity in current law that results in disabled military retirees with life-threatening conditions losing critical medical coverage and home health care benefits under CHAMPUS. While a relatively small number of individuals and their families are affected by this problem, the effect is nonetheless devastating.

Under a 1972 law, if one has been determined to have been disabled for more than 2 years, Medicare replaces CHAMPUS and the Department of Defense as the primary health care provider. The problem arises in that Medicare and CHAMPUS benefits are not identical, particularly as they relate to home care for the disabled.

Mr. President, Medicare's home care benefit exists largely to assist in the transition from a hospital or nursing home stay to carrying on with a normal healthy life. The CHAMPUS home health care benefit, on the other hand, exists as an alternative to institutional care. Hence, if one opts to receive home care during the period of their disability prior to becoming eligible for Medicare, they are unable to continue this course of care once they are required to enroll in Medicare unless they pay for it fully out of their own pocket. This has resulted in financial ruin for these individuals who sacrificed in the service of our country and fell ill in the process of that service. Had they remained well, they would have stayed in the military, and never would have been confronted with this problem. I submit, Mr. President, that we have a responsibility to provide a remedy—and without delay.

The legislation I am introducing today, which is the companion to a bill that was introduced in the House by Congressman YOUNG, would correct the problem by making it possible for those military retirees with service connected disabilities to remain eligible for CHAMPUS benefits. CHAMPUS would then serve as the secondary payor to Medicare, providing for those needs not met by Medicare. The bill would be applied retroactively to those military retirees who have become disabled and lost eligibility for CHAMPUS pursuant to the 1972 law.

Our Nation calls on its young people to serve. Yet, it is problems like the one I have focused on today that leave this great Nation turning its back on those very people who sacrifice so much in answering that call.

This critical problem first came to my attention through the efforts of a gentle lady from Springfield, VA, named Mrs. Edith Smith. She and her husband, Vince, have been suffering under the provisions of the 1972 law for a number of years now. While the Smith's have been able to get some extraordinary assistance, most who fall into this category are not as fortunate. It is for these people that Mrs. Smith has dedicated the vast majority of her waking hours in an effort to see that the most vulnerable in our Nation's military family receive the services to which they are entitled. I, for one, am grateful for the time and energy Mrs. Smith has dedicated to educating me and my staff about this serious problem.

Mr. President, I hope that my colleagues will take the time to examine the legislation that I am introducing today, and will join me in the effort to correct this problem.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my statement.

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

S. 1383

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Disabled Retiree Protection Act of 1991".

SEC. 2. EXPANSION OF CHAMPUS COVERAGE TO INCLUDE CERTAIN MEDICARE PARTICIPANTS.

(a) ELIGIBILITY OF DISABLED PERSONS.—Section 1086 of title 10, United States Code, is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d)(1) A person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) or supplementary medical insurance benefits under part B of such title (42 U.S.C. 1395j et seq.) is not eligible for health benefits under this section.

"(2) The prohibition contained in paragraph (1) shall not apply in the case of a person referred to in subsection (c)(1) who—

"(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)); or

"(B) would be entitled to those benefits pursuant to such subparagraph except for the age of such person being 65 years or older.".

(b) CONFORMING AMENDMENTS TO SECTION 1086.—Section 1086 of such title is further amended—

(1) in subsection (c)—

(A) by striking out "The following" and inserting in lieu thereof "Except as provided in subsection (d)(1), the following"; and

(B) by striking out the sentence following paragraph (3); and

(2) in subsection (g), by striking out "Notwithstanding subsection (d) or any other provision of this chapter," and inserting in lieu thereof "Section 1079(j) of this title shall apply to a plan contracted for under this section, except that".

(c) OTHER CONFORMING AMENDMENTS.—(1) Paragraph (1) of section 1079(j) of title 10, United States Code, is amended to read as follows:

"(1) A benefit may not be paid under a plan covered by this section in the case of any person to the extent that such person is entitled to the same benefit under—

"(A) an insurance, medical service, or health plan in which such person is enrolled, other than a plan administered under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

"(B) part A or B of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).".

(2) Section 613(d) of title 38, United States Code, is amended—

(A) by striking out "the second sentence of section 1086(c)" and inserting in lieu thereof "section 1086(d)(1)"; and

(B) by inserting "or supplementary medical insurance benefits under part B of such title" after "(42 U.S.C. 1395c et seq.)".

(d) APPLICATION OF AMENDMENTS AND TRANSITIONAL PROVISIONS.—(1) Subsection (d) of section 1086 of title 10, United States Code, as amended by subsection (a), shall apply with respect to health care benefits or services received by a person described in subsection (d) of such section—

(A) on or after the date of enactment of this Act; and

(B) in the case of a person described in paragraph (2) of such subsection, before that date to the extent that those benefits or services were paid for by that person and

would have been covered under a plan contracted for under such section if received on that date.

(2) The Secretary of Defense shall by regulation prescribe the manner in which persons described in subsection (d)(2) of such section may submit and receive payment for claims based on benefits or services before the date of the enactment of this Act.

(3) To be considered for payment under paragraph (2), each claim that is based on benefits received before the date of the enactment of this Act shall be submitted to the Secretary of Defense not later than two years after the date on which the Secretary first prescribes regulations under such paragraph.

By Mr. THURMOND:

S. 1384. A bill to extend the temporary suspension of duty on certain chemicals; to the Committee on Finance.

S. 1385. A bill to extend the temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

S. 1386. A bill to suspend temporarily the duty on Phospholan; to the Committee on Finance.

S. 1387. A bill to suspend temporarily the duty on acet-p-anisidine; to the Committee on Finance.

S. 1388. A bill to suspend temporarily the duty on diazo-2,1,4-sulfonic acid and its salts; to the Committee on Finance.

S. 1389. A bill to suspend temporarily the duty on 2,4-dinitro aniline; to the Committee on Finance.

S. 1390. A bill to suspend temporarily the duty on 3-amino-acetanilide-4-sulfonic acid; to the Committee on Finance.

S. 1391. A bill to suspend temporarily the duty on chloranil; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CHEMICALS

Mr. THURMOND. Mr. President, I rise today to introduce eight bills which will suspend the duties imposed on certain chemicals used in manufacturing industries. Currently, these chemicals are imported for use in the United States because there is no known domestic supplier or readily available substitute. Therefore, suspending the duties on these chemicals would not adversely affect domestic industries.

The first bill will extend the duty suspension on five chemicals. They are: 1-Naphtol- 4-sulfonic acid and the mono sodium salt (Neville and Winter's Acid) which is used in the manufacturing of reactive dyes for cotton and wool products; 2,Naphthyl amine-6-sulfonic acid (Broenner's acid) which is used in making reactive dyes for coloring cotton and wool; 2-Naphthyl amine-1, 5-disulfonic acid and the mono sodium salt (D Salt) which is used in the manufacturing of reactive dyes for cotton and wool; 3,Hydroxy-2-naphthanilide, 3-Hydroxy-2-naphtho-o-toluidide, 3-Hydroxy-2-naphtho-o-anisidide, 3-Hydroxy-2-naphtho-o-phenetidide, 3-Hydroxy-2-naphtho-4-chloro-2,5-dimethoxy Anilide, and N,N'-bis [acetoacetyl-O-tolidine] (naphthol AS types) which is used in the production of paints, printing inks, and colorants for plastics; 3-Amino-methoxy benzanilide (anis base) which is used in the production of Azo pigments. These pigments are used in the production of paints, printing inks, and colorants for plastics.

Mr. President, in the 101st Congress, I introduced similar legislation to suspend the duty on these chemicals. These duty suspensions were incorporated into the Customs and Trade Act of 1990 and will expire on December 31, 1992.

The second bill I am introducing will extend the duty suspension on tetra amino biphenyl (TAB). This chemical is imported into the United States from West Germany. TAB is an essential raw material used in the production of a high performance fiber called PBI.

PBI is a unique heat and chemical resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications such as flight suits and garments for firefighters, boiler tenders, as well as refinery workers.

Mr. President, in the 98th, 100th, and 101st Congress, I introduced similar legislation to apply duty-free treatment to TAB. These bills were ultimately incorporated into the Omnibus Tariff and Trade Act of 1984, the Omnibus Trade Act of 1988, and the Customs and Trade Act of 1990. The current duty suspension for this chemical expires December 31, 1992.

Mr. President, the next six bills I am introducing will suspend the duty on certain chemicals until December 31, 1994. This is the first time a duty suspension has been requested for these items.

The first bill will suspend the duty on 2-methyl 2.5 dioxo 1.2 oxaphospholan, commonly called phospholan. This chemical is used as a raw material in the manufacture of polyester fibers for carpeting.

The next four bills will suspend the duty on Acet-p-anisidine; Diazo-2,1,4-solfonic acid and its salts; 2,4-Dinitro Aniline; and 3-amino-acetanilide-4-sulfonic acid. These chemicals are used in the production of textile dyes and pigments.

The last bill I am introducing will suspend the duty on 2,3,4,5-tetrachloro-1,4-benzoquinone, commonly called Chloranil. This chemical is used in the manufacture of coatings for electronics applications.

Mr. President, suspending the duty on these chemicals will benefit the consumer by stabilizing the costs of manufacturing the end-use products. There are no known domestic producers of these materials. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bills be printed in the CONGRESSIONAL RECORD immediately following my remarks.

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

S. 1384

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

SECTION 1. SUSPENSION OF DUTY ON CERTAIN CHEMICALS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94" in each of the following headings:

(1) Heading 9902.30.14 (relating to Neville and Winter's acid).

(2) Heading 9902.30.41 (relating to Broenner's acid).

(3) Heading 9902.30.42 (relating to D Salt).

(4) Heading 9902.30.60 (relating to napthol AS types).

(5) Heading 9902.30.62 (relating to anis base).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1385

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

SECTION 1. EXTENSION OF DUTY SUSPENSION.

(a) IN GENERAL.—Heading 9902.29.27 of the Harmonized Tariff Schedule of the United States (relating to tetraamino biphenyl) is amended by striking out "12/31/92" and inserting "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SECTION 1. PHOSPHOLAN.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	(2-methyl 2.5 dioxo 1.2 oxaphospholan) (provided for in subheading 2919.00.50)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1387

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

SECTION 1. ACET-P-ANISIDINE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Acet-p-anisidine (CAS No. 51–66–1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1388

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

SECTION 1. DIAZO-2,1,4-SULFONIC ACID AND ITS SALTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Diazo-2,1,4-sulfonic acid and its salts (CAS No. 117–70–4 or 64173–92–6) (provided for in subheading 2927.00.40 or 2927.00.50)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1389

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

SECTION 1. 2,4-DINITRO ANILINE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2,4-dinitro aniline (CAS No. 97–02–9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

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

SECTION 1. 3-AMINO-ACETANILIDE-4-SULFONIC ACID.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	3-amino-acetanilide-4-sulfonic acid (CAS No. 88–64–2) (provided for in subheading 2924.29.45)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

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

SECTION 1. CHLORANIL.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2,3,4,5-tetrachloro-1,4-benzoquinone (CAS No. 118–75–4) (provided for in subheading 2914.70.20)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. BRYAN (for himself and Mr. MCCAIN):

S. 1392. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

• Mr. BRYAN. Mr. President, today, together with my Commerce Committee colleague Senator MCCAIN, I am introducing the Telemarketing Consumer Fraud and Abuse Prevention Act. I believe telemarketing fraud is a serious problem that deserves immediate attention. This legislation, with one clarifying addition, is the text of S. 2494 which passed the Senate by unanimous consent late in the 101st Congress. We need to move as expeditiously as possible to complete work on this legislation in this Congress.

Telephone sales have become an important part of American business and, when properly carried out, are a convenience to consumers, allowing them to shop at home. However, telemarketing fraud is the deceptive peddling of goods and services over the telephone. Typically, a consumer is contacted and offered goods and services as discount prices or of a nature too good to be true. Payment is generally required in advance, often by credit card. When the goods or services arrive, the consumer finds that the bargain doesn't exist, or is not of the promised value. A related problem is the abuse of the telemarketing process by telephone calls that are made at unreasonable hours, by machines that cannot be disconnected by the person called, or utilizing other techniques of harassment.

As telephone sales have become an increasingly popular and convenient way for consumers to purchase goods and services, it is, perhaps, inevitable that unscrupulous individuals will utilize the system to defraud consumers. Testimony before the Consumer Subcommittee, which I chair, has indicated that telemarketing fraud is costing American consumers at least $1 billion per year. On a more personal scale, the subcommittee has received testimony from citizens of my own State of Nevada describing fraudulent practices that threatened to deprive unsuspecting citizens of their life savings.

Telemarketing fraud is indeed a national problem, although some States, including my State of Nevada, often become havens for such activity. I am pleased that the State Government in Nevada has taken what appear to be very successful steps to address this problem at the State level. However, because the fraudulent activity often is conducted across State lines, the States and the Federal Government must work together on this issue to develop an effective solution. I know that the Federal Trade Commission and the State attorneys general have begun this process by instituting a joint databank to share information about telemarketing fraud trends. The bill I am introducing today is an effort to further that cooperation and to maximize consumer protection.

The bill would require the Federal Trade Commission to promulgate specific rules governing telemarketing activity, including a definition of telemarketing fraud, which would be prohibited by the act. The only difference between this bill and S. 2494, which passed the Senate last Congress, is the inclusion of a definition of credit card laundering which would be included in the telemarketing fraud prevented by the bill. Credit card laundering is the practice of submitting credit card charges through legitimate merchants in order to hide the identity of the fraudulent telemarketer. In addition to the losses suffered by consumers due to fraud, both the legitimate merchants and the credit card companies may end up taking significant losses as a result of this practice.

Other areas in which the FTC would be required to consider rulemaking include a cooling off period in which consumers could rescind telephone purchases; a requirement that delivery of goods ordered be made within a specified time period; restrictions on the hours and types of machines that can

be used to make telemarketing calls; and recordkeeping requirements.

Additionally, the bill would permit the States and the FTC to work together to enforce the Federal law, by permitting the State attorneys general to bring suit under the Federal law. The States would have to notify the FTC of such actions, and the FTC would have the absolute right to intervene in such actions. Because some States, like Nevada, have enacted State laws to address this problem, my bill would provide for the continued applicability of that State law upon application to the FTC.

The bill would also permit actions by private parties to enforce the Federal law, but only when the amount in controversy exeeds $50,000. This provision is intended to provide for maximum enforcement of the law, but to prevent frivolous and unnecessarily burdensome lawsuits.

Finally, the bill would provide for expanded venue and service of process for those enforcing the law. This will address the problem that currently exists when fraudulent telemarketers move their operations rapidly across State lines to avoid enforcement.

Mr. President, telemarketing fraud is a difficult problem, and finding a legislative solution is challenging. I believe that this bill strikes the proper balance between Federal and State enforcement, and between the needs of legitimate telemarketers and the fullest protection of consumers. I urge my colleagues to support Senator MCCAIN and I in this effort to help consumers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1392

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Telemarketing and consumer Fraud and Abuse Prevention Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "attorney general" means the chief legal officer of a State;

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(C) such other acts or practices defined in the rules of the Commission as credit card laundering.

TELEMARKETING RULES

SEC. 3.(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) Prohibition of Fraudulent Telemarketing Acts or Practices.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT ON STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 4. (a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OF PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil

action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

ACTIONS BROUGHT BY PRIVATE PERSONS

SEC. 5. (a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

VENUE

SEC. 6. Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served whenever the person, partnership, or corporation may be found.".

SUBPOENA

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after the paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

FALSE ADVERTISEMENTS CONCERNING SERVICES

SEC. 8. Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

CLEARINGHOUSE

SEC. 9. The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

FINANCIAL DATA

SEC. 10. Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reason of having been obtained in violation of law; or".

CRIMINAL CONTEMPT AUTHORITY

SEC. 11. Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

ADMINISTRATION AND APPLICABILITY OF ACT

SEC. 12. (a) ENFORCEMENT.—Except as otherwise provided in sections 4 and 5 of this Act, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EXEMPTION.—(1) No provision of this Act shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this Act shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the term "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)).

LIFE CARE HOME STUDY

SEC. 13.(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SUNSET

SEC. 14. The provisions of sections 3, 4, and 5 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.•

• Mr. McCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has made great strides in offering American consumers greater options for obtaining information, entertainment and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. However, the expansion of the industry has unfortunatley led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens to give them their money, and then run, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent last fall.

I am again pleased to be working with Senator BRYAN in reintroducing this legislation in an effort to protect consumers from telemarketing and consumer fraud.

Telemarketing and consumer fraud costs American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these "boiler room" scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

Senior citizens are particularly susceptible to consumer and telemarketing fraud. Fraudulent practices are successful with the elderly for many reasons. First, senior citizens are sometimes more easily pressured by individuals seeking to defraud them. Second, seniors are major consumers of services and products for which they are targeted by con artists, such as medical devices, drugs, and nutritional products. Third, fixed incomes make get-rich-quick schemes seem attractive. Finally, illnesses or diseases suffered by seniors may make "wonder cures" very enticing.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud or "quackery," is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of health quackery.

Not only is such fraud dangerous to consumers' health, it is also costly: Current projections by the National Council Against Health Fraud indicate that health care fraud is costing Americans close to $25 billion per year.

Health care fraud can be life-threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

A few examples from my own State of Arizona illustrate the magnitude of the problem:

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read:

> Alzheimers' disease—symptoms of senility. At last—now there is hope! Call [this number] for help. Free—no charges—no fees.

Another case involved a phony cancer cure called Tumorex. The ad read:

> Cancer patients undergo a 6-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken ½ hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, 6 days of treatment are sufficient; however, 12 days or more are required for some severe cases.

Colon cleansing is important before treatment and imperative after treatment. Twenty-five hundred dollars includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however, MasterCard and Visa are acceptable.

Mr. President, "Tumorex" is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. While telemarketing fraud is not confined to older Americans, it is often successful among this group. Consumer items for purchase, and medical and heatlh services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. Unfortunately, the consumer often loses by not receiving the ordered item, receiving a copy rather than an authentic item, or suffers some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items was sent to the company which, in turn, cashed the checks and never delivered the merchandise. This operation generated over 1,300 complaints.

Mr. President, examples such as this one go on and on, and the list continues to grow.

A third area of great concern is life care communities, some of which cause the elderly to lose their money as a result of fraud or mismanagement. Life care communities can be a practical solution to the problem of assuring independent and supportive living for older Americans, while guaranteeing 24-hour nursing care for those who require it.

However, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, the misrepresentation of the mortgagelender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit care privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsus- pecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card numbers to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer who never receives the item or receives an item which is different from the promised item. There is an additional effect on the banking institutions, which, upon receiving the complaint from the consumer, or having to acquire the accounts of telemarketing merchants who went out of business, must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact situation took place in my State of Arizona. On February 15, 1990, Gateway National Bank from Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just one year prior to insolvency Gateway claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these issues, this legislation would minimize the practice of telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commission [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include: First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorneys general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorneys general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarketing fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of "physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, if it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.•

By Mr. DASCHLE:

S. 1393. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain amounts received in connection with certain combinations or acquisitions of partnerships where there are not certain dissenters' rights; to the Committee on Finance.

TAX TREATMENT OF CERTAIN PARTNERSHIPS

• Mr. DASCHLE. Mr. President, I rise to discuss a problem that every Member of Congress should be aware of because it potentially harms thousands of small investors in each State. I am also introducing legislation today on this issue that will be the focus of a hearing in the Finance Subcommittee on Energy and Agricultural Taxation on July 10.

The problem I am speaking of is the proliferation of abuses occurring in so-called limited partnership rollups. It has been estimated that, since 1980, approximately $130 billion of public limited partnership interests have been sold to U.S. investors. Of the estimated 11 million investors who have purchased these limited partnership interests, some 8 million are small investors.

Limited partnerships typically are formed when a promoter or developer solicits funds for purposes of buying oil and gas property, real estate, or some other enterprise. Often thousands of potential investors are sought. The investors, who become the limited partners, frequently are individuals close to retirement age seeking a place to invest their retirement savings.

Typically, under the terms of the partnership agreement, they can expect that in 5 to 10 years the partnership's properties will grow in value and be sold. They also can expect that the cash distributed from future property sales, combined with modest annual cash flow from operations, will result in the return of their original investment plus a profit. The investors are willing to accept some market risks, but they are secure in knowing that their agreement with the general partner, that is, the limited partnership agreement, assures them that: First, the general partner will earn no share of profits until the limited partners receive a return of their original investment plus some profit; Second, the general partner will receive reasonable annual management fees; and Third, the original agreement will not be changed.

A rollup turns the original deal upside down—frequently to the detriment of the limited partners who may be unfairly coerced into the new transaction. In a typical rollup, several independent limited partnerships are combined into a single new entity whose shares are traded publicly on a national securities exchange.

The new entity unually has completely different investment goals and prospects for return to the owners of individual interests in the entity. For example, unlike most limited partnerships, these new entities rarely provide income to investors because the terms of the rollup enable amounts received from property sales or refinancings to be reinvested, not distributed. Also, the new entity itself is designed to have a potentially infinite life, unlike a limited partnership in which investors can expect the partnership property to be sold and the profits distributed after a set number of years.

Most important, individual investors may find that their interest in the new entity does not have anywhere near the value of their original limited partnership interest. This is partly because sound limited partnerships are frequently combined with poorly performing ones. Also, the new entities do not offer what investors in securities want, that is, cash flow and/or growth potential. As a result, they are not marketable. One survey of rolledup real estate partnerships found an average 49 percent drop in market value on the very first day the rolledup interests began trading.

If limited partners are the losers in a partnership rollup, the general partners are the winners. They receive large fees for orchestrating the rollup. In the survey just mentioned, general partners were found to have paid themselves over $190 million. In addition, many general partners cash out their interests or emerge with a larger share of the rollup than they had in the original deal.

Despite the fact that the majority of partnership rollups to date have lost money for limited partners—94 percent according to one source—even critics agree that the partnership rollup transaction need not be abolished entirely. There is nothing inherently wrong with rolling up several partnerships, so long as certain reforms are enacted to ensure that the transaction is carried out in a manner that is fair to all parties involved, particularly small, less sophisticated investors. Current laws and regulations, both Federal and State, are inadequate in this regard, enabling general partners to force a rollup that the limited partners might not have approved if they had been adequately informed and given a meaningful opportunity to dissent and pull out of the deal.

There are several ways in which partnership rollups can be abusive under current law. While all limited partners must be notified of a proposed rollup and have an opportunity to vote on it, the disclosures provided to them by the general partners are hopelessly technical, containing hundreds of pages of fine print. Unbeknownst to most limited partners, the brokers they contact to discuss the rollup are only paid for a yes vote. Further, dissenters have little option, if any, to exit the deal. Dissenters are usually forced into the deal as long as the majority of the limited partners agree to it. The latter is referred to as a "cram down."

This issue has been the subject to much interest for over a year. Many of my colleagues may have read the articles that have appeared in every major business and financial publication in the country. Excellent and informative hearings have been held in the Senate and House banking committees. The Securities and Exchange Commission has issued regulations that attempt to address part of the problem—meaningful disclosure.

Admittedly, obstacles to reform may exist, such as the traditional jurisdictional lines in the securities laws between Federal and State government. But the fact remains that abusive partnership rollups continue because the core of the problem—dissenters' rights—has not been addressed.

That is why today I am introducing legislation that seeks to address the problem through the Tax Code. If we can't solve the problem directly, maybe we can do it by hitting those who gain from these deals where it hurts—at the bottom line.

The proposal I am introducing is similar to one advanced by Representative PETE STARK. The concept is simple. If a dissenter is not permitted to opt out of the investiment at a value that reflects his or her pre-rollup interest, then a 50 percent excise tax would be imposed on any amounts, such as payments, fees or other benefits, earned by the general partners, managers, investment bankers, brokers, or any others who gain by the rollup.

It is my hope that this proposal, and the upcoming Energy and Agricultural Taxation Subcommittee hearing on limited partnership rollups, will contribute to the effort to end abuses of this investment vehicle. I am particularly hopeful that my colleagues and others who are interested in the issue will consider this approach to addressing it and come forward with their comments on it.

I invite my colleagues not only to take a close look at the proposal I am

introducing today, but also to participate in that hearing.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1393

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

SECTION 1. PROHIBITED ROLL-UPS.

(a) IN GENERAL.—Chapter 54 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

"SEC. 5882. TAX ON CERTAIN AMOUNTS RECEIVED IN CONNECTION WITH CERTAIN ACQUISITIONS OR COMBINATIONS OF SPECIFIED ENTITIES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any disqualified person who receives any disqualified rollup-related payment a tax equal to 50 percent of any gain or other income realized by such person by reason of such payment.

"(b) DISQUALIFIED ROLLUP-RELATED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'disqualified rollup-related payment' means any payment, fee, or other consideration received (directly or indirectly) by a disqualified person—

"(A) on account of services rendered in connection with a prohibited rollup transaction,

"(B) in exchange for a direct or indirect interest in a specified entity which is a party to a prohibited rollup transaction, or for the relinquishment of any right arising under a contract or other agreement with any such entity, or

"(C) on account of—

"(i) services rendered to any entity resulting from a prohibited rollup transaction, or

"(ii) holding any interest in such entity (including any amount received on redemption or other disposition of such an interest).

"(2) EXCEPTION FOR CERTAIN PAYMENTS.—The term 'disqualified rollup-related payment' shall not include any amount received by any disqualified person on account of any services to the extent such amount does not exceed the amount such disqualified person would have been entitled to receive for such services from a specified entity had it not entered into the prohibited rollup transaction.

"(c) PROHIBITED ROLLUP TRANSACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'prohibited rollup transaction' means any transaction which would convert a specified security in a specified entity to an interest which is not a specified security if—

"(A) in connection with such transaction, there is an offering of securities which is required to be registered with the Securities and Exchange Commission or any comparable agency of a State or local government or a proxy or other vote is requested in connection with the transaction, and

"(B) the dissenters' rights requirements of paragraph (2) are not met by each specified entity which is a party to the transaction and which was in existence before the transaction.

"(2) DISSENTERS' RIGHTS REQUIREMENTS.—The dissenters' rights requirements of this paragraph are met by any specified entity if—

"(A) each person who holds a specified security in such entity has a reasonable opportunity to dissent to the transaction referred to in paragraph (1), and

"(B) each person who dissents to such tranaction has the right to—

"(i) require the redemption of such persons's specified security in the entity for an amount equal to such security's proportionate share of the net value of the assets of such entity immediately before the transaction and such amount to be paid in cash, marketable securities which have been traded on a national exchange for at least 3 years, or negotiable promissory notes issued by the entity resulting from the transaction, such promissory notes being subject to terms specified in regulations to be promulgated by the Secretary; or

"(ii) receive securities which have substantially the same value, rights, powers, and privileges as the specified security.

The amount determined under subparagraph (B) with respect to the value of any specified security shall in no event be less than the amount represented (in any document filed with the Securities and Exchange Commission or any other governmental authority) as the value of the underlying assets to be exchanged, sold, or contributed (either directly or indirectly) by the specified entity which issued the specified security.

"(3) SPECIFIED ENTITY.—The term 'specified entity' means any limited partnership which has issued a specified security which was not traded on a national securities exchange before April 23, 1991, or any such entity which has been converted after April 23, 1991, into an entity interests in which are freely transferrable.

"(4) SPECIFIED SECURITY.—The term 'specified security' means a limited partnership interest in which the holders of such interest are entitled to receive a proportionate share of all net proceeds from all sales or refinancings which occur on or after a specified date (which date may be the initial date of issuance of such security) of the assets of the entity issuing such security, and none of the net proceeds of such sales or refinancings may be retained by such entity, other than that which may be retained under the original agreement among the partners. For purposes of this paragraph, the term 'net proceeds' means the gross proceeds received from a sale or refinancing, reduced by any indebtedness or reasonable costs that must be paid as a result of such sale or refinancing, further reduced by any reserve for repairs or replacement, all of which must have been consistent with the agreement of the partners at the time the specified security was issued.

"(d) DISQUALIFIED PERSON.—For purposes of this section, the term 'disqualified person' means—

"(1) any person who, immediately before or after prohibited rollup transaction, was or is a general partner, manager, or investment adviser with respect to any specified entity which is a party to such transaction,

"(2) any person performing services as a broker, dealer, underwriter, promoter, investment banker, or appraiser in connection with the prohibited rollup transaction, and

"(3) any person who is related (within the meaning of section 5881(c)(2)) to any peson described in paragraph (1) or (2).

"(e) TAX APPLIES WHETHER OR NOT AMOUNT RECOGNIZED.—The tax imposed by this section shall apply whether or not the gain or other income referred to in subsection (a) is recognized.

"(f) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(b) TECHNICAL AMENDMENTS.—

(1) The chapter heading and table of sections for chapter 54 of such Code is amended to read as follows:

"CHAPTER 54—GREENMAIL, ETC.

"Sec. 5881. Greenmail.

"Sec. 5882. Tax on certain amounts received in connection with certain acquisitions or combinations of specified entities."

(2) The table of sections for subtitle E of such Code is amended by striking the item relating to chapter 54 and inserting the following new item:

"Chapter 54. Greenmail, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to prohibited rollup transactions (as defined in section 5882 of the Internal Revenue Code of 1986 (as added by subsection (a)) occurring after April 23, 1991.●

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 1394. A bill to simplify certain provisions of the Internal Revenue Code of 1986; to the Committee on Finance.

TAX SIMPLIFICATION ACT

Mr. BENTSEN. Mr. President, today, Senator PACKWOOD and I are joining with Chairman ROSTENKOWSKI and Congressman ARCHER in introducing companion tax simplification bills in the Senate and the House.

The tax simplification proposals were developed by the majority and minority staffs of the Finance Committee and the Ways and Means Committee, and the staffs of the Joint Committee on Taxation, the Treasury Department and the Internal Revenue Service. The staffs were directed to draft tax simplification proposals that, first, did not represent a change in tax policy, and, second, were either revenue neutral or had only a minimal revenue impact. Working under these difficult constraints, I believe the staffs have done a commendable job.

This bill is intended to start a dialog on tax simplification proposals. It is not intended to be complete or to represent the final word on how the Tax Code can and should be simplified. By definition, the provisions of current law that this bill is intended to simplify are complex, and often this is because they address complex circumstances. While the staffs have made every effort to avoid unintended consequences of the changes proposed in the interests of simplification, it would be unrealistic to expect perfection. We now will be looking to taxpayers and tax practitioners to examine the bill and to make suggestions for changes to the bill or to suggest additional proposals that were not included or may have been overlooked. I will also be scheduling hearings before the Finance Committee later this year on this bill and tax simplification proposals more generally. I very much hope that the introduction of this bill will stimulate serious thinking and comment on how we can make our tax laws more simple.

Because of budgetary considerations, this bill necessarily represents a limited effort to simplify the tax rules. It is extremely difficult and perhaps impossible to enact major, structural, simplifications to the tax system without encountering serious revenue problems. We are severely constrained in this effort by the pay-as-you-go budget rules.

Some of the provisions in this bill nevertheless have some revenue impact, either positive or negative, that is incidental to the goal of simplification. As has long been my policy, and as the pay-as-you-go rules require, I will not move this bill or any part of the bill through the Finance Committee if it is not fully paid for.

Even within the constraints the staffs were operating under, the bill includes a number of significant provisions. For example, the bill provides for a simplified form for individual tax returns. The bill also would simplify the reporting requirements for partnerships. And, the bill would significantly simplify the look-back method for calculating income from long-term contracts. These and other areas in the Tax Code have tied taxpayers and practitioners in knots and are ripe for simplification.

Two important areas in which we were unable to include proposals at this point were payroll tax deposit reform and simplification of the earned income tax credit. There is no question that simplification is seriously needed in both areas. While we are unable to reach agreement on the details of proposals in these areas for inclusion in this bill, we will want to give these and other proposals additional study as the tax simplification bill advances in the legislative process.

This bill represents one of a series of initiatives to simplify the tax laws. In the area of pension law, I have joined Senator PRYOR in the introduction of the Employee Benefits Simplification and Expansion Act of 1991. By streamlining the cumbersome pension laws, that legislation would encourage more employers to establish pension plan coverage for their employees.

I ask unanimous consent that the full text of the bill and an explanatory statement prepared by the Joint Committee on Taxation be printed in the RECORD following my remarks.

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

S. 1394

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Simplification Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS—

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TITLE I—PROVISIONS RELATING TO INDIVIDUALS

SEC. 101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) RULES RELATING TO MULTIPLE SALES WITHIN ROLLOVER PERIOD.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 102. MODIFICATION OF DUE DATES FOR ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Paragraph (2) of section 6654(c) (relating to number of required installments; due dates) is amended by striking "June 15" and inserting "July 15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 103. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, has a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer therof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matter as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of section 161(e) of such Act shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 104. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year.

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purpose of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to show individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 106. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not appy to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction, no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 107. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a partnership which is a large partnership (as defined in section 776) or is any other partnership with 250 or more partners, such information shall be so furnished on or before the 15th day of the 3d month following the close of such taxable year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1992.

SEC. 108. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1991.

SEC. 109. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 110. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (1) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimburesements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letters Carrier's Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

TITLE II—TREATMENT OF LARGE PARTNERSHIPS

Subtitle A—General Provisions

SEC. 201. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.

"Sec. 772. Simplified flow-through.

"Sec. 773. Computations at partnership level.

"Sec. 774. Other modifications.

"Sec. 775. Exceptions.
"Sec. 776. Large partnership defined.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partners's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(5) general credits,

"(6) low-income housing credit determined under section 42, and

"(7) rehabilitation credit determined under section 47.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into acount by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(5) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (5) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) and (6) of section 469(c).

"(2) NET AMT ADJUSTMENT.—The term 'net AMT adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58. Except as provided in regulations, such net adjustment shall be determined by using the adjustments applicable to individuals.

"(3) TREATMENT OF NET CAPITAL GAIN.—

"(A) In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), the net capital gain shall be excluded.

"(B) The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

"(4) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit and the rehabilitation credit.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(4) TREATMENT OF CAPITAL LOSSES.—

"(A) LIMITED TO GAINS.—Paragraphs (1) and (2) of section 1211(b), and paragraph (2) of section 1212(b), shall not apply.

"(B) SECTION 1212(C) NOT TO APPLY.—Subsection (c) of section 1212 shall not apply.

"(5) TREATMENT OF TAX-EXEMPT INTEREST.—

"(A) IN GENERAL.—Gross income shall include any interest otherwise excludable under section 103.

"(B) EXCEPTION.—If, at the close of each quarter of the taxable year of any partnership, at least 50 percent of the value of the total assets of such partnership consists of obligations described in section 103(a)—

"(i) subparagraph (A) shall not apply to such partnership for such taxable year, and

"(ii) tax-exempt interest shall be treated as an item required to be separately taken into account under section 772(a).

For purposes of the preceding sentence, the value of any asset shall be determined under rules similar to the rules of section 851(c)(4).

"(c) DETERMINATION OF AMOUNT OF FOREIGN TAX CREDIT.—

"(1) IN GENERAL.—

"(A) AMOUNT OF CREDIT.—For purposes of determining the amount of the foreign tax credit of a large partnership—

"(i) such partnership shall be treated as an individual subject to tax under this chapter at a rate equal to 25 percent, and

"(ii) any excess credit of such partnership for any taxable year shall not be allowed as a carryback under section 904(c) to any preceding taxable year.

"(B) PARTNERSHIP ITEMS SOURCED IN UNITED STATES.—In determining the income tax of a partner of a large partnership, all items of income, gain, loss, or deduction taken into account by such partner under section 772 shall be treated as derived from sources within the United States.

"(2) EXCEPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any taxable year of a partnership if—

"(i) 25 percent or more of the gross income of such partnership for such taxable year is from sources outside the United States, or

"(ii) the partnership makes an election under this paragraph.

"(B) SPECIAL RULES.—In the case of any large partnership to which paragraph (1) does not apply—

"(i) the election under section 901 shall be made separately by each partner,

"(ii) no deduction or credit shall be allowed to the partnership for any creditable foreign taxes, and

"(iii) in determining the income tax of any partner of the partnership—

"(I) creditable foreign taxes shall be treated as an item required to be separately taken into account under section 772(a), and

"(II) the respective sources of the items of income, gain, loss, or deduction taken into account under section 772(a) shall be determined as provided in section 702(b).

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) CREDITABLE FOREIGN TAXES.—For purposes of this subsection, the term 'creditable foreign taxes' means any taxes for which a credit may be allowed under section 901.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b), but

"(2) a transferee partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution).

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 PRINCIPALS TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b)) to the contributing partner.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner (including an excluded partner) to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before January 1, 1992.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B the amount of such recapture shall be determined as if the credit with respect to which the recapture is made has been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.——No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CREDIT UNDER SECTION 34.—The credit provided by section 34 shall be allowed to any large partnership and shall not be taken into account by the partners of such partnership.

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership, all interests in such partnership shall be treated as held by disqualified organizations (and subparagraph (D) of section 860E(e)(6) shall not apply).

"SEC. 775. EXCEPTIONS.

"(a) GENERAL RULE.—This part shall not apply to—

"(1) an excluded partner's distributive share of any item of income, gain, loss, deduction, or credit, and

"(2) any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property.

The amounts referred to in the preceding sentence shall be excluded for purposes of making determinations under section 772 and 773.

"(b) EXCLUDED PARTNER.—For purposes of this section—

"(1) IN GENERAL.—The term 'excluded partner' means, with respect to any partnership taxable year, any partner who for such taxable year or any preceding partnership taxable year meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—A partner meets the requirements of this paragraph for any partnership taxable year if—

"(A) at any time during such taxable year, such partner owned more than 5 percent of the capital interests or the profits interests in such partnership, or

"(B) such partner materially participated (within the meaning of section 469(h)) in the activities of the partnership during such taxable year and holds any interest in the partnership which is not an interest as a limited partner.

"(c) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any large partnership, a person is treated as an excluded partner or as a partner who is not an excluded partner, such treatment shall be binding on such partnership and partner but not on the Secretary.

"SEC. 776. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'large partnership' means, with respect to any partner-

ship taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) EXCEPTION FOR CERTAIN PARTNERSHIPS.—For purposes of this part, the term 'large partnership' shall not include any partnership if—

"(1) substantially all of the activities of such partnership involve the performance of personal services by individuals owning (directly or indirectly) interests in such partnership, or

"(2) 50 percent or more (by value) of the assets of such partnership consists of oil or gas properties.

"(c) ELECTION FOR OIL AND GAS PARTNERSHIPS.—

"(1) IN GENERAL.—If a partnership makes an election under this subsection—

"(A) section 775(a)(2) and subsection (b)(2) of this section shall not apply to such partnership,

"(B) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed without regard to section 613,

"(C) any partner who is an integrated oil company (as defined in section 291(b)(4)) shall be treated as an excluded partner, and

"(D) if any partner meets the requirements of section 469(c)(3)(A) with respect to any working interest in an oil or gas property, such partner (if not otherwise an excluded partner) shall be treated as an excluded partner with respect to such interest.

"(2) ELECTION.—Any election under this subsection shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 202. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Treatment of Large Partnerships

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (B).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as a tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as a tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and,

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnerhip adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such.

"PART III—DEFINITIONS AND SPECIAL RULES.

"Sec. 6255. Definitions and special rules.

"Sec. 6256. Treatment of certain partners.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 776 without regard to subsection (b)(2) thereof.

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnershp shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.

"SEC. 6256. TREATMENT OF CERTAIN PARTNERS.

"(a) GENERAL RULE.—If 1 or more partners of the partnership are excluded partners under section 775 for the partnership taxable year to which any adjustment under this subchapter relates—

"(1) such partners (and their share of any partnership adjustment) shall be excluded from the application of section 6242, and

"(2) notwithstanding section 6241(c)(1), any such partner's share of any partnership adjustment shall be taken into account in applying this title to such partner's taxable year for which the item was required to be taken into account (and the rules of subparagraphs (B), (C), and (D) of section 6241(c)(2) shall apply to such adjustment).

"(b) TREATMENT OF EXCLUDED PARTNERS IN YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—If a partner is an excluded partner under section 775 for any partnership taxable year in which an adjustment under part II takes effect, such partner shall be excluded from the application of section 6242(a) to the extent such partner's interest in the partnership taxable year in which the adjustment takes effect does not exceed his interest in the partnership taxable year to which the adjustment relates."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"Subchapter D. Treatment of large partnerships."

SEC. 203. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in section 776) or any other partnership with 250 or more partners."

SEC. 204. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to partnership taxable years ending on or after December 31, 1992.

Subtitle B—Provisions Related To TEFRA Partnership Proceedings

SEC. 211. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment.

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 212. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 213. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if an action is brought under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 214. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 215. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) Items becoming nonpartnership items.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 216. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 217. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) If the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, subchapter B of

this chapter (other than section 6212) shall apply with respect to the assessment and collection of such liability. For purposes of the preceding sentence, the first of whichever of the following notices that is mailed to the spouse shall be treated as a notice of deficiency: a notice of computational adjustment, a notice and demand for payment, or the first collection notice.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to a notice described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice which is treated as a notice of deficiency under subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 218. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates," and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 217, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 217, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 217, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after December 31, 1991.

SEC. 219. PROVISIONS RELATING TO COURT JURISDICTION.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action sdhall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENT ATTRIBUTABLE TO AFFECTED ITEMS.—Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 220. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 221. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 222. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment where a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after December 31, 1991.

TITLE III—FOREIGN PROVISIONS

Subtitle A—Simplification of Treatment of Passive Foreign Corporations

SEC. 301. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY RULES.—

(1) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) PERSONAL HOLDING COMPANY RULES.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) TREATMENT OF CERTAIN SERVICE CONTRACTS UNDER SUBPART F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding income) is amended by adding at the end thereof the following new subparagraph:

"(F) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporaton is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received for the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 302. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"SUBPART A—CURRENT TAXATION RULES

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851.—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) IN GENERAL.—If a passive foreign corporation is U.S. controlled, then for purposes of subpart F of part III of subchapter N—

"(A) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(B) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(C) the entire gross income of such corporation shall, subject to the provisions of paragraph (5) of section 954(b), be treated as foreign personal holding company income, and

"(D) sections 954(b)(4), 970, and 971 shall not apply.

Except as provided in regulations, stock in the preceding sentence shall also apply for purposes of section 904(d).

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is U.S. controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual (other than a foreign estate or foreign trust) shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not U.S. controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modification of subparagraphs (C) and (D) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer.

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation,

"Subpart B—Interest on Holdings To Which Subpart A Does Not Apply

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term "current year" means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect to stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distribution in respect to the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect to such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so al-

lowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on the day before the date of the enactment of the Tax Simplification Act of 1991) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(e) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B) with respect to each of such corporation's taxable years which begin after December 31, 1986, and include any portion of the taxpayer's holding period in such stock—

"(i) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)),

"(ii) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, or

"(iii) such corporation was treated as a qualified electing fund under this part (as in effect on the day before the date of the enactment of the Tax Simplification Act of 1991) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) or (ii) of paragraph (1)(B) with respect to the taxpayer for a taxable year which begins after December 31, 1991,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1991,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation without regard to this part,

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death. The preceding sentence shall not apply in the case of a decedent who was a nonresident alien at all times during his holding period in such stock.

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(c) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may by regulations prescribe.

"(d) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(e) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1) (B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(f) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except to the extent provided in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY TO PASSIVE FOREIGN CORPORATION.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(g) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (f)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"Subpart C—General Provisions

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted basis of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 957(c); except that, for purposes of subpart B, paragraphs (1) and (2) of section 957(c) shall not apply.

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations,

a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C Corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1992, if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country.

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX EXEMPT ORGANIZATIONS.—This part shall not apply in the case of any organization exempt from tax under section 501 unless the unrelated business taxable income of such organization is computed under section 512(a)(3). In the case of an organization the unrelated business taxable income of which is computed under section 512(a)(3), this part shall be applied with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(3) COORDINATION WITH SECTION 933.—No increase in tax shall be determined under section 1293 on any amount for which the taxpayer would have been entitled to the benefits of section 933 if such amount had been actually received in the taxable year to which it is allocated under section 1293.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in residence status.".

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296),"

SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Subsection (c) of section 542 is amended—

(A) by amending paragraph (5) to read as follows: "(5) a foreign corporation;",

(B) by striking paragraphs (7) and (10), and redesignating paragraphs (8) and (9), as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) as so redesignated, and

(D) by striking "; and" at the end of paragraph (8) as so redesignated and inserting a period.

(9) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(10) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(11) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(12) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(13) Subsection (b) of section 851 is amended—

(A) by striking "or 1293(a)", and

(B) by striking "or 1293(c)".

(14) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(15)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(16) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(17) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(18) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(19) Paragraph (5) of section 1014(b) is amended by striking "foreign personal holding company" and inserting "a passive foreign corporation (as defined in section 1296) with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(20) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(21) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation [or a controlled foreign corporation]."

(22) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(23) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(24) Subsection (a) of section 6035 is amended by striking"foreign personal holding (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(25) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(26) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(27) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 304. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to—

(1) taxable years of United States persons beginning after December 31, 1991, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 302(b) shall apply to dispositions after December 31, 1991.

(c) BASIS RULE.—The amendments made by this subtitle shall not affect the determination of the basis of stock in a passive foreign investment company (as defined in section 1296 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act) acquired from a decedent in a taxable year beginning before January 1, 1991.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 311. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

SEC. 312. REPEAL OF SPECIAL RULES FOR FOREIGN TAX CREDIT APPLICABLE TO RECEIPT OF PREVIOUSLY TAXED EARNINGS.

(a) GENERAL RULE.—Section 960 (relating to special rules for foreign tax credits) is amended by striking subsections (a)(3) and (b).

(b) CONFORMING AMENDMENT.—Subsection (d) of section 959 is amended by striking "Except as provided in section 960(a)(3), any" and inserting "Any".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF EXISTING PREVIOUSLY TAXED INCOME.—The amendments made by this section shall not apply to any distribution or other amount excluded from gross income under section 959(a) of the Internal Revenue Code of 1986 for a taxable year beginning before January 1, 1997, if such distribution or other amount is excludable by reason of an inclusion under section 951(a) of such Code for a taxable year beginning before January 1, 1992.

SEC. 313. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY LOWER TIER FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN PROPERTY HELD BY LOWER TIER FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to adjust-

ments attributable to inclusions for taxable years of United States shareholders beginning after December 31, 1991.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances, there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle C—Other Provisions

SEC. 321. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) GENERAL RULE.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustmnet is paid may be used instead of the exchange rate as of the time of such payment."

(b) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 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 thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(c) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 322. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) The taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1991, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE IV—OTHER INCOME TAX PROVISIONS

Subtitle A—Provisions Relating to Subchapter S Corporations

SEC. 401. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 402. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election.

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 403. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENT FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence: "In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 404. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph: "(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991.

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "SUBCHAPTER C" and inserting "ACCUMULATED".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) TREATMENT OF DISPOSITIONS OF ENTIRE INTEREST.—Paragraph (2) of section 1377(a) (relating to election to terminate year) is amended to read as follows:

"(2) DISPOSITIONS OF ENTIRE INTEREST.—If any shareholder terminates his interest in the S corporation during the taxable year, paragraph (1) shall be applied as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination."

(e) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall apply in the case of decedents dying after the date of the enactment of this Act.

Subtitle B—Accounting Provisions

SEC. 411. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 412. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle C—Provisions Relating to Minimum Tax

SEC. 421. SIMPLIFICATION OF CORPORATE MINIMUM TAX DEPRECIATION PREFERENCE.

(a) IN GENERAL.—

(1) Clause (ii) of section 56(a)(1)(A) is amended—

(A) by striking "150 percent" in subclause (I) and inserting "150 percent (120 percent in the case of a corporation to which subsection (g) applies)", and

(B) by striking "150-PERCENT DECLINING" in the clause heading and inserting "DECLINING".

(2) Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989—The depreciation deduction with respect to any property placed in service in a taxable year beginning—

"(I) during 1990 shall be determined under the alternative system of section 168(g), or

"(II) after 1990 shall be determined under the rules of subparagraph (A) of subsection (a)(1)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is amended to read as follows:

"(2) SPECIAL RULE FOR DECLINING BALANCE METHOD IN CERTAIN CASES.—

"(A) 150 PERCENT METHOD FOR CERTAIN PROPERTY.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(i) any 15-year or 20-year property, or

"(ii) any property used in a farming business (within the meaning of section 263A(e)(4)).

"(B) ELECTION TO USE MINIMUM TAX METHOD.—In the case of any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this subparagraph apply, paragraph (1) shall be applied by substituting '150 percent (120 percent in the case of a corporation to which section 56(g) applies)' for '200 percent' (and subparagraph (A) of this paragraph shall not apply)."

(2) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(3) Paragraph (2) of section 168(c) is amended—

(A) by striking "subsection (b)(2)(C)" and inserting "subsection (b)(2)(B)", and

(B) by striking "150 PERCENT METHOD" in the paragraph heading and inserting "MINIMUM TAX METHOD".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1990.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

SEC. 422. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as subparagraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after the date of the enactment of this Act.

Subtitle D—Tax-Exempt Bond Provisions

SEC. 431. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 432. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construciton proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 433. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construciton proceeds (as defined in subsection (f)(4)(C)) of a construciton issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period.

then such initial temporary period shall be extended 1 year."

SEC. 434. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 435. AUTHORITY TO TERMINATE REQUIRED INCLUSION OF TAX-EXEMPT INTEREST ON RETURN.

Subsection (d) of section 6012 (relating to tax-exempt interest required to be shown on return) is amended by adding at the end thereof the following new sentence: "The Secretary may by regulations provide that the preceding sentence shall not apply in any case in which the Secretary determines that the disclosure of such interest is not useful for tax administration."

SEC. 436. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively, repealed.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 437. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

(b) INTEREST REPORTING.—The amendment made by section 435 shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Other Provisions

SEC. 441. CERTAIN GRANTOR TRUSTS TREATED AS ESTATES.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(47) CERTAIN GRANTOR TRUSTS TREATED AS ESTATES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'estate' includes any trust—

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will (or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

"(B) LIMITATION.—Subparagraph (A) shall apply only with respect to taxable years which end after the date of the decedent's death and which begin before the date which is 3 years and 9 months after the date of such death.

"(C) PARAGRAPH NOT TO APPLY FOR CERTAIN PURPOSES.—This paragraph shall not apply for purposes of—

"(i) determining the taxable year of any trust,

"(ii) subtitle B (relating to estate, gift, and generation-shipping taxes),

"(iii) section 642 (relating to deduction for personal exemption), and

"(iv) such other provisions as the Secretary may by regulations prescribe.

"(D) SPECIAL RULE FOR PASSIVE LOSS RULES.—In applying section 469(i) to any trust treated as an estate under this paragraph, in addition to any reduction under section 469(i)(4)(B), there shall be a similar reduction for the amount of any exemption allowable under section 469(i)(1) (without regard to section 469(i)(3)) to the estate of the decedent (determined without regard to this paragraph)."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 6654(1) is amended to read as follows:

"(2) EXCEPTION FOR ESTATES.—This section shall not apply to the estate of any decedent for any taxable year ending before the date 2 years after the date of the decedent's death."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 442. TIMING RULES FOR INCLUSION AND DEDUCTION OF PARTNERSHIP GUARANTEED PAYMENTS.

(a) GENERAL RULE.—

(1) Subsection (e) of section 267 is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) Subsection (a) of section 706 is amended by striking "and section 707(c)".

(3) Subsection (c) of section 707 is amended by striking "subject to section 263" and inserting "subject to sections 263 and 267".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts taken into account (without regard to such amendments) after the date of the enactment of this Act.

SEC. 443. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to a disposition of entire interest) is amended to read as follows:

(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 444. COORDINATION OF EXCESS PRINCIPAL RULES WITH ORIGINAL ISSUE DISCOUNT RULES.

(a) GENERAL RULE.—

(1) AMENDMENTS TO SECTION 354.—

(A) Clause (i) of section 354(a)(2)(A) (relating to excess principal amount) is amended to read as follows:

"(i) the issue price of any such securities received exceeds the adjusted issue price of any such securities surrendered, or".

(B) Paragraph (2) of section 354(a) is amended by adding at the end threreof the following new subparagraph:

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) ISSUE PRICE.—The issue price of any security shall be determined under sections 1273 and 1274.

"(ii) ADJUSTED ISSUE PRICE.—The adjusted issue price of any security is its issue price—

"(I) increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(7) or (b)(4) of section 1272 (or the corresponding provisions of prior law)), or

"(II) reduced by any amount previously allowable as a deduction (or an offset) under section 171 determined as if such security had always been held by its original holder.

"(iii) SPECIAL RULE.—In the case of any security to which section 1273(b)(4) applies, such section shall be applied by reducing the stated redemption price of the security by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) AMENDMENT TO SECTION 355.—Clause (i) of section 355(a)(3)(A) (relating to excess principal amount) is amended to read as follows:

"(i) the issue price (as defined in section 354(a)(2)(C)) of the securities in the controlled corporation which are received exceeds the adjusted issue price (as so defined) of the securities which are surrendered in connection with such distribution, or".

(3) AMENDMENTS TO SECTION 356.—

(A) Subparagraph (B) of section 356(d)(2) (relating to greater principal amount in section 354 exchange) is amended—

(i) by amending clause (ii) to read as follows:

"(ii) the issue price (as defined in section 354(a)(2)(C)) of such securities received exceeds the adjusted issue price (as so defined) of such securities surrendered,",

(ii) by striking "the fair market value of such excess" and inserting "the amount of such excess", and

(iii) by striking "the entire principal amount" in the second sentence and inserting "the entire issue price (as so defined)".

(B) Subparagraph (C) of section 356(d)(2) (relating to greater principal amount in section 355 transaction) is amended to read as follows:

"(C) GREATER PRINCIPAL AMOUNT IN SECTION 355 TRANSACTION.—If, in an exchange or distribution described in section 355, the issue price (as so defined) of the securities in the controlled corporation which are received exceeds the adjusted issue price (as so defined) of the securities in the distributing corporation which are surrendered, then, with respect to such securities received, the term 'other property' means only the amount of such excess."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to exchanges and distributions after the date of the enactment of this Act.

TITLE V—ESTATE AND GIFT TAX PROVISIONS

SEC. 501. CLARIFICATION OF WAIVER OF RIGHT OF RECOVERY IN CASE OF CERTAIN MARITAL DEDUCTION PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 2207A(a) (relating to right of recovery with respect to estate tax) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of the decedents dying after the date of the enactment of this Act.

SEC. 502. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 036, 2037, 2038, or 2042 if such transfered interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included. For purposes of the preceding sentence, the decedent shall not be treated as having relinquished any power merely by reason of a transfer from a trust with respect to which the decedent had retained the right to revoke.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of decedent's death.

"(c) Other Rules Relating to Transfers Within 3 Years of Death.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes).

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6091(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth."

"(b) TREATMENT OF CERTAIN RELINQUISHMENTS UNDER SECTION 2038.—Paragraph (1) of section 2038(a), and the first sentence of section 2038(a)(2), are each amended by inserting before the period at the end thereof the following: "(except that such a relinquishment shall not be treated as occurring merely by reason of a transfer from a trust with respect to which the decedent had reserved the right to revoke)".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 503. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of enactment of this Act, if there was a transfer of property on or before such date——

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 504. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056(A) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 505. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of

election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

TITLE VI—EXCISE TAX SIMPLIFICATION

Subtitle A—Fuel Tax Provisions

SEC. 601. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural gas-derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be comparable to such rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(4) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1995.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1995, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

"(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

"(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

"(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 602. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

"(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

"(2) LIMITATIONS AND AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section

6416(b) is amended by adding at the end thereof the following new sentence. "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

"(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES CROPDUSTERS, ETC.,—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle,

"(2) in the case of aviation fuel, use other than as a fuel in a aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

"(c) LIMITATION ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes.

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified bus' means any local bus—

"(i) which has a seating capacity of at least 30 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(D) TERMINATION.—This paragraph shall not apply with respect to any mixture sold or used after September 30, 1995.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, on a farm of which he is owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to br registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) EXCEPTION FOR USE IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS.—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1995. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 603. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 604. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined

without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the manner preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and is inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes.

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 7420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 605. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on January 1, 1992.

Subtitle B—Provisions Related to Distilled Spirits, Wines, and Beer

SEC. 611. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

"(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 612. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

"(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 613. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

"(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 614. FERMENTED MATERIALS FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

"(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, or".

"(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 615. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

"(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

"(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a)" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II or subchapter A of chapter 51 is amended by striking the item relating to section 5115.

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 616. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

"(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

"(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 617. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

"(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

"(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 618. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

"(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 619. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 620. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 621. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

Subtitle C—Other Excise Tax Provisions

SEC. 631. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 632. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

TITLE VII—ADMINISTRATIVE PROVISIONS

Subtitle A—General Provisions

SEC. 701. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1991.

SEC. 702. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1991.

SEC. 703. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 704. REPEAL OF REQUIREMENT TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6112 is amended by redesignating subsection (c) as subsection (d).

(2) Subsection (c) of section 6111 (as in effect before the amendment made by subsection (a)) is hereby transferred to section 6112 and inserted after subsection (b).

(3) Paragraph (1) of section 6112(b) is amended to read as follows:

"(1) any tax shelter, and".

(4) Subsection (c) of section 6112 (as added by paragraph (2) is amended by adding at the end thereof the following new paragraph:

"(5) YEAR.—For purposes of this subsection, the term 'year' means—

"(A) the taxable year of the tax shelter, or

"(B) if the tax shelter has no taxable year, the calendar year."

(5) Section 6112 is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

"(2) exemptions from the treatment of an investment as a tax shelter, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters."

(6) Section 6707 (relating to failure to furnish information regarding tax shelters) is hereby repealed.

(7) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6111.

(8) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6707.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply with respect to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986, as in effect on the day before such date) required to be registered under such section 6111 before such date of enactment.

SEC. 705. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 706. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency, paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2), any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 707. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle B—Tax Court Procedures

SEC. 711. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 712. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 713. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 714. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determnined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

Subtitle C—Authority for Certain Cooperative Agreements

SEC. 721. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TECHNICAL EXPLANATION OF THE BILL

TITLE I.—INDIVIDUAL TAX PROVISIONS

1. Rollover of gain on sale of principal residence (sec. 101 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the new replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

Reasons for Simplification

The rollover provision governing the sale of a principal residence is unnecessarily complex, in part due to the different set of rules that applies depending on whether the sale is work related. The bill simplifies the rollover provision by applying only one set of rules to the sale of a principal residence regardless of whether the sale is work related.

Explanation of Provision

Under the bill, gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases.

As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

2. Due dates for estimated tax payments of individuals (sec. 102 of the bill and sec. 6654 of the Code)

Present Law

In order to avoid an addition to tax, estimated tax payments of individuals generally are due on April 15th, June 15th, and September 15th of the taxable year for which the payment relates, and January 15th of the following taxable year. The amount of the estimated tax payments generally must be based on 90 percent of the tax shown on the return for the taxable year or 100 percent of the tax shown on the return for the preceding taxable year.

The due date for the tax return of an individual generally is April 15th of year following the taxable year to which the return relates. The due date may be automatically extended to August 15th.

Reason for Simplification

Delaying the due date of the second estimated tax installment would allow for a more accurate determination of the amount of the required payment if the payment is based on the tax shown on the return for the current year or if the payment is based on the tax shown on the return for the preceding year and the due date of the return for the preceding year has been extended.

Explanation of Provision

Under the bill, the due date for the second estimated tax payment of individuals is July 15th of the taxable year for which the payment relates.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

3. Permit payment of taxes by credit card (sec. 103 of the bill and sec. 6311 of the Code)

Present Law

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

Reasons for Simplification

Credit cards are a commonly used and reliable form of payment. Some taxpayers may find paying taxes by credit card more convenient than paying by check or money order.

Explanation of Provision

The bill permits payment of taxes by credit card, to the extent and under the conditions provided by regulations.

Effective Date

The provision is effective on the date of enactment.

4. Election by parent to claim unearned income of certain children on parent's return (sec. 104 of the bill and secs. 1(g)(7) and 57(j)(1) of the Code)

Present Law

The net unearned income of a child under 14 years of age is taxed to the child at the top rate of the parents. Net unearned income means unearned income less the sum of $500 and the greater of: (1) $500 of the standard deduction or $500 of itemized deductions or (2) the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependant canhot claim a standard deduction exceeding the greater of $500 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $500 amount is adjusted for inflation but the $1,000 amount is not.

Reasons for Simplification

The election by a parent to include a child's unearned income on a return is intended to eliminate the need to file a separate return for a child without reducing the family's total tax liability. Indexation of the underlying dollar amounts simplifies return preparation by making the election available to more taxpayers.

The restriction upon the exemption allowed to a child for alternative minimum tax purposes is intended to treat the family the same as if the child's income had been

included on the parent's return. Indexation of this exemption amount achieves this goal and simplifies transfers by removing a tax consideration influencing the ownership of property within the family.

Explanation of Provision

The bill adjusts for inflation the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. Simplified foreign tax credit limitation for individuals (sec. 105 of the bill and sec. 904 of the Code)

Present Law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income, and foreign taxes paid, in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes, or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

Reasons for Simplification

It is believed that a significant number of individuals are entitled to credit relatively small amounts of foreign tax, imposed at modest effective tax rates on foreign source investment income. For taxpayers in this class, it is believed that applicable foreign tax credit limitations typically exceed the amounts of taxes paid. Therefore, it is believed that relieving these taxpayers from application of the full panopoly of foreign tax credit rules may achieve significant reduction in the complexity of the tax law without significantly altering actual tax liabilities. At the same time, however, it is believed that the benefits of simplified treatment should be limited to cover those cases where the taxpayer is receiving a payee statement showing the amount of the foreign source income and the foreign tax.

Explanation of Provision

The bill allows individuals with no more than $200 of creditable foreign taxes, and no foreign source income other than income which is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (It is intended that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to include all types of income that would be foreign personal holding income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined above by the bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities, and net gains from dispositions of property giving rise to such income, from certain commodities transactions, and from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high withholding tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)-1), the simplified limitation does not apply to an estate or trust.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Personal transactions by individuals in foreign currency (sec. 106 of the bill and sec. 988 of the Code)

Present Law

When a U.S. taxpayer with a dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss on reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory provisions. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law was uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

Reasons for Simplification

An individual who lives or travels abroad generally cannot use U.S. dollars to make all of the purchases incident to ordinary daily life. Instead, the local currency must often be used, yet the individual will not be treated for tax purposes as having changed his or her functional currency to the local currency. If it were necessary to treat foreign currency in this instance as property giving rise to U.S. dollar income or loss every time it was, in effect, "bartered" for goods or services, the U.S. individual living in or visiting a foreign country would have a significant administrative burden that may bear little or no relation to whether U.S.-dollar measured income has increased or decreased. An analogous issue arises for a corporation that has a qualified business unit ("QBU") in a foreign country but nevertheless uses the U.S. dollar as its functional currency pursuant to section 986(b)(3). Complexity concerns aside, Congress could have required in that case that gain or loss be computed on each transaction carried out in the local currency. Instead, however, Congress directed the Treasury to adopt a method of translation of the QBU's results that merely approximates the results of determining exchange gain or loss on a transaction-by-transaction basis.[2] It is believed that individuals also should be given relief from the requirement to keep track of gains on an actual transaction-by-transaction basis in certain cases.

Explanation of Provision

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the bill provides for nonrecognition of an individual's resulting exchange gains not exceeding $200. The bill does not change the treatment of resulting exchange losses. It is understood that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Advance due date for furnishing information to partners (sec. 107 of the bill and sec. 6031(b) of the Code)

Present Law

A partnership required to file an income tax return with the IRS must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax return.

Reasons for Simplification

Information returns that are received on or shortly before April 15 (or later) are difficult for individuals to use in preparing their tax returns (or in computing their payments) that are due on that date.

Explanation of Provision

The bill provides that a large partnership must furnish information returns to partners by the 15th day of the 3d month following the close of the partnership's taxable year. A large partnership is any partnership with 250 or more partners, as well as any partnership subject to the simplified reporting rules for large partnerships (contained in sec. 201 of this bill, described below).

Effective Date

The provision is effective for taxable years ending on or after December 31, 1992.

8. Make income tax withholding rules parallel to rules for exclusion from income for combat pay (sec. 108 of the bill and sec. 3401(a)(1) of the Code)

Present Law

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income (special rules apply if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone). In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

Reasons for Simplification

In most instances, the wage withholding rules closely parallel the inclusion in income rules. Consequently, most individuals whose income is subject to withholding may rely on withholding to fulfill their tax obligations. The differences between the withholding rules and the exclusion rules with respect to combat pay could cause affected taxpayers (primarily officers) to be surprised at the size of their additional tax liability at the time of filing their tax returns as a result of underwithholding. Paying the additional tax liability with their tax returns could lead to greater financial hardship than would withholding that is parallel to the exclusion rules.

Explanation of Provision

The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective Date

The provision is effective as of January 1, 1992.

9. Expanded access to simplified income tax returns (sec. 109 of the bill)

Present Law

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

Reasons for Simplification

Many individual taxpayers find the tax forms to be complex.

Explanation of Provision

The bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and to otherwise simplify the individual income tax returns.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this provision, together with any recommendations he may deem advisable.

Effective Date

The report is due no later than one year after the date of enactment.

10. Simplification of tax treatment of rural letter carriers' vehicle expenses (sec. 110 of the bill and sec. 162 of the Code)

Present Law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes, and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

Reasons for Simplification

The filing of tax returns by rural letter carriers can be complex. Under present law, those who are reimbursed at more than the 150 percent rate must report their reimbursement as income, and deduct their expenses as miscellaneous itemized deductions (subject to the 2 percent floor). Permitting the income and expenses to wash, so that neither will have to be reported on the rural letter carrier's tax return, will simplify these tax returns.

Explanation of Provision

The bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the current rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

11. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals (sec. 111 of the bill and sec. 4004(b)(3) of the Code)

Present Law

The Code imposes a 10-percent excise tax on the portion of the retail price of a passenger vehicle that exceeds $30,000. The tax also applies to separate purchases of component parts and accessories occuring within six months of the date the vehicle is placed in service.

Reasons for Simplification

It is appropriate to reduce the compliance burdens on handicapped persons.

Explanation of Provision

The bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of the disability.

Effective Date

The provision is effective for purchases after December 31, 1990.

TITLE II.—TREATMENT OF LARGE PARTNERSHIPS

A. General Provisions

1. Simplified flow-through for large partnerships (sec. 201 of the bill and new secs. 771–777 of the Code)

Present Law

Treatment of partnerships in general

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Capital gains

The net capital gain of an individual is taxed generally at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain over net short-term capital loss. Individuals with a net capital loss generally may deduct up to $3,000 of the loss each year against ordinary income. Net capital losses in excess of the $3,000 limit may be carried forward indefinitely.

A special rule applies to gains and losses on the sale, exchange or involuntary conversion of certain trade or business assets (sec. 1231). In general, net gains from such assets are treated as long-term capital gains but net losses are treated as ordinary losses.

A partner's share of a partnership's net short-term capital gain or loss and net long-term capital gain or loss from portfolio investments is separately reported to the partner. A partner's share of a partnership's net gain or loss under section 1231 generally is also separately reported to the partner.

Deductions

Miscellaneous itemized deductions (e.g., certain investment expenses) are deductible as an itemized deduction, but only to the extent that, in the aggregate, they exceed two percent of the individual's adjusted gross income.

In general, taxpayers are allowed a deduction for charitable contributions, subject to certain limitations. In the case of an individual, the deduction cannot exceed 50 percent of the individual's contribution base (generally, the individual's adjusted gross income) for the taxable year. In the case of a corporation, the deduction cannot exceed 10 percent of the corporation's taxable income (computed with certain modifications). Excess contributions are carried forward for five years.

A partner's distributive share of a partnership's miscellaneous itemized deductions and charitable contributions are separately reported to the partner.

Credits in general

Each partner is allowed his distributive share of credits against his taxable income. A refundable credit for gasoline used for exempt purposes is allowed. Nonrefundable credits for clinical testing expenses for certain drugs for rare diseases, for producing fuel nonconventional sources, and for the general business credit are also allowed. The general business credit includes the investment credit (which in turn includes the rehabilitation credit), the targeted jobs credit, the alcohol fuels credit, the research credit, and the low-income housing credit.

The credits for clinical testing expenses and for fuel from nonconventional sources are limited to the excess of regular tax over tentative minimum tax. Excess credits generally cannot be carried forward. The amount of general business credit allowable in a taxable year is limited to the excess of a partner's net income over the greater of (1) the tentative minimum tax for the year or (2) 25 percent of the taxpayer's net regular tax liability in excess of $25,000. The general business credit in excess of this amount is carried back three years and forward 15 years.

The benefit of the investment credit and the low-income housing credit is recaptured if, within a specified time period, the partner transfers his partnership interest or the partnership converts or transfers the property for which the credit was allowed.

Foreign tax credit

The foreign tax credit generally allows U.S. taxpayers to reduce U.S. income tax on foreign income by the amount of foreign income taxes paid with respect to that income. In lieu of electing the foreign tax credit, a taxpayer may deduct foreign taxes from adjusted gross income.

The total amount of the credit may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income bears to the taxpayer's worldwide taxable income for the taxable year. In addition, the foreign tax credit limitation is calculated separately for various categories of income, generally referred to as "separate limitation categories." That is, the total amount of the credit for foreign taxes on income in each category may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income in that category bears to the taxpayer's worldwide taxable income for the taxable year. A partner generally reports his share of partnership income from each category. A special rule, however, treats the distributive share of a limited partner owning less than ten percent of a partnership as *per se* in the passive category.

The amount of creditable taxes paid or accrued in any taxable year which exceeds the foreign tax credit limitation may be carried back to the two immediately preceding taxable years and carried forward to the first five succeeding taxable years and credited to the extent that the taxpayer otherwise has excess foreign tax credit limitations for the appropriate separate limitation category for those years.

Unrelated business taxable income

Tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as dividends, interest and certain rental income) are not treated as unrelated business taxable income. Thus, for a partner that is an exempt organization, whether partnership income is unrelated business taxable income depends on the character of the underlying income. Income from a publicly traded partnership, however, is treated as unrelated business taxable income regardless of the character of the underlying income.

Passive losses

The passive loss rules generally disallow deductions and credits from passive activities to the extent they exceed income from passive activities. Losses not allowed in a taxable year are suspended and treated as current deductions from passive activities in the next taxable year. These losses are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person in a taxable transaction. Passive activities include trade or business activities in which the taxpayer does not materially participate. (Limited partners generally do not materially participate in the activities of a partnership.) Passive activities also include rental activities (regardless of the taxpayer's material participation).[3] Portfolio income (such as interest and dividends), and expenses allocable to such income, are not treated as income or loss from a passive activity.

A partnership's operations may be treated as multiple activities for purposes of the passive loss rules. In such case, the partnership must separately report items of income and deductions from each of its activities.

Income from a publicly traded partnership is treated as portfolio income under the passive loss rules. In addition, loss from such a partnership is treated as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities.

REMICs

A tax is imposed on partnerships holding a residual interest in a real estate mortgage investment conduit (REMIC). The amount of the tax is the amount of excess inclusions allocable to partnership interests owned by certain tax-exempt organizations ("disqualified organizations") multiplied by the highest corporate tax rate.

Contribution of property to a partnership

In general, a partner recognizes no gain or loss upon the contribution of property to a partnership. However, income, gain, loss and deduction with respect to property contributed to a partnership by a partner must be allocated among the partners so as to take into account the difference between the basis of the property to the partnership and its fair market value at the time of contribution. In addition, the contributing partner must recognize gain or loss equal to such differnce if the property is distributed to another partner within five years of its contribution (sec. 704(c)). Under regulations, the amount of depreciation and gain or loss that is allocated under these rules is limited to the depreciation allowable to, or gain or loss recognized by, the partnership for tax purposes with respect to the contributed property (the "ceiling rule").

Election of optional basis adjustments

In general, the transfer of a partnership interest or a distribution of partnership property does not affect the basis of partnership assets. A partnership, however, may elect to make certain adjustments in the basis of partnership property (sec. 754). Under a section 754 election, the transfer of a partnership interest generally results in an adjustment in the partnership's basis in its property for the benefit of the transferee partner only, to reflect the difference between that partner's basis for his interest and his proportionate share of the adjusted basis of partnership property (sec. 743(b)). Also under the election, a distribution of property to a partner in certain cases results in an adjustment in the basis of other partnership property (sec. 734(b)).

Terminations

A partnership terminates if either (1) all partners cease carrying on the business, financial operation or venture of the partnership, or (2) within a 12-month period 50 percent or more of the total partnership interests are sold or exchanged (sec. 708).

Reasons for Simplification

The requirement that each partner take into account separately his distributive share of a partnership's items of income, gain, loss, deduction and credit can result in the reporting of a large number of items to each partner. The Schedule K-1, on which such items are reported, contains space for more than 40 items. Reporting so many separately stated items is burdensome for individual investors with relatively small, passive interests in large partnerships. In many respects such investments are indistinguishable from those made in corporate stock or mutual funds, which do not require reporting of numerous separate items.

In addition, the number of items reported under the current regime makes it difficult for the Internal Revenue Service to match items reported on the K-1 against the partner's income tax return. Matching is also difficult because items on the K-1 are often modified or limited at the partner level before appearing on the partner's tax return.

By significantly reducing the number of items that must be separately reported to partners, the provision eases the reporting burden of partners and facilitates matching by the IRS. Moreover, it is understood that the Internal Revenue Service is considering restricting the use of substitute reporting forms by large partnerships. Reduction of the number of items makes possible a short standardized form.

In addition, the rules governing allocations with respect to property contributed to a

partnership and the rules regarding partnership terminations are ill-suited to large partnerships, whose interests are commonly transferred. By adopting a deferred sale approach for property contributions and by reducing the possibility of partnership terminations, the provision improves the administration of the tax rules governing large partnerships.

Explanation of Provisions

In general

The bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners) and its partners. The bill provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain to the extent allocable to passive loss limitation activities and other activities; (4) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (5) general credits; (6) low-income housing credit; (7) rehabilitation credit; (8) for certain partnerships, tax-exempt interest; and (9) for certain partnerships, foreign taxes paid and foreign source partnership items.[4]

Under the bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[5] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and section 68 itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level. Thus, for example, any investment interest of the partnership is limited at the partnership level, and any carryover is made at that level.

All elections affecting the computation of taxable income or any credit are made by the partnership.

Capital gains

Under the bill, netting of capital gains and losses occurs at the partnership level. A partner in a large partnership takes into account separately his distributive share of the partnership's net capital gain.[6] Any excess of capital losses over capital gains, however, is not separately reported to partners; rather, such excess is carried over at the partnership level. The partnership cannot offset any portion of capital losses against ordinary income.

A partner's distributive share of the partnership's net capital gain is allocated between passive loss limitation activities and other activities. The net capital gain is allocated to passive loss limitation activities to the extent of net capital gain from sales and exchanges of property used in connection with such activities, and any excess is allocated to other activities.

Any gains and losses of the partnership under section 1231 are netted at the partnership level. Net gain is treated as long-term capital gain and is subject to the rules described above. Net loss is treated as ordinary loss and consolidated with the partnership's other taxable income.

Deductions

The bill contains two special rules for deductions. First, miscellaneous itemized deductions are not separately reported to partners. Instead, 70 percent of the amount of such deductions is disallowed at the partnership level;[7] the remaining 30 percent is allowed at the partnership level in determining taxable income, and is not subject to the two-percent floor at the partner level.

Second, charitable contributions are not separately reported to partners under the bill. Instead, the charitable contribution deduction is allowed at the partnership level in determining taxable income, subject to the limitations that apply to corporate donors.

Credits in General

Under the bill, general credits are separately reported to partners as a single item. General credits are any credits other than the low-income housing credit and the rehabilitation credit. A partner's distributive share of general credits is taken into account as a current year general business credit. Thus, for example, the credits for clinical testing expenses and the production of fuel from nonconventional sources are subject to the present law limitations on the general business credit. The refundable credit for gasoline used for exempt purposes is allowed to the partnership, and thus is not separately reported to partners.

In recognitiion of their special treatment under the passive loss rules, the low-income housing and rehabilitation credits are separately reported.[8]

The bill imposes credit recapture at the partnership level and determines the amount of recapture by assuming that the credit fully reduced taxes. Such recapture is applied first to reduce the partnership's current year credit, if any; the partnership is liable for any excess over that amount. Under the bill, the transfer of an interest in a large partnership does not trigger recapture.

Foreign tax credit

Elections, computations and limitations regarding the foreign tax credit generally are made at the partnership level without regard to a partner's other foreign source income or foreign taxes paid. For purposes of determining foreign tax credit limitations, the partnership is treated as an individual subject to tax at a 25-percent rate. Excess credits can be carried forward at the partnership level but cannot be carried back. The foreign tax credit is reported to the partner as a general credit. The partner's distributive share of all items of income, gain, loss or deduction are treated as derived from sources within the United States.

A different rule applies if either the partnership elects, or 25 percent or more of the gross income of the partnership is derived from sources outside the United States. In such case, elections, computations and limitations are made by the partner, as under present law. The partnership reports to the partner creditable foreign taxes and the source of any income, gain, loss or deduction taken into account by the partnership. As under present law, such income is generally treated as passive for separate limitation purposes.

Tax-exempt interest

Under the bill, interest on a State or local bond is treated as taxable (and thus not separately reported) unless at the end of each quarter of the taxable year at least 50 percent of the value of partnership assets consists of State or local bonds the interest on which is exempt from taxation.

Unrelated business taxable income

The bill retains present-law treatment of unrelated business taxable income. Thus, a tax-exempt partner's distributive share of partnership items is taken into account separately to the extent necessary to comply with the rules governing such income. Under the bill, all income from a publicly traded partnership continues to be treated as unrelated business taxable income.

Passive losses

Under the bill, a partner in a large partnership takes into account separately his distributive share of the partnership's taxable income or loss from passive loss limitation activities. The term "passive loss limitation activity" means any activity which involves the conduct of a trade or business (including any activity treated as a trade or business under sec. 469(c) (5) or (6)) and any rental activity. A partner's share of a large partnership's taxable income or loss from passive loss limitation activities is treated as an item of income or loss from the conduct of a trade or business which is a single passive activity, as defined in the passive loss rules. Thus, a large partnership is not required to separately report items from multiple activities.

A partner in a large partnership also takes into account separately his distributive share of the partnership's taxable income or loss from activities other than passive loss limitation activities. Such distributive share is treated as an item of income or expense with respect to property held for investment. Thus, portfolio income (e.g., interest and dividends) is reported separately and is reduced by portfolio deductions and allocable investment interest expense.

Under the bill, income from a publicly traded partnership continues to be treated as portfolio income.

Alternative minimum tax

Under the bill, alternative minimum tax adjustments and preferences are combined at the partnership level. A large partnership would report to partners a net AMT adjustment separately computed for passive loss limitation activities and other activities. In determining a partner's alternative minimum taxable income, a partner's distributive share of any net AMT adjustment is taken into account instead of making separate AMT adjustments with respect to partnership items. Except as provided in regulations, the net AMT adjustment is determined by using the adjustments applicable to individuals, and is treated as a deferral preference for purposes of the section 53 minimum tax credit.

REMICs

For purposes of the tax on partnerships holding residual interests in REMICs, all interests in a large partnership are treated as held by disqualified organizations. Thus, a large partnership holding a residual interest in a REMIC is subject to a tax equal to the excess inclusions multiplied by the highest corporate rate.

Deferred sale treatment for contributed property

In General

For all partners contributing property to a large partnership (including partners otherwise excluded from application of the large partnership rules, as described below), the bill replaces section 704(c) with a "deferred sale" approach. Under the bill, a large partnership is treated as if it had purchased the property from the contributing partner for its then fair market value, thus taking a fair market value basis in the property. The con-

tributing partner's gain or loss on the contribution (the "precontribution gain or loss")[9] is deferred until the occurrence of specified recognition events. In general, the character of the precontribution gain or loss is the same as if the property had been sold to the partnership by the partner at the time of contribution. The contributing partner's basis in his partnership interest is adjusted for precontribution amounts recognized under the provision. These adjustments generally are made immediately before the recognition event.

The provision effectively repeals the ceiling rule for large partnerships, i.e., the amount of precontribution gain or loss recognized by the contributing partner under the provision is not limited to the overall gain or loss from the contributed property recognized by the partnership. In addition, the amount of depreciation allowable to the partnership is not limited to the contributing partner's basis in the property.

Recognition Events

Certain events occurring at either the partnership or partner level cause recognition of precontribution gain or loss. Loss is not recognized, however, by reason of a disposition to a person related (within the meaning of sec. 267(b)) to the contributing partner.

Transaction at partnership level.—The contributing partner recognizes precontribution gain or loss as the partnership claims an amortization, depreciation, or depletion deduction with respect to the property. The amount of gain (or loss) recognized equals the increase (or decrease) in the deduction attributable to changes in basis of the property occurring by reason of its contribution. Any gain or loss so recognized is treated as ordinary.

The contributing partner also recognizes precontribution gain or loss if the partnership disposes of the contributed property to a person other than the contributing partner. If such property is distributed to the contributing partner, its basis in the hands of the contributing partner equals its basis immediately before the contribution, adjusted for any gain or loss previously recognized on account of undistributed partnership property on account of a distribution to the contributing partner.[10]

Transactions at partner level.—A contributing partner recognizes precontribution gain or loss to the extent that he disposes of his partnership interest other than at death.[11] Such partner also recognizes precontribution gain or loss to the extent that the cash and fair market value of property (other than the contributed property) distributed to him exceeds the adjusted basis of his partnership interest immediately before the distribution (determined without regard to any basis adjustment under the deemed sale rules resulting from the distribution).

Election of optional basis adjustments

Under the bill, a large partnership may still elect to adjust the basis of partnership assets with respect to transferee partners. The computation of a large partnership's taxable income is made without regard to the section 743(b) adjustment. As under present law, the section 743(b) adjustment is made only with respect to the transferee partner. In addition, a large partnership is permitted to adjust the basis of partnership property under section 734(b) if property is distributed to a partner, as under present law.

Terminations

The bill provides that a large partnership does not terminate for tax purposes solely because 50 percent of its interests are sold or exchanged within a 12-month period.

Partnerships and partners subject to large partnership rules

Definition of Large Partnership

A "large partnership" is any partnership if the number of persons who were partners in such partnership in a taxable year was at least 250.[12] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of persons who are partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as if they had 250 partners. The election applies to the year for which made and all subsequent years and cannot be revoked without the Secretary's consent.

A large partnership does not include any partnership if substantially all of its activities involve the performance of personal services by individuals owning, directly or indirectly, interests in the partnership, or if 50 percent or more of the value of the partnership's assets consists of oil or gas properties.

Treatment of Excluded Partners

In general, the large partnership rules do not apply to an excluded partner's distributive share of partnership items. An excluded partner is any partner (1) owning more that a five percent partnership interest at any time during the taxable year, or (2) materially participating in the partnership's activities during the year and holding any interest which is not a limited partnership interest. Any partner treated as an excluded partner for a taxable year so treated for all succeeding years. In determining whether a partner is an excluded partner, the treatment on the large partnership's tax return binds the partnership and the partner, but not the Secretary.

Treatment of Partnerships Holding Oil or Gas Properties

As described above, the large partnership rules do not apply to a partnership if at least 50 percent of the value of its assets consists of oil or gas properties.[13] In addition, the rules do not apply to any item attributable to any partnership oil or gas property. However, oil or gas partnerships can elect to be treated as large partnerships. In addition, partnerships owning oil or gas properties but which otherwise qualify as large partnerships (i.e., because less than 50 percent of their assets consists of oil or gas properties) can elect to apply the large partnership rules to items attributable to their oil or gas properties. If either type of partnership makes an election, (1) depletion is computed without regard to percentage depletion, (2) any partner who is an integrated oil company is treated as an excluded partner, and (3) any partner who holds a working interest in an oil or gas property (either directly or through an entity which does not limit the partner's liability) is treated as an excluded partner with respect to such interest. The election applies to the year for which made and all subsequent years, and cannot be revoked without the Secretary's consent.

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe such regulations as may be appropriate to carry out the purposes of the provisions.

Effective Date

The provisions generally apply to partnership taxable years ending on or after December 31, 1992. The deferred sale provision applies to any contribution of property (other than cash) made on or after January 1, 1992, to a partnership which is, or is reasonably expected to become, a large partnership.

2. Simplified audit procedures for large partnerships (sec. 202 of the bill and secs. 6240, 6241, 6242, 6245, 6246, 6247, 6249, 6251, 6252, 6255, and 6256 of the Code).

Present Law

In general

Prior to 1982, a partnership (regardless of its size) was audited only by auditing each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the determination of all "partnership items" at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax Matters Partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impracticable to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to partners whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

Reasons for Simplification

Present audit procedures for large partnerships are inefficient and more complex than those for other large entities. The IRS must assess any deficiency arising from a partnership audit against a large number of partners, many of whom cannot easily be located (some may no longer be partners). In addition, audit procedures are cumbersome and can be complicated further by the intervention of partners acting individually.

Explanation of Provision

In general

The bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships are large partnerships for the audit rules that are not subject to the large partnership reporting requirements.[14]

As under present law, large partnerships and their partners are subjected to unified audit rules. Partnership items are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners will adjust their current-year share of partnership items of income, gains, losses, deductions, or credits to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest individual or corporate tax rate. A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $600, apart from any interest or penalty. (The $1,000 adjustment for the improper deduction is offset by $400 of adjustments for amortization deductions.) The year 4 partners would be required ratably to include an additional $600 in income for that year.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to the extent necessary to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large parnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike present law, however, partners will have no right individually to participate in settlement conferences or to request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS' designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, and substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

3. Partnership returns on magnetic media (sec. 203 of the bill and sec. 6011 of the Code)

Present Law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Reasons for Simplification

Most entities that file large numbers of documents with the Internal Revenue Service must do so on magnetic media. Conforming the reporting provisions for large partnerships to the generally applicable information reporting rules will facilitate integration of partnership information into already existing data systems.

Explanation of Provision

The bill authorizes the Internal Revenue Service to require large partnerships, and other partnerships with 250 or more partners, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

B. Partnership Proceedings Under TEFRA[15]

1. Clarify the treatment of partnership items in deficiency proceedings (sec. 211 of the bill and sec. 6234 of the Code)

Present Law

TEFRA partnership proceeding must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro* v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items there were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnerhip items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the tax-

payer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

Reasons for Simplification

The opinion in *Munro* creates problems for both taxpayers and the IRS. For example, a taxpayer would be harmed in the case where he has invested in a TEFRA partnership and is also subject to the deficiency procedures with respect to nonpartnership item adjustments, since computing the tax liability without regard to partnership items will have the same effect as if the partnership items were disallowed. If the partnership items were losses, the effect will be a greatly increased deficiency for the nonpartnership items. If, when the partnership proceeding is completed, the taxpayer is ultimately allowed any part of the losses, the taxpayer will receive part of the increased deficiency back in the form of an overpayment. However, in the interim, the taxpayer will have been subject to assessment and collection of a deficiency inflated by items still in dispute in the partnership proceeding. In essence, a taxpayer in such a case would be deprived of a prepayment forum with respect to the partnership item adjustments. The IRS would be harmed if a taxpayer's income is primarily from a TEFRA partnership, since the IRS may be unable to adjust nonpartnership items such as medical expense deductions, home mortgage interest deductions or charitable contribution deductions because there would be no deficiency since, under *Munro*, the income must be ignored.

Explanation of Provision

The bill is intended to overrule *Munro* and allow the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayers's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

2. Permit the IRS to rely on partnership returns to determine the proper audit procedures (sec. 212 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership items is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The IRS often finds it difficult to determine whether to follow the TEFRA partnership procedures or the regular deficiency procedures. If the IRS determines that there were fewer than 10 partners in the partnership but was unaware that one of the partners was a nonresident alien or that there was a special allocation made during the year, the IRS might inadvertently apply the wrong procedures and possibly jeopardize any assessment. Permitting the IRS to rely on a partnership's return would simplify the IRS task.

Explanation of Provision

The bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

3. Suspend statute of limitations during bankruptcy proceedings (sec. 213 of the bill and sec. 6229 of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

Reasons for Simplification

The ambiguity in present law makes it difficult for the IRS to adjust partnership items that convert to nonpartnership items by reason of a partner going into bankruptcy. In addition, any uncertainty may result in increased requests for the bankruptcy court to lift the automatic stay to permit the IRS to make an assessment with respect to the converted items.

Explanation of Provision

The bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

4. Expand small partnership exception from TEFRA (sec. 214 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The mere existence of a C corporation as a partner or of a special allocation does not warrant subjecting the partnership and its partners of an otherwise small partnership to the TEFRA procedures.

Explanation of Provision

The bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

5. Exclude partial settlements from 1-year assessment rule (sec. 215 of the bill and sec. 6229(f) of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231 (b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

Reasons for Simplification

When a partial settlement agreement is entered into, the assessment period for the items covered by the agreement may be different than the assessment period for the remaining items. This fractured statute of limitations poses a significant tracking problem for the IRS and necessitates multiple computations of tax with respect to each partner's investment in the partnership for the taxable year.

Explanation of Provision

The bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

6. Extend time for filing a request for administrative adjustment (sec. 216 of the bill and sec. 6227 of the Code)

Present Law

The non-TEFRA statute of limitations provides that if a statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provison for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

Reasons for Simplification

The absence of an extension for filing refund claims in TEFRA proceedings hinders taxpayers that may want to agree to extend the TEFRA statute of limitations but want to preserve their option to file a refund claim later.

Explanation of Provision

The bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims until 6 months after the expiration of the limitations period for assessments.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

7. Provide innocent spouse relief for TEFRA proceedings (sec. 217 of the bill and sec. 6230 of the Code)

Present Law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

Reasons for Simplification

Providing a forum in which to raise the innocent spouse defense with respect to liabilities attributable to adjustments to partnership items (including penalties, additions to tax and additional amounts) would make the innocent spouse rules more uniform.

Explanation of Provision

The bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

8. Determine penalties at the partnership level (sec. 218 of the bill and sec. 6221 of the Code)

Present Law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

Reasons for Simplification

Many penalties are based upon the conduct of the taxpayer. With respect to partnerships, the relevant conduct often occurs at the partnership level. In addition, applying penalties at the partnership level through the deficiency procedures following the conclusion of the unified proceeding at the partnership level increases the administrative burden on the IRS and can significantly increase the Tax Court's inventory.

Explanation of Provision

The bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective Date

The provision is effective for partnership taxable years ending after December 31, 1991.

9. Clarify jurisdiction of the Tax Court (sec. 219 of the bill and secs. 6225 and 6226 of the Code)

Present Law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

Reasons for Simplification

Clarifying the Tax Court's jurisdiction simplifies the resolution of tax cases.

Explanation of Provision

The bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a party to appear before a court for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

10. Treatment of premature petitions filed by certain partners (sec. 220 of the bill and sec. 6226 of the Code)

Present Law

The Tax Matters Partner is given the exclusive right to file a petition for readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

Reasons for Simplification

A petition that is filed within the 90-day period by a person who is not the Tax Matters Partner is dismissed. Thus, if the Tax Matters Partner does not file a petition within the 90-day period and no timely and valid petition is filed during the succeeding 60-day period, judicial review of the adjustments set forth in the notice of FPAA is foreclosed and the adjustments are deemed to be correct.

Explanation of Provision

The bill treats premature petitions filed by certain partners within the 90-day period will be treated as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective Date

The bill is effective with respect to petitions filed after the date of the enactment of this Act.

11. Clarify bond requirement for appeals from TEFRA proceedings (sec. 221 of the bill and sec. 7485 of the Code)

Present Law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

Reasons for Simplification

The Tax Court cannot easily determine the aggregate changes in tax liability of all of the partners in a partnership who will be affected by the Court's decision in the proceeding. Clarifying the calculation of the bond amount would simplify the Tax Court's task.

Explanation of Provision

The bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership).

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

12. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements (sec. 222 of the bill and sec. 6601 of the Code)

Present Law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

Reasons for Simplification

Processing settlement agreements and assessing the tax due takes a substantial amount of time in TEFRA cases. A taxpayer is not afforded any relief from interest during this period.

Explanation of Provision

The bill suspends interest where there is a delay in a computational adjustment resulting from TEFRA settlements.

Effective Date

The provision is effective with respect to settlements entered into after December 31, 1991.

TITLE III.—FOREIGN PROVISIONS

1. Deferral of tax on income earned through foreign corporations and exceptions to deferral (secs. 301–304 of the bill and secs. 453, 532, 535, 542, 543, 551–558, 563, 954, 1246–1247, and 1291–1297 of the Code)

Present Law

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") are taxed currently by the United States on their worldwide income, subject to a credit against U.S. tax on foreign income based on foreign income taxes paid with respect to such income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates that income by payment to its U.S. stockholders. The U.S. stockholders are subject to U.S. tax on the repatriated income at that time. Foreign tax credits may reduce the U.S. tax.

Since 1937, the Code has set forth one or more regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation. These regimes currently include the controlled foreign corporation (or subpart F) rules (secs. 951–964); the foreign personal holding company rules (secs. 551–558); passive foreign investment company (PFIC) rules (secs. 1291–1297); the personal holding company rules (secs. 541–547); the accumulated earnings tax (secs. 531–537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). These regimes have multiple and overlapping application to foreign corporations owned in whole or in part by U.S. persons.

Reasons for Simplification

Some of the different anti-deferral regimes were enacted or modified at different times and reflect historically different Congressional policies. Different regimes provide different thresholds (either by type of income or asset at the foreign corporation level, or of U.S. stock ownership at the shareholder level) to their application. They provide for different mechanisms by which U.S. stockholders are denied the benefits of deferral. Some of the regimes have features directed at policy goals applicable to foreign corporation owned by U.S. corporations (e.g., the allowance of indirect foreign tax credits); others have features primarily directed at issues applicable to foreign corporations owned by U.S. individuals (e.g., the basis of property acquired from a decedent). Some regimes preserve the character of the income earned in the hands of a foreign corporation while others do not. Some provide for movement of losses between years of a single foreign corporation or between multiple corporations while others do not. While a consistent theme of these regimes is to provide current taxation for certain types of interest, dividend, rental royalty, and other similar income, the different regimes apply different criteria to these items of income to determine their current inclusion or noninclusion. Different regimes have different ordering rules for determining which dividends from foreign corporations subject to the regimes are subject to tax on repatriation and which are simply distributions of previously taxed income.

Simply because of the differences among the various anti-deferral regimes, U.S. taxpayers frequently are faced with the need to consult multiple sets of anti-deferral rules when they hold stock in a foreign corporation.

Moreover, the interactions of the rules cause additional complexity. There is significant overlap among the several regimes. This overlap requires the Code to provide specific rules of priority for income inclusions among the regimes, as well as additional coordination provisions pertaining to other operational differences among the several regimes. The overlapping or multiple application of anti-deferral regimes to a single corporation can result in significant additional complexity with little or no ultimate tax consequences.

Consolidation of the several anti-deferral regimes can achieve two major types of simplification. First, by reducing the number of separate definitions of entities among the anti-deferral regimes, taxpayers can be spared the burden of understanding and complying with a multiplicity of separate anti-deferral corporation with separate definitions and requirements.

Second, from an operational perspective, the number of anti-deferral regimes that can apply to any one shareholder in a foreign corporation can be reduced to one. As discussed above, the operational differences, including the overlapping applicability of the six present-law anti-deferral regimes, is a source of complexity. Under a consolidated corporation, is a source of complexity. Under a consolidated regime, however, deferral can be denied for many corporations (whether in full or in part) solely through the provisions of subpart F. In the case of a controlled foreign corporation, for example, being subject to the rules for full denial of deferral (such as the PFIC of foreign personal holding company provisions under present law) can result in no additional compliance burdens or administrative or operational complexity.

Another source of complexity under present law is the need for shareholders of controlled foreign corporations to make "protective" current-inclusion elections in order to avoid adverse future consequences under the interest-charge method should the controlled foreign corporation also prove to be a PFIC.[16] By replacing elective current-inclusion treatment for PFICs that are also controlled foreign corporations by mandatory current inclusion through subpart F for passive foreign corporations that are also controlled foreign corporations, a consolidated regime can eliminate both the burdens of making protective elections and the risks of failing to do so.

It is understood that the interest-charge method of the present-law PFIC rules is a significant source of complexity both separately and in its interaction with other provisions of the Code. Even without eliminating the interest-charge method, significant simplification can be achieved by minimizing the number of taxpayers that may be subject to the method and by making certain modifications that may reduce the complexity engendered by the interest-charge method.

Explanation of Provision

In general

The bill replaces the separate anti-deferral regimes of present law with a unified set of rules providing for either partial or full elimination of deferral depending on the circumstances. The bill preserves the present-law approach under which partial current taxation is a function of the type of income earned by the foreign corporation and a level of U.S. ownership in the corporation exceeding some threshold (as currently embodied in subpart F). The bill also preserves the present-law approach under which full current taxation is a function of a type of income or assets of the corporation exceeding some threshold (as currently embodied in subpart F, the PFIC rules, and the foreign personal holding company rules). The bill eliminates regimes that are redundant or marginally applicable, and ensures that no more than one set of rules will ever apply to a shareholder's interest in any one corporation in any one year.

Generally, the bill retains the subpart F rules as the foundation of its unified anti-deferral regime (with certain modifications described below and also in item 2, following, describing secs. 311–313 of the bill). It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other. The bill's unified anti-deferral regime sets forth various thresholds for subjecting U.S. persons to full or partial inclusions of corporate income. In addition, where deferral is eliminated by U.S. shareholder inclusions of foreign corporate-level income, the bill applies a single set of rules (the subpart F rules) for basis ad-

justments, characterization of actual distributions, foreign tax credits, and similar issues. As under present law, the bill in some cases affords U.S. persons owning stock in foreign corporations a choice of technique for recognizing income from the elimination of deferral. However, in a greater number of cases than under present law, the bill provides only one method of eliminating deferral.

Replacement of current law regimes for full elimination of deferral

The bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to rules under the existing systems. The following discussion explains the differences between the PFIC provisions of present law and the PFC provisions that will be applicable under the bill.

A PFC is any foreign corporation if (1) 60 percent or more of its gross income is passive income, (2) 50 percent or more of its assets (on average during the year, measured by value) produce passive income or are held for the production of passive income, or (3) it is registered under the Investment Company Act of 1940 (as amended) either as a management company or as a unit investment trust.[17] As under the PFIC rules, the foreign corporation is permitted to elect to measure its assets based on their adjusted basis rather than their value.

As under present law, passive income for this purpose is defined in the bill generally as any income of a kind which would be foreign personal holding company income as defined in section 954(c), subject to the current law exceptions for banking and insurance income and the current look-through rules for certain payments from related persons (current sec. 1296(b)(2)).[18] In addition, the bill provides two clarifications to present law. First, the bill clarifies that, as indicated in the legislative history of the 1988 Act, the same-country exceptions from the definition of foreign personal holding company income in section 954(c) are disregarded.[19] Second, the bill clarifies that any foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC definition (*cf.* sec. 951(e)).

The bill modifies the present law application of the asset test by treating certain leased property as assets held by the foreign corporation for purposes of the PFC asset test. This rule applies to tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at last 12 months.

The bill also modifies the present law rules that provide an exception from the definition of a PFIC in the case of a company changing businesses. Under the bill, if a foreign corporation holds 25 percent or more of the stock of a second corporation that qualifies for the change-of-business exception (current sec. 1297(b)(3)), then in applying the look-through rules (current sec. 1296(c)), the first corporation may treat otherwise passive assets or income of the second corporation as active.[20]

The bill generally retains those provisions of current law the application of which depends upon whether a foreign corporation was a PFIC for years after 1986 (e.g., current sec. 1291(d)), but modifies these provisions to test whether the foreign corporation was a PFC for years after 1986. As a transitional definition, the bill provides that a foreign corporation that was treated as a PFIC for any taxable year beginning before the introduction of the bill is treated as having been a PFC for each such year.

The bill provides a new election that will allow certain passive foreign corporations to be treated as domestic corporations. A foreign corporation is eligible to make this election if (1) it would qualify for treatment as a regulated investment company (RIC) under the relevant provisions of the Code if it actually were a domestic corporation, (2) it meets such requirements as the Secretary may prescribe to ensure the collection of taxes imposed by the Internal Revenue Code on the passive foreign corporation, and (3) the electing passive foreign corporation waives all benefits which are granted by the United States under any treaty (including treaties other than tax treaties) and to which the corporation is otherwise entitled by reason of being a resident of another country. The rules governing such an election will be similar to those applicable to the election by a foreign insurance company to be treated as a domestic corporation under section 953(d).

The bill provides a special rule regarding the application of the PFC rules to tax-exempt organizations that own stock in passive foreign corporations. The passive foreign corporation rules, under the bill, have no application at all to any organization exempt from tax under section 501, unless the organization is subject to unrelated business income taxation on its investment income under section 512(a)(3) of the Code. In the case of a tax-exempt organization that is subject to tax on its investment income, the PFC rules apply with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if the organization were fully taxable.

Tax treatment under full elimination of deferral

The benefits of deferral are eliminated with respect to the income of a PFC under three alternative methods: current inclusion, mark-to-market, or interest charge on excess distributions.

Current Inclusion Method

Mandatory current inclusion.—If a passive foreign corporation is U.S. controlled, the bill will subject every U.S. person owing (directly or indirectly) stock in the PFC to income inclusions under a modified version of the controlled foreign corporation rules. If a PFC is not U.S. controlled, every U.S. persons owning (directly or indirectly) 25 percent or more of the vote or value of the stock of the PFC will be subject to the same rules. Under the bill, the entire gross income of the passive foreign corporation (subject to applicable deductions) is treated as foreign personal holding company income, and thus is included (net of appropriate deductions) on a pro rata basis in the income of each U.S. person directly or indirectly owning stock in the PFC, under a modified application of the rules of sections 951 and 961. Actual distributions of earnings by such a PFC are treated similarly to distributions of previously taxed income under sections 959 and 961. These rules supersede all application of the present-law rules applicable to foreign personal holding companies, under which earnings are deemed distributed and then contributed to the capital of the foreign personal holding company.

In applying the subpart F inclusion rules to PFC inclusions, the bill departs from subpart F in that foreign personal holding company income is included in the income of U.S. persons without regard to otherwise applicable reductions pursuant to the high-tax exception (under sec. 954(b)(4)) or the export trade corporation rules (secs. 970 and 971). This modification to the application of the controlled foreign corporation rules preserves present law in that no high-tax exception generally is available to PFICs or foreign personal holding companies, and that the PFIC provisions apply in full force to export trade corporations.

A passive foreign corporation is treated under the bill as U.S. controlled for this purpose either if it would be treated as a controlled foreign corporation under the rules of subpart F, or if, at any time during the taxable year, more than 50 percent of the vote or value of the corporation's stock were owned directly or indirectly by five or fewer U.S. persons (including but not limited to individuals, and including all U.S. citizens regardless of their residence). Indirect stock ownership under the bill generally refers to stock ownership through foreign entities within the meaning of section 958(a)(2). In addition, for the purpose of determining whether a foreign corporation is U.S. controlled by virtue of the ownership of more than 50 percent of its stock by five or fewer U.S. persons, the constructive ownership principles of the present-law foreign personal holding company rules apply.

Elective current inclusion.—A U.S. person not subject to the above mandatory current inclusion rules—that is, a U.S. person owning less than 25 percent of the stock in a PFC that is not U.S. controlled—may elect application of those rules. As under current law, the PFC is characterized as a "qualified electing fund" with respect to such a U.S. person. In the application of the elective current-inclusion rules, the passive foreign corporation is treated as a controlled foreign corporation with respect to the taxpayer, and the taxpayer is treated as a U.S. shareholder of the corporation. For foreign tax credit purposes, amounts included in the taxpayer's gross income under this modified application of the controlled foreign corporation rules are treated as dividends received from a foreign corporation which is not a controlled foreign corporation.

The application and operation of the shareholder-level election for treatment as a qualified electing fund generally are the same as under the present-law PFIC rules. It is intended that, in the case of PFC stock owned through a foreign partnership, a partner-level election for treatment as a qualified electing fund will be permitted (except in the case of a foreign partnership that is subject to the simplified reporting rules available to certain large partnerships under title II of the bill).

Mark-to-Market Method

Less-than-25-percent shareholders of passive foreign corporations that are not U.S.-controlled, and who do not elect current inclusion ("nonelecting shareholders"), are subject under the bill to one of two methods for taxing the economic equivalent of the PFC's current income: the mark-to-market method or the interest-charge method.

Under the bill, nonelecting shareholders of a PFC with marketable stock are required to mark their PFC shares to market annually. Under the mark-to-market method, the U.S. person is required to include in gross income each taxable year an amount equal to the excess (if any) of the fair market value of the PFC stock as of the close of the taxable year over the adjusted basis of the stock. In the

event the adjusted basis of the stock exceeds its fair market value, the U.S. person is allowed a deduction for the taxable year equal to the lesser of the amount of the excess or the "unreversed inclusions" with respect to the stock. The bill defines the term "unreversed inclusions" to mean, with respect to any stock in a passive foreign corporation, the excess (if any) of the total amount of mark-to-market gains with respect to the stock included by the taxpayer for prior taxable years, over the amount of mark-to-market losses with respect to such stock that were allowed as deductions for prior taxable years.

The adjusted basis of stock in a passive foreign corporation is increased by the amount of mark-to-market gain included in gross income, and is decreased by the amount of mark-to-market losses allowed as deductions with respect to such stock. In the case of stock owned indirectly by the U.S. person, such as through a foreign partnership, foreign estate or foreign trust (as discussed below), the basis adjustments for mark-to-market gains and losses apply to the basis of the PFC stock in the hands of the intermediary owner, but only for purposes of the subsequent application of the PFC rules to the tax treatment of the indirect U.S. owner. In addition, similar basis adjustments are made to the adjusted basis of the property actually held by the U.S. person by reason of which the U.S. person is treated as owning PFC stock.

All amounts of mark-to-market gain on PFC stock, as well as gain on the actual sale or distribution of PFC stock, are treated as ordinary income. Similarly, ordinary loss treatment applies to the deductible portion of any mark-to-market loss on PFC stock, as well as to any loss realized on the actual sale or other disposition of PFC stock to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to that stock. These loss deductions are treated as deductions allowable in computing adjusted gross income.

The source of any amount of mark-to-market gain on PFC stock is determined in the same manner as if the amount of income were actual gain from the sale of stock in the passive foreign corporation. Similarly, the source of any amount allowed as a deduction for mark-to-market loss on PFC stock is determined in the same manner as if that amount were an actual loss incurred on the sale of stock in the passive foreign corporation.

The mark-to-market method under the bill only applies to passive foreign corporations the stock of which is "marketable." PFC stock is treated as marketable if it is regularly traded on a qualified exchange, whether inside or outside the United States. An exchange qualifies for this treatment if it is a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or if the Secretary is satisfied that the requirements for trading on that exchange ensure that the market price on that exchange represents a legitimate and sound fair market value for the stock. It is intended that the Secretary may adopt a definition of the term "regularly traded" that differs from definitions provided for other purposes under the Code. Further, it is intended that the Secretary not be bound by definitions applied for purposes of enforcing other laws, including Federal securities laws. Similarly, in identifying qualified foreign exchanges for these purposes, it is intended that the Secretary not be required to include exchanges that satisfy standards established under Federal securities laws and regulations. PFC stock is also treated as marketable, to the extent provided in Treasury regulations, if the PFC continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value in a manner comparable to a U.S. regulated investment company (RIC).

In addition, the bill treats as marketable any stock in a passive foreign corporation that is owned by a RIC that continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value. It is believed that the RIC's determination of PFC stock value for this non-tax purpose would ensure a sufficiently accurate determination of the fair market value of PFC stock owned by the RIC. The bill also treats as marketable any stock in a passive foreign corporation that is held by any other RIC, except to the extent provided in regulations. It is believed that even for RICs that do not make a market in their own stock, but that do regularly report their net asset values in compliance with the securities laws, inaccurate valuations may bring exposure to legal liabilities, and this exposure may ensure the reliability of the values such RICs assign to the stock they hold in PFCs. However, it is intended that Treasury regulations will disallow mark-to-market treatment for nonmarketable stock held by any RIC that is not required to perform such a net asset valuation at the close of each taxable year, that does not publish such a valuation, or that otherwise does not provide what the Secretary regards as sufficient indicia of the reliability of its valuations under the relevant circumstances.

The bill coordinates the application of the market-to-market method with the tax rules generally applicable to RICs. The bill treats mark-to-market loss on PFC stock as a dividend for purposes of both the 90-percent investment income test of section 851(b)(2) and the 30-percent short-short limitation of section 851(b)(3).

The mark-to-market method does not apply to the stock of a U.S. person in any PFC that is U.S. controlled (as discussed above), to the stock of a person choosing qualified electing fund treatment, or to stock of a U.S. person who is a 25-percent shareholder (as defined above).

In the case of a controlled foreign corporation (including a passive foreign corporation that is treated under the bill as a controlled foreign corporation) that owns or is treated as owning stock in a passive foreign corporation, the mark-to-market method generally is applied as if the controlled foreign corporation were a U.S. person. For purposes of the application of subpart F to the controlled foreign corporation, mark-to-market gains are treated as if they were foreign personal holding company income of the character of dividends, interest, royalties, rents or annuities, and allowable deductions for mark-to-market losses are treated as deductions allocable to that category of foreign personal holding company income. The source of such income or loss, however, is determined by reference to the actual (foreign) residence of the controlled foreign corporation.

For purposes of the mark-to-market method, any stock in a passive foreign corporation that is owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate is treated as if it were owned proportionately by its partners or beneficiaries.[21] Stock in a passive foreign corporation that is thus treated as owned by a person is treated as actually owned by that person for the purpose of applying the constructive ownership rule at another level. In the case of a U.S. person who is treated as owning stock in a passive foreign corporation by application of this constructive ownership rule, any disposition by the U.S. person or by any other person that results in the U.S. person being treated as no longer owning the stock in the passive foreign corporation, as well as any disposition by the person actually owning the stock of the passive foreign corporation, is treated under the bill as a disposition by the U.S. person of stock in the passive foreign corporation.

Interest-Charge Method

Nonelecting shareholders[22] of a PFC with stock that is not marketable are subject to the interest-charge method, based on the PFIC interest-charge method that is currently provided in Code section 1291, with certain modifications.

First, although allowable foreign tax credits may reduce a U.S. person's net U.S. tax liability on an excess distribution, the interest charge computed on that excess distribution is computed, under the bill, without regard to reductions in net U.S. tax liability on account of direct foreign tax credits.

The PFIC provisions of present law, to the extent provided in regulations, impose recognition of gain in the case of a transfer of PFIC stock in a transaction that would otherwise qualify for the nonrecognition provisions of the Code. The bill imposes that result as a general rule, except as otherwise provided in Treasury regulations. In addition, the bill requires that proper adjustment be made to the basis of property, held by the U.S. person, through which the U.S. person is treated as owning stock in the passive foreign corporation.

The PFIC provisions of present law apply rules for the attribution of ownership of PFIC stock to U.S. persons, including a rule that attributes PFIC stock owned by a corporation to any peson who owns, directly or indirectly, 50 percent or more of the value of the stock of the corporation. Under the bill, the 50-percent threshold applies not only to stock owned directly or indirectly, but also to stock treated as owned by application of the family attribution rules of the personal holding company provisions (sec. 544(c)(2)).

The PFIC provisions of present law provide special rules for the application of the interest-charge method in the case of PFIC stock held by an U.S. person through an intermediary entity. These rules describe the dispositions that are treated as dispositions of PFIC stock by the U.S. person, and include rules to eliminate the possibility of double taxation (sec. 1297(b)(5)). The bill clarifies that these rules apply to any transaction that results in the U.S. person being treated as no longer owning the PFC stock, as well as any disposition of the PFC stock by the entity actually owning the PFC stock. These rules apply regardless of whether the transaction involves a disposition of the PFC stock, and regardless of whether the parties to the transaction include the U.S. person, the entity actually owning the PFC stock, or some other entity. For example, these rules apply to the issuance of additional stock by an intermediary corporation to an unrelated party in a case where, by increasing the total outstanding stock of the intermediary corporation, the transaction causes the U.S. person to fall below the ownership threshold for indirect ownership of the PFC stock. The bill also clarifies that an

income inclusion under the interest-charge method takes precedence over an income inclusion under subpart F resulting from the same disposition. The second clarification ensures that the interest charge is imposed without regard to the structure of the transaction.

Under the bill, the interest-charge method applies to any stock in a passive foreign corporation unless either the stock is marketable (and therefore the mark-to-market method applies) as of the time of the distribution or disposition involved, or the stock in the passive foreign corporation was subject to the current inclusion method (under the bill or under prior law) for each taxable year beginning after December 31, 1986 which includes any portion of the taxpayer's holding period in the PFC stock. In the event that PFC stock, not subject to the current inclusion method, becomes marketable during the taxpayer's holding period, the interest-charge method applies to any distributions and dispositions during the year in which the stock becomes marketable, as well as to the mark-to-market gain (if any) as of the close of that year. In the event that PFC stock was initially marketable, and later becomes unmarketable and subject to the interest-charge method, the taxpayer's holding period in the PFC stock for purposes of the interest-charge method is treated as beginning on the first day of the first taxable year beginning after the last taxable year for which the mark-to-market method applies to the taxpayer's stock in the PFC.

Under the bill, as under the present-law PFIC rules, stock in a foreign corporation generally is treated as PFC stock if, at any time during the taxpayer's holding period of that stock, the foreign corporation (or any predecessor) is a passive foreign corporation subject to the interest-charge method (current sec. 1297(b)(1)). (This rule is sometimes referred to as the "once-a-PFIC-always-a-PFIC" rule.) Under present law this rule generally does not affect a taxpayer holding stock in a foreign corporation if at all times during the holding period of the taxpayer with respect to the stock when the foreign corporation (or any predecessor) is a PFIC, qualified electing fund treatment applies with respect to the taxpayer. Under the bill, the similar once-a-PFC-always-a-PFC rule does not apply if during the taxpayer's entire holding period with respect to the stock when the foreign corporation (or any predecessor) is a PFC, either (a) mark-to-market treatment applies, (b) mandatory current inclusion of income applies (either because the corporation is U.S. controlled or because the taxpayer is a 25-percent shareholder), or (c) elective current inclusion of income applies. Thus, for example, a shareholder of a controlled foreign corporation is subject to current inclusion with respect to all the corporation's income in any year for which the corporation is a PFC, but is subject to current inclusion only to the extent provided under subpart F in any year for which the controlled foreign corporation is not a PFC.

The bill also provides for full basis adjustment for partnerships and S corporations that own stock in a passive foreign corporation subject to the interest-charge method. Although tax is imposed on a distribution or disposition under the interest-charge method without including the distribution or disposition in gross income, thus precluding the natural basis adjustments for amounts included in gross income, the bill grants regulatory authority for appropriate basis adjustments to partnerships and S corporations based on the amount of income subject to tax under the interest-charge method and thereby excluded from gross income.

The bill also includes a special rule to coordinate the application of the interest-charge method to nonelecting shareholders of a passive foreign corporation who are or were residents of Puerto Rico. Under the bill, no interest charge is applicable to amounts of an excess distribution that, were the amounts actually earned in the year to which they are treated as earned under the interest-charge method, would have been eligible for the exclusion under section 933 (for income derived by residents of Puerto Rico from sources within Puerto Rico).

The bill includes a broad grant of regulatory authority, as does the present-law PFIC statute. However, the bill specifies that necessary or appropriate regulations under the PFC rules may include regulations providing that gross income should be determined without regard to the operation of the interest-charge method for such purposes as may be specified in the regulations. This permits the Secretary to relieve pressure on many aspects of the Code that result from the operation of the interest-charge method other than through gross income. In addition, the bill specifies that necessary or appropriate PFC regulations may include regulations dealing with changes in residence status by shareholders in passive foreign corporations (e.g., a resident alien becoming a nonresident, or a U.S. citizen becoming a resident of Puerto Rico).

Modification or repeal of other antideferral regimes

While the bill includes in the passive foreign corporation rules most of the provisions that it preserves from the present-law PFIC, foreign personal holding company, and foreign investment company regimes, the bill modifies subpart F in one respect to reflect a present-law provision of the foreign personal holding company rules (sec. 553(a)(5)). The bill treats as foreign personal holding company income for subpart F purposes an amount received under a personal service contract if a person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract. The bill similarly treats as foreign personal holding company income for subpart F purposes any amount received from the sale or distribution or disposition of such a contract. This rule applies only if at some time during the taxable year 25 percent or more of the value of the corporation's stock is owned (directly, indirectly, or constructively) by or for the individual who may be designated to perform the services.[23] Income from such personal service contracts is not, however, treated as passive for foreign tax credit purposes.

The bill repeals the foreign personal holding company provisions, the PFIC provisions (except as modified and preserved as the passive foreign corporation provisions), and the foreign investment company provisions. The bill also excludes all foreign corporations from the application of the accumulated earnings tax and the personal holding company tax. It is understood that the purposes of all the anti-deferral regimes are adequately served by the passive foreign corporation provisions as set forth in the bill, in conjunction with the controlled foreign corporation provisions as modified by the bill.

In addition, the bill denies installment sales treatment for any installment obligation arising out of a sale of stock in a passive foreign corporation. This will prevent shareholders in passive foreign corporations from avoiding the interest charge by means of an installment sale of their PFC stock.

Effective Date

The bill generally is effective for taxable years of U.S. persons beginning after December 31, 1991, and taxable years of foreign corporations ending with or within such taxable years of U.S. persons.

The denial of installment sales treatment is effective for sales or dispositions after December 31, 1991.

The bill does not affect the determination of the basis of stock in a PFIC that was acquired from a decedent in a taxable year beginning before January 1, 1991.

2. Modifications to provisions affecting controlled foreign corporations (secs. 311, 312, and 313 of the bill and secs. 951, 952, 959, 960, 961, 964, and 1248 of the Code)

Present Law

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusions for the U.S. shareholder that is treated as income in the same limita-

tion category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, there is no provision that adjusts the basis of the upper-tier controlled foreign corporation's stock of the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation in the middle of the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person besides the acquirer with respect to that stock. The reduction is determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)). Thus, a portion of the foreign taxes paid or accrued by the foreign corporation and not previously deemed paid by the domestic corporation are treated as paid by the domestic corporation under the principles of section 902 even though the domestic corporation recognizes no income in the current taxable year with respect to the distribution.

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled foreign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Reasons for Simplification

It is believed that complexities have been caused by uncertainties and gaps in the statutory schemes for taxing gains on dispositions of stock in controlled foreign corporations as dividend income or subpart F income. These uncertainties and gaps may prompt taxpayers to refrain from behavior that would otherwise be the result of rational business decisions, for fear of excessive tax—for example, double corporate-level taxation of income. In many cases, concerns about excessive taxation can be allayed, but only at the cost of avoiding the simpler and more rational economic behavior in favor of tax-motivated planning.

It is understood that, as a general matter, other aspects of the tax system may have interfered with rational economic decision making by prompting taxpayers to engage in tax-motivated planning in order to eliminate taxation in cases where income is in fact earned. Some such characteristics of the tax system have in the past been altered by Congress in order to reduce excessive interference by the tax system in labor, investment, and consumption decisions of taxpayers.[24] It is believed that in the context of this simplification bill, it generally is appropriate to reduce complexities caused by aspects of the rules governing controlled foreign corporations that provide for nonuniform tax results from dividends, on the one hand, and stock disposition proceeds to the extent earnings and profits underlie those proceeds, on the other.

It is understood that the present-law provisions which permit an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed in the event of a distribution of previously taxed earnings by a controlled foreign corporation are particularly difficult to administer. This difficulty arises because taxpayers are required to compute and keep track of excess foreign tax credit limitation accounts with respect to subpart F income inclusions on a foreign corporation by foreign corporation basis, as well as on a year by year basis. Additional complexities arise as taxpayers are required, as a result of distributions, to trace earnings and profits up chains of foreign corporations. It is believed that retention of these rules may not be worth the system-wide recordkeeping and computations involved. It is believed that the combination of foreign income tax rates on the foreign income of U.S. persons and their controlled foreign corporations, and the U.S. rules for taxing such income, will result in few cases where the effort will be rewarded by substantial tax savings. Moreover, it is believed that taxpayers who might be adversely affected may be able to plan around those adverse effects at least cost than the complexity cost that is engendered by the present system.

Explanation of Provisions

In general

The bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The bill contains two additional provisions related to controlled foreign corporations. First, the bill repeals the provision that currently permits an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Second, the bill clarifies the effect of the treaty exemption or reduction of the branch profits tax on the determination of subpart F income.

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. However, this rule does not affect the determination of whether the second corporation is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the bill, any gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder. As another example, assume that the U.S. corporation has always owned 51 percent of the stock of a foreign corporation, which has always owned 51 per-

cent of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by other foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assests in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

Adjustments to basis of stock

The bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later sold by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments now provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later sale, it is intended that by regulation the subpart F income from gain on the sale of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

Subpart F inclusions in year of disposition

Where a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during the middle of a year in which the controlled foreign corporation earns subpart F income, the bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced would (as is currently the case where a dividend was paid to the previous owner of the stock) not exceed the subpart F inclusion for that year times the proportion of the year for which the acquirer did not own the stock.

Avoiding double inclusions in other cases

The bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances.

Foreign tax credit in year of receipt of previously taxed income

The bill repeals the rules that permit an indirect foreign tax credit to be claimed with respect to a distribution of previously taxed earnings and profits. Under the bill, foreign taxes paid by a foreign corporation with respect to previously taxed earnings and profits remain in that corporation's pool (or pools) of foreign taxes which are available for the indirect foreign tax credit upon subsequent distributions or deemed distributions of earnings and profits that have not been previously taxed at the U.S. shareholder level.

Treatment of United States income earned by a controlled foreign corporation

The bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The bill provides that notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Effective Dates

Lower-tier controlled foreign corporations

The provision of the bill treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment of the bill. The provision providing for regulatory adjustments in U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for U.S. shareholder inclusions in taxable years of U.S. shareholders beginning after December 31, 1991.

Subpart F inclusions in year of disposition

The provision of the bill permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment of the bill.

Distributions of previously taxed income

The provision of the bill allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date the bill is enacted.

Foreign tax credit on distribution of previously taxed income

The provision of the bill which repeals the ability to claim foreign tax credits on distributions of previously taxed income generally is effective for taxable years beginning after December 31, 1991. However, the provision is not effective with respect to distributions of previously taxed income which occur in taxable years beginning prior to January 1, 1997, if the distributions relate to subpart F income inclusions for taxable years of the U.S. corporate shareholders beginning before January 1, 1992.

Treatment of United States source income earned by a controlled foreign corporation

The provision of the bill concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years ending after the date of enactment.

3. Translation of foreign taxes into U.S. dollar amounts (sec. 321 of the bill and sec. 986(a) of the Code)

Present Law

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or income inclusion.

Reasons for Simplification

If each foreign income tax payment is required to be translated at a separate daily exchange rate for the day of the payment, the number of currency exchange rates that are relevant to foreign tax credit calculations varies directly with the frequency of foreign income tax payments. Where U.S. corporations are deemed to pay a portion of the "pool" of foreign taxes paid by foreign corporations, the correct amount of tax in the pool is the product of each tax payment times the relevant translation rate. The longer the period between the time the income is earned and its repatriation (or other inclusion) to the U.S. corporation, the greater the period over which the amounts of tax payments and translation rates are relevant to the determination of net U.S. tax liability.

It is believed that the record-keeping, verification, and examination burdens—both on the IRS and on taxpayers—associated with the advantages of deferral and the foreign tax credit (including the indirect credit) are not insignificant. For example, if events that happened in one year affected only the return filed for that year, and each tax return was affected only by events that happened in the year for which that return was filed, then presumably tax-related records would need to be maintained only between the time the taxable year began and the year that the assessment period for that year expired. On the other hand, if income earned in years 1 through 5 is taxed in year 6, then the amount of documentation relevant to the year 6 return potentially is increased five-fold, and the period over which that information must be maintained is at least five years longer.

U.S. persons who pay foreign income taxes directly and choose the benefits of the for-

eign tax credit have always been required to maintain detailed foreign tax payment documentation, including exchange rate data for the dates on which they paid foreign income taxes, and U.S. corporations that operate through foreign corporations have been required to maintain documentation regarding the earnings and foreign tax payments of the foreign corporations.[25] Some have argued, however, that relief is warranted for taxpayers that would otherwise bear the combined currency translation responsibilities applicable to direct foreign taxpayers with the extended record-keeping responsibilities applicable to taxpayers that receive the benefits of deferral.

It is believed that an appropriate response to this combination of burdens is to permit regulatory modification of the "time of payment" concept, in such a way that preserves the uniformity of treatment of branches and foreign subsidiaries of U.S. taxpayers, but permits recourse to reasonably accurate average translation rates for the period in which the tax payments are made. Simplification may be provided in this way by reducing, sometimes substantially, the number of translation calculations that are required to be made. There may be situations in which the use of an average exchange rate over a specified time period, to be applied to all tax payments made in that currency during that period, would provide results not substantially different than those that would be derived under present law. This could result, for example, where the value of a foreign currency as it relates to the U.S. dollar does not fluctuate significantly over the specified period.

One of the fundamental premises behind the amendments enacted in 1986 with respect to the translation of foreign taxes was that foreign taxes paid by foreign corporations should be translated in the same manner as foreign taxes paid by foreign branches of U.S. persons. In keeping with that premise, it is believed that any provision to allow the use of average exchange rates for this purpose should be made equally applicable to foreign branches and subsidiaries.

Explanation of Provision

The bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rates for the period during which the tax payments were made.

Effective Date

This provision is effective with respect to taxable years beginning after the date of enactment.

4. Foreign tax credit limitation under the alternative minimum tax (sec. 322 of the bill and sec. 59(a) of the Code)

Present Law

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

Reasons for Simplification

The process of allocating and apportioning deductions for purposes of calculating the regular and AMT foreign tax credit limitations can be complex. Taxpayers that have allocated and apportioned deductions for regular tax foreign tax credit purposes generally must reallocate and reapportion the same deductions for AMT foreign tax credit purposes, based on assets and income that reflect AMT adjustments (including depreciation). However, the differences between regular taxable income and alternative minimum taxable income are often relevant primarily to U.S. source income. As a result of the combined effects of these differences, it is believed that foreign source alternative minimum taxable income generally will not differ significantly from foreign source regular taxable income. By permitting taxpayers to use foreign source regular taxable income in computing their AMT foreign tax credit limitation, the bill eliminates the need to reallocate and reapportion every deduction.

Explanation of Provision

The bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income.

The election under the bill is available only in the first taxable year beginning after December 31, 1991, for which the taxpayer claims an alternative minimum tax foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

TITLE IV.—OTHER INCOME TAX PROVISIONS

A. Provisions Relating to S Corporations

1. Determination of whether an S corporation has one class of stock (sec. 401 of the bill and sec. 1361 of the Code)

Present Law

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

The Treasury Department has issued proposed regulations[26] providing that a corporation will have more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provide that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes nonconforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions.

Reasons for Simplification

The provision promotes simplification by eliminating traps for the unwary that would be inherent in rules that use nonconforming distributions regardless of the rights of the shareholders as evidence of additional classes of stock.

Explanation of Provision

The bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, determined by taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and any agreements, determines whether the outstanding shares confer different rights to distribution or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment should be properly characterized as a distribution, the Service could require it to be so treated for tax purposes.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.

2. Authority to validate certain invalid elections (sec. 402 of the bill and sec. 1362 of the Code)

Present Law

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

Reasons for Simplification

The bill promotes simplification by giving the Secretary the flexibility to validate an invalid S election where the failure to properly elect S status was inadvertent or untimely.

Explanation of Provision

Under the bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents.

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.[27]

3. Treatment of distributions by S corporations during loss year (sec. 403 of the bill and secs. 1366 and 1368 of the Code)

Present Law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtdness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[28]

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[29]

In addition, if the S corporation has accumulated earnings and profits,[30] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

Reasons for Simplification

The provision promotes simplification by conforming the S corporation rules regarding distributions to the partnership rules and by eliminating uncertainty regarding the treatment of distributions made during the year.

Explanation of Provision

The bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $600 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same in Example 1, except that on January 1, 1992, A has accumulated earnings and profits of $500 and an accumulated adjustment account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account, reducing the accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized), reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective Date

These provisions apply to distributions made in taxable years beginning after December 31, 1991.

4. Treatment of S corporations as shareholders in C corporations (sec. 404(a) of the bill and sec. 1371 of the Code)

Present Law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). The internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[31] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free, but may not liquidate into an S corporation tax-free.[32] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

Reasons for Simplification

The provision promotes simplification by treating similar transactions in a similar manner for tax purposes.

Explanation of Provision

The bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. S corporations permitted to hold subsidiaries (sec. 404(b) of the bill and sec. 1361 of the Code)

Present Law

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[33]

Reasons for Simplification

The provision promotes simplification by eliminating a barrier to using the S corporation form of entity and providing more appropriate treatment of corporations with subsidiaries, i.e., the prohibition of filing a consolidated return if S corporate status is elected rather than disqualification of the S election.

Explanation of Provision

The bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent

of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Elimination of pre-1983 earnings and profits of S corporations (sec. 404(c) of the bill)

Present Law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits to the extent its undistributed earnings and profits for the year exceeded its taxable income. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

Reasons for Simplification

The provision promotes simplification by eliminating the need to keep records of certain generally small amounts of earnings arising before 1983.

Explanation of Provision

The bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Determination of shareholder's pro rata share where disposition of entire interest (sec. 404(d) of the bill and sec. 1377(a)(2) of the Code)

Present Law

Under present law, a shareholder of an S corporation takes into account separately his pro rata share of items of income, deduction, credit, etc. of the corporation. For this purpose, a shareholder's pro rata share means an allocation based on a per-share, per-day basis. However, in the case of a termination of a shareholder's interest, the corporation, with the consent of all shareholders, may elect to allocate items as if the taxable year ended on the date of termination and another taxable year began the following day.

Reasons for Simplification

The provision provides simplification by allowing a selling shareholder to be certain that his share of income will not be affected by income earned after the sale.

Explanation of Provision

Under the bill, the present-law rule, allowing a corporation to elect to close its books for purposes of determining shares of income on the termination of a shareholder's interest, will be the mandatory rule in the case of the disposition of a shareholder's entire interest in the corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

8. Treatment of items of income in respect of a decedent held by an S corporation (sec. 404(e) of the bill and sec. 1367 of the Code)

Present Law

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includible in the decedent's income before his death under his method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost of basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its vaue is attributable to items constituting IRD.[34] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item if IRD held by an S corporation is unclear.

Reasons for Simplification

The provision promotes simplification by eliminating the uncertainty of present law, and by treating items of IRD held by a taxpayer directly, through a partnership, or through an S corporation in a similar manner.

Explanation of Provision

The bill provides that a person acquiring stock in an S corporation from a decedent is to treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective Date

The provision applies with respect to decedents dying after date of enactment of the bill.

B. Accounting Provisions

1. Modifications to the look-back method for long-term contracts (sec. 411 of the bill and sec. 460 of the Code)

Present Law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is teated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[35] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

The look-back method does not apply to any contract that is completed within 2 taxable years of the contract commencement date and if the gross contract price does not exceed the lesser of (1) $1 million or (2) 1 percent of the average gross receipts of the taxpayer for the preceding three taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

Reasons for Simplification

Present law may require multiple applications of the look-back method with respect to a single contract or may otherwise subject contracts to the look-back method even though the amounts necessitating the look-back computations are de minimis relative to the aggregate contract income. In addition, the use of multiple interest rates com-

plicates the mechanics of the look-back method.

Explanation of Provisions

Election not to apply the look-back method for de minimis amounts

The bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of income previously taken into account for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual net income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative net taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of contract look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of contract look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the return due date (determined without regard to extensions) for the taxable year and ends on such return due date for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective Date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

2. Simplified method for applying uniform cost capitalization rules (sec. 412 of the bill and sec. 263A of the Code)

Present Law

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

Reasons for Simplification

The uniform cost capitalization rules require taxpayers to determine for each taxable year the costs of each administrative, service, or support function or department that are allocable to production or resale activities. If a taxpayer does not elect any of the simplified methods provided in Treasury regulations, this allocation may be unduly burdensome and costly.

Explanation of Provision

The bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

Effective Date

The provision applies to taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

C. Minimum Tax Provisions

1. Depreciation under the corporate alternative minimum tax (sec. 421 of the bill and sec. 56 of the Code)

Present Law

Under present law, a corporation is subject to an alternative minimum tax (AMT) which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income (AMTI) is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

One of the adjustments which is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR life of the property).

For taxable years beginning after 1989, AMTI is increased by an amount equal to 75 percent of the amount by which adjusted current earnings (ACE) exceed AMTI (as determined before this adjustment). In general, ACE means AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150 percent declining balance method and again using the straight-line method. Taxpayers may elect to use either depreciation method for regular tax purposes. If a taxpayer uses the straight-line method for regular tax purposes, it must also use the straight-line method for AMT purposes.

Reasons for Simplification

The use of two separate depreciation systems complicates the calculation of, and the recordkeeping for, the corporate alternative minimum tax.

Explanation of Provision

The bill applies a 120-percent declining balance method (switching to straight-line at a point maximizing depreciation deductions) for personal property (other than transition property to which the ACRS system in effect before the Tax Reform Act of 1986 applies) for determining the AMTI of a corporation. No further depreciation adjustment for this property would be required for ACE. Thus, corporations would be required to keep only one set of depreciation records for purposes of the AMT.

Corporate taxpayers may elect to use the 120-percent declining balance method of depreciation for regular tax purposes. As under

present law, if a corporation uses the straight-line method for regular purposes, it must also use the straight-line method for AMT purposes.

Effective Date

The provision is effective for property placed in service in taxable years beginning after December 1990.

2. Treatment of built-in losses for purposes of the corporate alternative minimum tax (sec. 422 of the bill and sec. 56(g) of the Code)

Present Law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G)). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

Reasons for Simplification

Present law complicates the treatment of built-in losses of a corporation after a change of ownership by providing different rules for regular and alternative minimum tax and by providing rules different than those applicable to net operating losses. The present-law alternative minimum tax rules applicable to built-in losses requires a significant amount of additional recordkeeping.

Description of Provision

The bill repeals the ACE rule relating to the treatment of built-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective Date

The provision is effective for changes of ownership occurring after December 31, 1991.

D. Tax-Exempt Bond Provisions

1. Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of the issuing governmental units (sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for a private party (or private parties) in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds generally is not taxable if (a) the financed activity is specified in the Code, (b) at least 95 percent of the net proceeds of the bond issue are used to finance the specified activity, and (c) numerous other requirements, including annual State volume limitations (for most private activity bonds) are satisfied.

Both private activity bonds and governmental bonds also must satisfy arbitrage restriction requirements for interest to be excluded from gross income. Interest on private activity bonds (other than qualified 501(c)(3) bonds) issued after August 7, 1986, is a preference item under the individual and corporate alternative minimum taxes. Additionally, interest on all State and local government bonds is included in determining a corporation's adjusted current earnings preference.

2. Issues under continuing review

It is expected that Congress will continue to review as the subject of possible legislative projects additional simplification options in two areas affecting State and local government bonds. These issues are—

a. Possible statutory rules for use by governmental units maintaining non-arbitrage motivated commingled accounting practices in determining their arbitrage rebate liability; and

b. Possible penalty alternatives to loss of tax-exemption for selected violations of the rules governing qualification for tax-exemption.

3. Provisions of the bill

a. Simplification of arbitrage rebate requirement for governmental bonds (sec. 431 of the bill and sec. 148 of Code).

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purpose of the borrowing within six months after issuance.

This six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are so spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

Reasons for Simplification

The principal Federal policy concern underlying the arbitrage rebate requirement is the earlier and larger than necessary issuance of tax-exempt bonds to take advantage of the opportunity to profit by investing funds borrowed at low-cost tax-exempt rates in higher yielding taxable investments. If at least 95 percent of the proceeds of an issue are spent within six months, and the remainder within one year, opportunities for arbitrage profit are significantly limited. In the case of larger issues, the administrative complexity of calculating rebate liability on relatively small amounts of proceeds, e.g., $100,000 of proceeds, is greater than the potential for arbitrage abuse from eliminating the rebate requirement.

Explanation of Provision

The bill deletes the $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after the issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

b. Simplification of compliance with 24-month arbitrage rebate exception for construction bonds (sec. 432 of the bill and sec. 148 of the Code).

Present Law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

The exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a reasonably required reserve or replacement fund or a bona fide debt service fund or to certain other investments (e.g., sinking funds). Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spending requirements.

Reasons for Simplification

Bond proceeds invested in a bona fide debt service fund generally must be spent at least annually for current debt service. The short-term nature of investments in such funds results in only limited potential for generating arbitrage profits. If the spending requirements of the 24-month rebate exception are satisfied, the administrative complexity of calculating rebate on these proceeds outweighs the other Federal policy concerns addressed by the rebate requirement. Further, this provision will conform the rules on these funds for issuers satisfying the six-month and 24-month expenditure exceptions to the rebate requirement.

Explanation of Provision

The bill exempts earnings on bond proceeds invested in bona fide service funds from the arbitrage rebate requirement and the spending and penalty requirements of the 24-month exception if the spending requirements of that exception are satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

c. Automatic extension of initial temporary period for certain construction bonds (sec. 433 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage requirements with respect to investment of their bond proceeds. First, tax-exempt bond proceeds may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits generally include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

Notwithstanding the arbitrage rebate requirement, requiring yield restriction following initial temporary periods is an important factor in curbing earlier issuance of bonds than otherwise would occur. Provided that issuers substantially comply with a prompt expenditure requirement so that the opportunities for tax motivated arbitrage are limited, however, reliance on the rebate requirement for limited additional periods will allow issuers to continue to pursue more flexible and liquid investments while construction activities are being completed. Automatically allowing an additional 12-month period, where substantially all of the proceeds have been spent, will relieve issuers from the burden of seeking a ruling from the IRS without increasing the opportunity for arbitrage motivated investments.

Explanation of Provision

The bill provides that the initial temporary period for construction bonds is automatically extended for a period of 12 months if at least 85 percent of the available construction proceeds are spent within the original initial temporary period and the issuer reasonably expects to spend the remaining proceeds within the 12-month extension period. Construction bonds eligible for this automatic extension include only those bonds currently eligible for the 24-month rebate expenditure exception, described above.

The bill allows bond proceeds to be invested without yield restrictions during this additional period. The arbitrage rebate or 1.5-percent penalty requirement will continue to apply to unspent proceeds during the extension period.

Effective Date

This provision applies to bonds issued after the date of enactment.

d. Simultaneous issuance of certain discrete issues not aggregated (sec. 434 of the bill).

Present Law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time (31 days) and pursuant to a common plan of marketing.

Reasons for Simplification

Requiring issuers that simultaneously issue discrete issues of tax and revenue anticipation notes ("TRANs") and other governmental bonds to separate issuance of discrete non-arbitrage motivated issues by 31 days adds administrative complexity and increases their costs of issuance.

Explanation of Provision

The bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of section 148(f)(4)(B)(iii).

Effective Date

This provision applies to bonds issued after the date of enactment.

e. Authority for Treasury Department to exempt certain taxpayers from tax-exempt interest reporting requirement (sec. 435 of the bill and sec. 6012 of the Code).

Present Law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bond interest they receive.

Reasons for Simplification

The Internal Revenue Service should be authorized to exempt taxpayers from requirements to compile and report information on income tax returns if the Secretary determines that such information is not useful to the administration of the tax laws.

Explanation of Provision

The bill authorizes the Internal Revenue Service to provide exceptions from the requirement that taxpayers report interest on State and local government bonds on their Federal income tax returns in cases where the Secretary determines that such information is not useful to the administration of the tax laws.

Effective Date

This provision is effective for taxable years beginning after the date of enactment.

f. Repeal of deadwood provisions (sec. 436 of the bill and sec. 148 of the Code).

Present Law

Present law includes special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

Explanation of Provision

The bill deletes these special exceptions as "deadwood."

Effective Date

This provision applies to bonds issued after the date of enactment.

E. Treatment of Certain Revocable Trusts as Estates (sec. 441 of the bill and sec. 7701 of the Code)

Present Law

A grantor trust is treated as owned by the grantor, who is taxed on its income and is entitled to its deductions. A grantor trust includes a revocable trust, one in which the grantor retains the power to revest the title of the trust property in himself (sec. 676).

Trusts and estates are subject to different income tax rules. An estate receives a higher exemption (sec. 642(b)) and is allowed a deduction for amounts permanently set aside for charity (sec. 642(c)), and, for two years after the decedent's death, a $25,000 offset for rental real estate activities (sec. 469(i)). A trust is required to adopt a calendar year (sec. 645(a)), and a distribution from a trust in the first 65 days of the taxable year is treated as occurring on the last day of the preceding taxable year (sec. 663(b)) (the "65-day rule").

Trusts and estates generally are required to pay estimated taxes in the same manner as individuals. A special rule exempts estates from estimated taxes for taxable years ending within two years of the decedent's death. This exemption also applies to a grantor trust that either receives the residue of the probate estate under the grantor's will, or (if there is no will) is primarily responsible for paying taxes, debts and expenses of administration.

Reasons for Simplification

Estate planners commonly use revocable trusts to avoid probate. Creating parity between such trusts and estates simplifies planning by reducing the role of tax considerations in the decision to utilize revocable trusts.

Explanation of Provision

The bill treats as an estate a revocable trust receiving the residue of the probate estate under the grantor's will. If there is no will, the revocable trust that is primarily responsible for paying taxes, debts and expenses of administration is treated as an estate. Such treatments apply only for years ending after the decedent's death and beginning within three years, nine months of the decedent's death. As a conforming amendment, the bill limits the rule treating grantor trusts as estates for purpose of estimated taxes to grantor trusts described in section 676.

The provision generally applies for all income tax purposes. It thus allows a revocable trust a deduction for an amount set aside for charity and the $25,000 offset for rental real estate activities to the extent the offset is not utilized by the estatae. It denies such trust the benefit of the 65-day rule. The provision does not apply for transfer tax purposes.

The provision does not apply for purposes of determining the amount of personal exemption, the taxable year or any other purpose specified in regulations. Thus, as under present law, revocable trusts will continue to receive a lower exemption amount and be required to adopt a calendar year. It is anticipated that the Treasury Department may exercise its regulatory authority in other situations to require consistency with prior tax treatment or to maintain parity with decedents having an estate but no revocable trust.

Effective Date

The provision applies to decedents dying after the date of enactment.

F. Other Provisions Relating to Partnerships

1. Matching rules for payments to partners (sec. 442 of the bill and secs. 267, 706 and 707 of the Code)

Present Law

If a partner engages in a transaction with a partnership other than in a capacity as a member of the partnership, the transaction is considered as occurring between the partnership and one who is not a partner. Under the timing rule applicable to such transactions (and to transactions among related persons generally), payments made to one who is not treated as a partner are deductible by the partnership in the year in which they are includible in the recipient's income. A partner generally is treated as acting in a capacity other than as a partner to the extent that his income from the transaction with the partnership does not depend upon partnership profit.

Payments to a partner for services or the use of capital that are determined without regard to partnership income ("guaranteed payments") are for specified purposes considered as made to one who is not a member of the partnership. Under the timing rule applicable to guaranteed payments, such payments generally are includible in the partner's income in the year in which they are deductible by the partnership.

Reasons for Simplification

Many payments to a partner can be described as either made to a person in a capacity other than as a partner or as guaranteed payments. The existence of two different timing rules creates uncertainty as to the proper tax treatment. By conforming the timing rule for guaranteed payments to the timing rule generally applicable to transactions among related parties, the provision reduces uncertainty and eliminates a potential issue of controversy.

Explanation of Provision

The bill defers the deduction of guaranteed payments by a partnership until the year in which they are includible in the partner's income. Thus, the bill conforms the timing

rule for guaranteed payments to the timing rule for payments made to a partner acting in a capacity other than as a member of the partnership.

Effective Date

The bill applies to amounts taken into account after date of enactment.

2. Close partnership taxable year with respect to deceased partner (sec. 443 of the bill and sec. 706(c) of the Code)

Present Law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged, or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year that includes his death is taxed to his estate or successor in interest rather than being reported on the decedent's final income tax return. (See *Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).)

Reasons for Simplification

The rule leaving open the partnership taxable year with respect to a deceased partner was adopted in 1954 to prevent the bunching of income that could occur with respect to a partnership reporting on a fiscal year other than the calendar year. Without this rule, as many as 23 months of income might have been reported on the partner's final return. Legislative changes occurring since 1954 have required most partnerships to adopt a calendar year, reducing the possibility of bunching. Consequently, income and deductions are better matched if the partnership taxable year closes upon a partner's death and partnership items are reported on the decedent's last return.

Present law closes the partnership taxable year with respect to a deceased partner only if the partner's entire interest is sold or exchanged pursuant to an agreement existing at the time of death. By closing the taxable year automatically upon death, the proposal reduces the need for such agreements.

Explanation of Provision

The bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise.

Effective Date

The provision applies to partnership taxable years beginning after December 31, 1991.

G. Corporate Provision: Clarification of Amount of Gain Recognized by a Securityholder in a Reorganization, Etc. (sec. 444 of the bill and secs. 354–356 of the Code)

Present Law

Under present law, gain is recognized by a shareholder or securityholder in a reoganization (or distribution under sec. 355) only to the extent property other than stock or securities of the corporation or of a party to the reorganization are received. For purposes of this rule, the fair market value of the excess of the principal amount of any securities received over the principal amount of any securities surrendered is treated as other property. If the principal amount of the securities received and the principal amount of the securities surrendered is the same, no amount of the securities received is treated as other property.

Also, under present law, a certain portion of the stated redemption price at maturity of a security may be treated as interest (referred to as "original issue discount" or "OID"), rather than principal. Also, in certain limited circumstances, a portion of a payment designated as principal may be treated as interest (under sec. 483).

It is unclear under present law whether the OID rules apply for purposes of determining the principal amount of a security for purposes of the nonrecognition rules described above.

Reasons for Simplification

The provision promotes simplification by conforming the rules for determining gain where securities are exchanged in a corporate reorganization with other rules in the Code allocating amounts in a debt instrument between principal and interest.

Explanation of Provision

The bill provides that for purposes of determining the amount of gain recognized to a securityholder in a reorganization (or a sec. 355 distribution), the excess of the issue price (as defined in secs. 1273 and 1274) of the securities received over the adjusted issue price of the securities surrendered would be treated as other property. If securities are received and none surrendered, the entire issue price is treated as other property. If the issue price of the securities received does not exceed the adjusted issue price of the securities surrendered, then no amount of the securities is treated as other property. These rules apply both to securityholders using the cash method and the accural method of accounting.

The adjusted issue price of a security surrendered means the issue price of the security, increased by the OID previously included in the gross income of any holder of the security (determined without to the special rule for subsequent holders), or decreased by the amount of bond premium which would have been allowed as a deduction (or offset) if the bond had always been held by the original holder. Where section 1273(b)(4) applies to a security, the stated redemption price is reduced by the amount of the redemption price which is treated as interest (for example, under sec. 483).

The provision is not intended to create any inference as to the proper treatment of these transactions under present law.

The following examples illustrate the application of this provision:

Example (1).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $800 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount of $600 and an adjusted issue price of $500. Under the bill, the amount of the excess issue price, or $300, is treated as "other property" for purposes of section 356.

Example (2).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $1,200 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount and an adjusted issue price of $1,000. Under the bill, the amount of the excess issue price, or $200 is treated as "other property" for purposes of section 356.

Effective Date

The provision applies to exchanges and distributions after the date of enactment.

TITLE V.—PROVISIONS RELATING TO ESTATE AND GIFT TAXATION

1. Waiver of right of recovery for certain marital deduction property (sec. 501 of the bill and sec. 2207A of the Code)

Present Law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). A will requiring that all taxes be paid by the estate may, under State law, waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

Reasons for Simplification

It is understood that persons utilizing standard testamentary language often inadvertently waive the right of recovery with respect to QTIP. Allowing the right of recovery to be waived only by specific reference simplifies the drafting of wills to better conform with the testator's likely intent.

Explanation of Provision

The bill conforms the rule governing waiver of the right to contribution for QTIP to the rule governing waiver of the right of recovery for property includable under section 2036. Accordingly, the surviving spouse's estate has a right of recovery with respect to QTIP unless the spouse otherwise directs in a provision of the will (or revocable trust) specifically referring to section 2207A.

Effective Date

The provision applies to decedents dying after the date of enactment.

2. Inclusion in gross estate of certain gifts made within three years of death (sec. 502 of the bill and secs. 2035 and 2038 of the Code)

Present Law

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). It also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[36] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

Reasons for Simplification

The inclusion of certain property transferred during the three years before death is intended to address situations in which such transfer would otherwise reduce the value of property subject of transfer tax. Inclusion is unnecessary if the entire value of the underlying property is subject to gift tax and the transferor has retained no powers over such property. Repeal of such inclusion eliminates a principal tax disadvantage of funded revocable trusts, which are generally used for nontax purposes.

Explanation of Provision

The bill provides that a transfer from a revocable trust within three years of death does not result in the inclusion of the transfer in the gross estate. It is intended that no interference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

The bill also revises section 2035 to improve its clarity.

Effective Date

The provision applies to decedents dying after the date of enactment.

3. Definition of qualified terminable interest property (sec. 503 of the bill and secs. 2044, 2056(b)(7), and 2523(f) of the Code)

Present Law

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

Under proposed regulations, an income interest may constitute a qualifying income interest for life even if income between the last distribution date and the date of the surviving spouse's death (the "accumulated income") is not required to be distributed to the surviving spouse or the surviving spouse's estate. (See Prop. Reg. secs. 20.2056(b)-7(c)(1), 25.2523(f)-1(b)). Contrary to the regulations, the United States Tax Court has held that in order to satisfy the QTIP requirements, the accumulated income must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. (See *Estate of Howard* v. *Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990)).

Reasons for Simplification

The Tax Court opinion in *Estate of Howard* has created uncertainty as to when a trust qualifies for the marital deduction. This uncertainty makes planning difficult and necessitates closing agreements designed to prevent the whipsaw that would occur if a deduction is allowed for property that is not subsequently included in the spouse's estate. By codifying the Treasury Regulations, the bill eliminates uncertainty and simplifies the administration of the tax laws.

Explanation of Provision

Under the bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. When the marital deduction is allowed, however, such income is includible in the surviving spouse's gross estate.

It is intended that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

Effective Date

The provision applies to decedents dying, and gifts made, after date of enactment. The proposal does not include in the surviving spouse's gross estate property for which no marital deduction was claimed.

4. Requirements for qualified domestic trust (sec. 504 of the bill and sec. 2056A of the Code)

Present Law

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Miscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to an alien spouse outside a qualified domestic trust (QDT). An estate tax is imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust, which, among other things, required that all trustees be U.S. citizens or domestic corporations. This requirement was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to provide that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

Reasons for Simplification

Wills drafted under the TAMRA rules must be revised to conform with the withholding requirement, even though both the TAMRA rule and its successor ensure that a U.S. trustee is personally liable for the estate tax on a QDT. By reducing the number of will revisions necessary to comply with the statutory changes, the provision simplifies estate planning.

Explanation of Provision

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective Date

The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.

5. Election of special use valuation of farm property for estate tax purposes (sec. 505 of the bill and sec. 2032A of the Code)

Present Law

An executor may elect to value certain real property used in farming or other closely held business operations for estate tax purposes based upon its current use value rather than its full fair market value (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury Department regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A-8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and substantially complies with the regulations but fails to provide all required information or the signatures of all persons with an interest in the property is allowed to supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary.

Reasons for Simplification

In filing the estate tax return, executors commonly neglect to include a recapture agreement signed by all persons with an interest in the property or all information required by Treasury regulations. Allowing such signatures or information to be supplied later simplifies return filing.

Explanation of Provision

The bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to his compliance with the regulations. Thus, the bill allows the current use valuation election to any such executor who supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. The bill also allows signatures to be added to the previously filed agreement during that time period.

Effective Date

The provision applies to decedents dying after the date of enactment.

TITLE VI.—EXCISE TAX PROVISIONS

A. Motor Fuel Excise Tax Provisions

1. Consolidate provisions imposing diesel and aviation fuel excise taxes (sec. 601 of the bill and secs. 4041 and 4091 of the Code)

Present Law

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, Code section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel has not occurred under section 4091.

Reasons for Simplification

Consolidating the diesel and aviation tax rules into one section of the Code will make the rules easier to find and understand.

Explanation of Provision

The bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041 (b)(1)(B) and (j) of the Code. These provisions are redundant.

Effective Date

The provision is effective for sales or uses on or after January 1, 1992.

2. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers (sec. 602(a) of the bill and sec. 6416(b) of the Code)

Present Law

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of a tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell fuel subject to the special motor fuel or gasoline taxes and of certain other articles are permitted a refund or credit (rather than the ultimate user) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) use as supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

Reasons for Simplification

Diesel and aviation fuel sales are not subject to the special refund or credit procedures, which forces users of such fuels for exempt purposes to bear the burden of filing for the refund or credit themselves and, therefore, makes such purchases more difficult.

Explanation of Provision

The bill allows a refund or credit to taxpayers for diesel and aviation fuel sold tax-

paid to persons who resell for any of the exempt uses described above.

Effective Date

The provision is effective for sales on or after January 1, 1992.

3. Consolidate refund provisions for fuel excise taxes (sec. 602(b) of the bill and secs. 6420, 6421, and 6427 of the Code)

Present Law

As a general matter, purchasers who use fuels for an exempt use are entitled to a refund if the fuels have been purchased taxpaid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchaser entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest being $750). The threshold amounts differ for different fuels and different exempt uses and whether quantities are aggregated. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

Reasons for Simplification

Consolidating the credit and refund provisions for fuel excise taxes into one section in the Code will make these provisions easier to find and understand. Standardizing the refund procedures will reduce confusion and allow taxpayers to obtain refunds more quickly.

Explanation of Provision

The bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective Date

The provision is effective for sales on or after January 1, 1992.

4. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators (sec. 602(b) of the bill and sec. 6420 of the Code)

Present Law

In general, farmers who use gasoline and aviation fuel on a farm are entitled to a refund of the tax that has been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on a farm are entitled to a refund of the tax paid on that fuel in lieu of the farmer, but only if the owner or operator of the farm waives its right to a refund for such fuel.

Reasons for Simplification

Eliminating the waiver will reduce the paperwork burden of a taxpayer seeking a refund.

Explanation of Provision

The bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective Date

The provision is effective for fuels purchased on or after January 1, 1992.

5. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel (sec. 603 of the bill and sec. 4093(c)(4) of the Code)

Present Law

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers will simplify the IRS' administration of the registration requirements and eliminate unnecessary paperwork for taxpayers.

Explanation of Provision

The bill permits the IRS by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective Date

The provision applies to sales on or after January 1, 1992.

B. Provisions Relating to Distilled Spirits, Wines, and Beer (secs. 611–621 of the bill, secs. 5008(c), 5044, 5053, 5055, 5115, 5175(c), 5207(c), 5222(b), 5384(b) of the Code, and new sec. 5418 of the Code)

Present Law

Return of imported bottled distilled spirits

Present law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits, since they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Department of the Treasury when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distrilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, ameliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). (A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Department of the Treasury of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

Reasons for Simplification

In addition to imposing taxes, the Internal Revenue Code regulates many aspects of the alcoholic beverage industry. These regulations date in many cases from the prohibition era or earlier. In 1980, the method of collecting excise taxes on alcoholic beverages was changed from a system under which Treasury Department inspectors regularly were present at production facilities to a bonded premises system, which more closely tracks the systems used in connection with other Federal taxes. Many of the recordkeeping requirements and other regulatory measures imposed in connection with these taxes have not been modified to conform to these collection changes. In addition, modification of statutory provisions is warranted in view of advances in technology used in the alcoholic beverage industry and environmental protection concerns.

Explanation of Provisions

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules for domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Department of the Treasury is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission to it of proof of exportation in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The bill allows beer to be tranferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The bill allows beer to be removed from a brewery without payment of tax for purposes of destruction, subject to Treasury Department regulations.

Records of exportation of beer

The bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective Date

These provisions of the bill generally are effective beginning 180 days after date of the bill's enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the bill's enactment.

C. Other Excise Tax Provisions

1. Authority for IRS to grant exemptions from registration requirements (sec. 631 of the bill and sec. 4222 of the Code)

Present Law

Under section 4222, certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4121 unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers from the registration requirements will simplify the Service's administration of the registration provisions. Also, the provision will reduce unnecessary paperwork for affected taxpayers.

Explanation of Provision

The bill revises section 4222(a) so that certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4221 to any person who is required by the Secretary to be registered but who is not so registered. This will allow the Secretary to provide exemption from registration requirements for certain classes of taxpayers.

Effective Date

The provision applies to sales after the 180th day after the date of enactment.

2. Repeal temporary reduction in tax on piggyback trailers (sec. 632(a) of the bill and sec. 4051(d) of the Code)

Present Law

Piggyback trailers and semitrailers sold within the 1-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

Explanation of Provision

The bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective Date

The provision is effective on the date of enactment.

3. Expiration of excise tax on deep seabed minerals (sec. 632(b) of the bill and secs. 4495–4498 of the Code)

Present Law

Background

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96–283), one title of which was the Deep Seabed Hard Mineral Removal Tax Act of 1979 (the "Tax Act"), was enacted into law on June 28, 1980. The Resources Act was intended to encourage the successful negotiation of an international deep seabed treaty by the United Nations Conference on the Law of the Sea (a U.N. international deep seabed treaty), and pending the entry into force of such a treaty, to establish a special fund to support international revenue sharing from deep seabed mineral recovery. To this end, the Act established an interim trust fund in the Treasury, the Deep Seabed Revenue Sharing Trust Fund (the Trust Fund), into which any Tax Act receipts would be deposited. There have been no tax collections under the Tax Act. The Trust Fund proceeds were intended to be used to help discharge any U.S. financial obligations under a U.N. international deep seabed treaty should the United States become a party thereto.

Subsequent to the enactment of the Resources Act, the U.N. Conference on the Law of the Sea completed negotiations for an international deep seabed treaty in 1982, and the United States announced that it would not sign the treaty.

If and when the Law of the Sea Convention (the Convention) enters into force, it would establish a regime for the regulation of mineral extraction from the deep seabed, and would impose revenue obligations on its adherents. Such obligations were to be fundable by the Deep Seabed Revenue Trust Fund, if the United States were to become obligated by the Convention.

Excise tax on certain hard minerals

The Tax Act added sections 4495 through 4498 to the Internal Revenue Code. These sections would impose an excise tax on the removal from the deep seabed of certain hard mineral resources pursuant to a deep seabed permit issued under the Resources Act. In general, a deep seabed permit issued under the Resources Act would authorize its holder to engage in commercial recovery activities with respect to hard mineral resources on or under deep seabeds. No such permits have been issued.

Deep seabeds are, in general, areas outside the continental shelf of any nation. In general, hard mineral resources are mineral nodules, lying on or just below the surface of deep seabeds, that contain one or more minerals including manganese, nickel, cobalt, or copper. Under the Tax Act, if a person removes a hard mineral resource from the deep seabed pursuant to a deep seabed permit, a tax is imposed on the permit holder equal to 3.75 percent of 20 percent (or 0.75 percent) of the fair market value of the commercially recoverable minerals removed.

The Tax Act was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990) (10 years after the date of enactment of the Tax Act). Since the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

Explanation of Provisions

The bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective Date

The provision is effective on the date of enactment.

TITLE VII.—ADMINISTRATIVE PROVISIONS

A. Administrative Provisions

1. Simplify employment tax reporting for household employees (sec. 701 of the bill and secs. 3102, 3121, 3306 and 6654 of the Code)

Present Law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

Reasons for Simplification

Employer return requirements are confusing and burdensome for many individuals, who may be employers only because they employ a domestic employee on an intermittent basis. Streamlining the return requirements would reduce the filing burden.

Explanation of Provision

The bill changes the threshold for withholding and paying social security taxes from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees to report any social security or federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill authorizes the Secretary to enter into agreements with states to collect state unemployment taxes in the same manner.

Effective Date

The provision is effective for remuneration paid in calendar years beginning after December 31, 1991.

2. Penalties for failure to provide reports relating to pension payments (sec. 702 of the bill and secs. 6652(e) and 6724 of the Code)

Present Law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

Reasons for Simplification

Conforming the information-reporting penalties that apply with respect to pension payments to the general information-reporting penalty structure would simplify the overall penalty structure through uniformity and provide more appropriate information-reporting penalties with respect to pension payment.

Explanation of Provision

The bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective Date

The provision applies to returns and statements the due date for which is after December 31, 1991.

3. Clarify that reproductions from digital images are reproductions for recordkeeping purposes (sec. 703 of the bill and sec. 6103(p) of the Code)

Present Law

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

Reasons for Simplification

Reducing the IRS' need to maintain hardcopy originals of documents would simplify the administration of the tax laws. As part of its systems modernization plan, the IRS intends to store returns, documents, and other materials in digital image format. This plan will permit the IRS to respond much more quickly to taxpayers' inquiries about the status of their accounts. It will facilitate implementation of this plan to clarify that reproductions made from such images would be accorded the same legal status as other reproductions.

Explanation of Provision

The bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective Date

The provision is effective on the date of enactment.

4. Repeal tax shelter registration requirements (sec. 704 of the bill and sec. 6111 of the Code)

Present Law

Organizers of tax shelters must register their shelters with the IRS before offering any interests for sale.

Reasons for Simplification

As a result of the passive loss provisions (and related provisions) of the Tax Reform Act of 1986, tax shelters are no longer being marketed as they were prior to that Act. Registration of tax shelters is therefore no longer necessary for the proper administration of the tax laws. Repeal of the registration requirements would reduce paperwork burdens for taxpayers and the IRS.

Explanation of Provision

The bill repeals the tax shelter registration requirements.

Effective Date

The provision is effective on the date of enactment.

5. Repeal of authority to disclose whether a prospective juror has been audited (sec. 705 of the bill and sec. 6103(h)(5) of the Code)

Present Law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

Reasons for Simplification

This disclosure requirement, as it has been interpreted by several recent court decisions, has created significant difficulties in the civil and criminal tax litigation process. First, the litigation process can be substantially slowed. It can take the Secretary a considerable period of time to compile the information necessary for a response (some courts have required searches going back as far as 25 years). Second, providing early release of the list of potential jurors to defendants (which several recent court decisions have required to permit defendants to obtain disclosure of the information from the Secretary) can provide an opportunity for harassment and intimidation of potential jurors in organized crime, drug, and some tax protester cases. Third, significant judicial resources have been expended in interpreting this procedural requirement that might better be spent resolving substantive disputes. Fourth, differing judicial interpretations of the nature of this provision have caused confusion and, in some instances, defendants convicted of criminal tax offenses have obtained reversals of those convictions because of failures to comply fully with this provision.

Explanation of Provision

The bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective Date

The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

6. Repeal TEFRA audit rules for S corporation (sec. 706 of the bill and secs. 6037, 6241, 6242, 6243, 6244, and 6245 of the Code)

Present Law

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on the shareholder's tax return.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

Reasons for Simplification

An S corporation generally is limited to 35 investors. In addition, the vast majority of both existing and newly formed S corporations are expected to qualify for the small S corporation exception from the unified audit and litigation provisions. Consequently, a unified audit procedure is unnecessary for S corporations.

Explanation of Provision

The bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

7. Clarify statute of limitations for items for passthrough entities (sec. 707 of the bill and sec. 6501(a) of the Code)

Present Law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file

information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber* v. *Comm.*, 94 TC 863 (1990) with *Kelly v. Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

Reasons for Simplification

Uncertainty regarding the correct statute of limitations hinders the resolution of factual and legal issues and creates needless litigation over collateral matters.

Explanation of Provision

The bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

B. Tax Court Provisions

1. Clarify jurisdiction of Tax Court with respect to overpayment determinations (sec. 711 of the bill and sec. 6512(b) of the Code)

Present Law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Reasons for Simplification

Clarification of the jurisdiction of the Tax Court and the appealability of orders of the Tax Court would provide for greater certainty for taxpayers and the Government in conducting cases before the Tax Court. Clarification will also reduce litigation.

Explanation of Provision

The bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective Date

The provision is effective on the date of enactment.

2. Clarify procedures for administrative cost awards (sec. 712 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

Reasons for Simplification

The proper procedures for applying for a cost award are uncertain in some instances. Clarifying these procedures will decrease litigation over these procedural issues.

Explanation of Provision

The bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective Date

The provision is effective on the date of enactment.

3. Clarify Tax Court jurisdiction over interest determinations (sec. 713 of the bill and sec. 7481(c) of the Code)

Present Law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

Reasons for Simplification

It would be beneficial to taxpayers if a proceeding for a redetermination of interest supplemented the original deficiency action brought by the taxpayer to redetermine the deficiency determination of the IRS. A motion, rather than a petition, is a more appropriate pleading for relief in these cases.

Explanation of Provision

The bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective Date

The provision is effective on the date of enactment.

4. Clarify net worth requirements for awards of administrative or litigation costs (sec. 714 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

Reasons for Simplification

Although the net worth requirements are explicit for individuals, corporations, and partnerships, it is not clear which net worth requirement is to apply to other potential litigants. It is also unclear how the individual net worth rules are to apply to individuals filing a joint tax return. Clarifying these rules will decrease needless litigation over procedural issues.

Explanation of Provision

The bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective Date

The provision applies to proceedings commenced after the date of enactment.

C. Permit IRS to Enter Into Cooperative Agreements With State Tax Authorities (sec. 721 of the bill and new sec. 7524 of the Code)

Present Law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

Reasons for Simplification

Most taxpayers reside in States with an income tax and, therefore, must file both Federal and State income tax returns each year. Each return is separately prepared, with the State return often requiring information taken directly from the Federal return. Permitting the IRS to enter into agreements with States that are designed to promote efficiency through joint tax administration programs would reduce the burden on taxpayers because much of the same information could be used by both Governments.

For example, the burden on taxpayers could be significantly reduced through joint electronic filing of tax returns, whereby a taxpayer electronically transmits both Federal and State returns to one location. Joint Federal and State electronic filing could simplify and shorten return preparation time for taxpayers. Also, State governments could benefit from reduced processing costs, while the IRS could benefit from the potential increase in taxpayers who would elect to file electronically because they would be able to fulfill both their Federal and State obligations simultaneously.

Explanation of Provision

The bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration

may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective Date

This provision is effective on the date of enactment.

FOOTNOTES

[1] See, e.g., Rev. Rul. 90-79, 1990-2 C.B. 26 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 988 and does not offset taxable gain on the sale of the house).

[2] See Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., "General Explanation of the Tax Reform Act of 1986" at 1096 (1987); Treas. Reg. sec. 1.985-3.

[3] An individual who actively participates in a rental real estate activity and holds at least a 10 percent interest may deduct up to $25,000 of passive losses. The $25,000 amount phases out as the individual's income increases from $100,000 to $150,000.

The $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the income phaseout range for the $25,000 allowance for these credits is $200,000 to $250,000 (rather than $100,000 to $150,000). For interests acquired after December 31, 1989 in partnerships holding property placed in service after that date, the $25,000 deduction-equivalent allowance is permitted for the low-income housing credit without regard to the taxpayer's income.

[4] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income are applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[5] A large partnership is allowed a deduction under section 212 for expenses incurred for the production of income, subject to 70-percent disallowance, as described below.

[6] Any excess of net short-term capital gain over net long-term capital loss is consolidated with the partnership's other taxable income and is not separately reported.

[7] The "70 percent" figure is intended to approximate the amount of such deductions that would be denied at the partner level as a result of the two-percent floor.

[8] It is intended that the rehabilitation and low-income housing credits which are subject to the same passive loss rules (i.e., in the case of the low-income housing credit, where the partnership interest was acquired or the property was placed in service before 1990) could be reported together on the same line.

[9] Precontribution gain is the excess of the fair market value of the contributed property at the time of contribution over the adjusted basis of such property immediately before such contribution. Precontribution loss is the excess of the adjusted basis of such property over its fair market value.

[10] Amounts recognized by reason of these recognition events are taken into account in the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

[11] It is intended that a deceased partner's successor in interest would not recognize any remaining precontribution gain or loss.

[12] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year; persons holding indirectly (e.g., through another partnership) are not counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

[13] For this purpose, oil or gas properties means the mineral interests in oil or gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

[14] The bill also excludes from the audit provisions partners who are excluded from the reporting rules. Such a partner who is excluded from the audit rules, however, is excluded only to the extent his or her interest in the partnership in the year in which an adjustment took effect does not exceed his or her interest in the partnership taxable year to which the adjustment related.

[15] Tax Equity and Fiscal Responsibility Act of 1982.

[16] For example, the "once a PFIC always a PFIC" rule of sec. 1297(b)(1) does not apply to shareholders that make current-inclusion elections.

[17] It is understood that a mutual insurance company could be treated under the bill and under present law as a passive foreign corporation, notwithstanding the fact that such a company does not actually issue "stock."

[18] Thus, the bill retains the exception for income derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation. It is intended that in determining whether a corporation is "predominantly engaged" for this purpose, the Secretary may require a higher standard or threshold than the definition of an insurance company under Treasury Regulations section 1.801-3(a).

[19] H.R. Rep. No. 100-795, 100th Cong., 2d Sess. 272 (1988); S. Rep. No. 100-445, 100th Cong., 2d Sess. 285 (1988).

[20] The bill retains the present law rules that provide an exception from the definition of a PFIC in the case of a start-up company (current sec. 1297(b)(2)). Under the bill, the start-up company exception is intended to be applied, where necessary to carry out the purposes of the PFC rules, by treating as one corporation all related foreign corporations that transferred assets to the start-up company.

[21] For this purpose, it is intended that proportionate ownership will take into account any special or discretionary allocations of the distributions or gains with respect to stock in the passive foreign corporation.

[22] All citizens (and residents) of the United States are included, irrespective of residence in a U.S. commonwealth or possession.

[23] This rule was included in the definition of foreign personal holding company income for purposes of subpart F prior to the amendments included in the 1986 Act.

[24] See, e.g., Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess. "General Explanation of the Tax Reform Act of 1986" at 6 et seq. (1987) ("General Reasons For The Act").

[25] Also, note that in *Commissioner* v. *American Metal Co.*, 221 F.2d 134, 141 (2d. Cir.), cert. denied, 350 U.S. 879 (1955), where a foreign corporation kept its books in U.S. dollars, foreign taxes were translated as of their payment date.

[26] Proposed Treasury Regulation sec. 1.1361-1(l)(2).

[27] This is the effective date of the present-law provision regarding inadvertent terminations.

[28] See section 1366(d)(1)(A); H. Rep. 97-826, p. 17; S. Rep. 97-640, p. 18.

[29] Treas. Reg. sec. 1.704-1(d)(2); Rev. Rul. 66-94, 1966-1 C.B. 166.

[30] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

[31] See PLR 8818049, (Feb. 10, 1988).

[32] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

[33] See S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

[34] Treas. Reg. sec. 1.742-1.

[35] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

[36] See, e.g., *Jalkut Estate* v. *Commissioner*. 96 T.C. No. 27 (April 29, 1991) (transfers from revocable trust to permissible beneficiaries of the trust includible in the grantor's gross estate); LTR 9117003 (same).

Mr. PACKWOOD. Mr. President, I am pleased to join with the distinguished chairman of the Committee on Finance, Senator BENTSEN, today in introducing the Tax Simplification Act of 1991.

This legislation was prepared by the staffs of the Senate Finance Committee, the House Ways and Means Committee, and the Joint Committee on Taxation, in consultation with Department of the Treasury and Internal Revenue Service. The staffs worked hard over the last several months reviewing hundreds of submissions by business groups, tax professionals, and other interested parties. The bill represents a good faith effort of the staffs to address many paperwork problems taxpayers face in complying with the tax laws.

Let me emphasize that the bill is aimed at easing the burden of complying with the Tax Code—it is not intended to change the policy underlying the affected provisions of the tax law. In this regard, a concern has recently surfaced about the foreign tax provisions of the bill. I have been assured that the simplification proposed in this bill is not intended to cut back in any way the current law deferral of U.S. tax on overseas profits earned by American-owned companies. I mention this issue because the tax deferral feature of current law is an important means of helping American companies compete abroad. A simplification measure should not operate to undercut this important policy. I would not support doing so.

It is also my understanding that the Joint Committee on Taxation's very preliminary estimate of the bill indicates it is roughly revenue neutral.

I hope the bill will serve as a useful starting point for discussion of ways to reduce the administrative burden of complying with the tax laws. I encourage those interested in this subject to take a good look at this bill and give us their comments as quickly as possible.

By Mr. GRASSLEY:

S. 1395. A bill to assist in the development of micro-enterprises and micro-enterprise lending, and for other purposes; to the Committee on Finance.

ACT FOR MICRO-ENTERPRISE

Mr. GRASSLEY. Mr. President, I rise today to introduce the Act for Micro-Enterprise. This bill will provide the stuff that dreams are made of. It will enable welfare dependent people to start their own small businesses and become independent of public assistance.

Small business forms the backbone of enterprise in this country. Yet, starting a small business presents rigorous challenges, even for the most aggresive and financially secure individuals. These challenges are monumental obstacles to persons who must rely on public assistance to pay their monthly bills.

But with extensive training, market research, and business consultation, participants in the Micro-Enterprise Project can break the cycle of poverty and become self-sufficient, as proud business owners.

Mr. President, a micro-enterprise is a small business with five or fewer employees, including the owner.

My bill provides the mechanisms for welfare-dependent persons to start up their own Micro-Enterprises and get off welfare. First, they need some help with those obstacles which trip up the best of entrepreneurs.

A strong business plan becomes the blueprint for a small business loan from either a local financial institution or from a State-run revolving loan fund.

The other, and perhaps even more important, is the guarantee of public benefits during the start-up of the business—and continued through its first year.

My bill would exclude the loans, and assets, for starting a business, from the calculation of eligibility for benefits. Also, income derived from the business's first year of operation would not reduce the participant's public assistance.

The typical Micro-Enterprise loan is $5,000. But the current AFDC Program allows recipients to have only $1,000 in depreciable assets. Thus, a Micro-Enterprise loan would disqualify the AFDC recipient from further benefits—even before she could start earning any income from her new business.

This provision improves the chance of long-term business success, since most or all of the business receipts can be reinvested back into the business.

I cannot overstate the value of the sense of pride and independence that comes to participants who are able to make a decent living on their own.

The impact is amplified as other family members also stand a much better chance of breaking out of the cycle of poverty. Those prospects are even more likely, since most small businesses start in the family home, where children can experience first hand the essense of productive work.

This program especially makes sense in rural areas, where employment opportunities in business and industry are limited. Self-owned is often the only alternative to unemployment.

The State and Federal Governments benefit two ways. First, there is a reduction in welfare expenditures for persons whose successful business starts enable them to become financially independent.

Second, tax revenue is generated from the additional economic activity generated through the business.

Examples of successful businesses started through Micro-Enterprise assistance include craft shops, video rental stores, desktop publishing, wedding consultants, and consignment outlets.

The family development, training, and business counseling have been so successful in the Iowa project, that most recipients of the training are independent after the first year of operation. Many who don't start a business do find full-time employment or return to school. The Iowa project is especially successful—it has been able to assist mothers who have been long-term AFDC recipients—an average of 5 years.

The program does an excellent job of coordinating existing services and programs, such as from community colleges, community action agencies, and small business development centers.

It also inspires non-Government entities to invest in the program with volunteered legal help, financial analysis, tax advice, and other services.

Mr. President, I'd like to finish with a paragraph that was printed last January in the Cedar Rapids Gazette:

> Not all welfare recipients are interested in starting their own business. Not all can benefit from the SEID [Self employement investment demonstration] project. But for those who choose to profit from the specialized assistance SEID offers, the program is a godsend. It is an innovative mechanism for breaking the cycle of poverty.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1395

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Act for Micro-Enterprise".

SEC. 2. PUBLIC ASSISTANCE PROVISIONS.

(a) BUSINESS ASSETS EXCLUDED FROM RESOURCES AND INCOME.—

(1) AFDC.—Section 402(a)(8)(A) of the Social Security Act (42 U.S.C. 602(a)(8)(A)) is amended—

(A) by striking "and" at the end of clause (vii); and

(B) by inserting after clause (viii) the following:

"(ix) shall disregard any asset of (including any amount received as a loan by) a child, relative, or other individual specified in clause (ii) which is primarily used for business purposes; and".

(2) SSI.—

(A) EXCLUSION FROM INCOME.—Section 1612(b) of such Act (42 U.S.C. 1382a(b)) is amended—

(i) by striking "and" at the end of paragraph (17);

(ii) in paragraph (18), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(19) any asset of (including any amount received as a loan by) such individual (or such spouse) which is primarily used for business purposes.".

(B) EXCLUSION FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(i) by striking "and" at the end of paragraph (9);

(ii) in paragraph (10), by striking the period and inserting "; and"; and

(iii) by inserting after paragraph (10) the following:

"(11) any asset of (including any amount received as a loan by) such individual (or such spouse) which is primarily used for business purposes.".

(b) PUBLIC ASSISTANCE BENEFITS EXTENDED FOR PERSONS WITH INCOME FROM OR RESOURCES IN A MICRO-ENTERPRISE.—

(2) AFDC AND MEDICAID.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by inserting after paragraph (28) the following:

"(29) notwithstanding paragraphs (7) and (8), provide that, during the 1-year period beginning on the first day any member of a family eligible for benefits under the State plan sells any good or service as part of operating a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise, all income of such family member attributable to the enterprise and all resources in which such family member has a beneficial interest and used primarily in the enterprise shall be disregarded in determining the amount of aid to which the family is entitled under the State plan;".

(2) SSI AND MEDICAID.—

(A) EXCLUSION FROM INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)), as amended by subsection (a)(2)(A) of this section, is amended—

(i) by striking "and" at the end of paragraph (18);

(ii) in paragraph (19), by striking the period and inserting "; and"; and

(iii) by adding at the end of the following:

"(20) during the 1-year period beginning on the first day such individual (or such spouse) sells any good or service as part of operating a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise, all income of such individual (or such spouse) attributable to the enterprise.".

(B) EXCLUSION FROM RESOURCES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)), as amended by subsection (a)(2)(B) of this section, is amended—

(i) by striking "and" at the end of paragraph (10);

(ii) in paragraph (11), by striking the period and inserting "; and"; and

(iii) by inserting after paragraph (11) the following:

"(12) during the 1-year period beginning on the first day such individual (or such spouse) sells any good or service as part of operating a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise, all resources of such individual (or such spouse) that are used primarily in the enterprise.".

SEC. 3. UNEMPLOYMENT COMPENSATION FOR INDIVIDUALS STARTING MICRO-ENTERPRISES.

(a) STATE LAW REQUIREMENTS.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986 (relating to State law requirements) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

"(18) compensation shall be payable to individuals starting micro-enterprises as provided in section 3(b) of the Act for micro-enterprises; and".

(b) PAYMENT OF COMPENSATION TO INDIVIDUALS STARTING MICRO-ENTERPRISES.—

(1) IN GENERAL.—For purposes of section 3304(a)(18) of the Internal Revenue Code of 1986, a State law shall provide that—

(A) each individual who is an eligible individual with respect to any benefit year shall be entitled to receive regular or extended unemployment compensation, as the case may be, without regard to any State or Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work, and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation, as long as the individual performs services in the micro-enterprise.

(2) DEFINITIONS.—For purposes of this section—

(A) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to any benefit year, an individual who—

(i) is eligible to receive regular or extended compensation under the State law during such benefit year,

(ii) is starting a micro-enterprise, and

(iii) submits an application to the State agency for compensation under this subsection.

(B) MICRO-ENTERPRISE.—The term "micro-enterprise" means any unincorporated trade or business with 5 or fewer employees, 1 or more of whom own the enterprise.

(C) OTHER TERMS.—The terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law" have the respective meanings given to such terms under section 205 of the Federal-State Extended Unemployment Compensation of 1970.

SEC. 4. ELIGIBILITY OF ASSISTANCE FOR MICRO-ENTERPRISES UNDER COMMUNITY DEVELOPMENT BLOCK GRANTS AND URBAN DEVELOPMENT ACTION GRANTS.

(a) IN GENERAL.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end of the following:

"(21) provision of assistance—

"(A) to lending institutions and other organizations and agencies, in the form of amounts to be made available for loans to commercial enterprises with 5 or fewer employees, 1 or more of whom own the enterprise, such loans to be in amounts not less than $50 and not more than $5,000, the interest rate on which shall be comparable to the interest rate charged on secured commercial loans made in the county in which such enterprise is located; and

"(B) public and private organizations and agencies for providing counseling, technical assistance, educational programs, planning, and training to facilitate the development, establishment, and operation of commercial enterprises described in subparagraph (A).".

(b) APPLICABILITY.—The amendment made by this section shall apply to any amounts made available pursuant to sections 103 and 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303 and 5318) for fiscal year 1991 and any succeeding fiscal year.

SEC. 5. BUSINESS LOANS TO MICRO-ENTERPRISES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding after subsection (h) the following:

"(i) The Congress finds that in implementing business loan programs under section 7(a) of the Small Business Act and title V of the Small Business Investment Act of 1958, the Administrator should give due consideration to the needs of micro-enterprises and institutions which offer credit or services to micro-enterprises. For the purposes of this subsection, the term 'micro-enterprises' means commercial enterprises with 5 or fewer employees, 1 or more of whom owns the enterprise.".

SEC. 6. TREATMENT OF MICRO-ENTERPRISE LOANS OF SAVINGS ASSOCIATIONS AS QUALIFIED THRIFT INVESTMENTS.

(a) IN GENERAL.—Section 10(m)(4)(B)(i) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(i)) is amended by inserting ", or to micro-enterprise loans" before the semicolon.

(b) MICRO-ENTERPRISE LOAN DEFINED.—Section 10(m)(4) of such Act (12 U.S.C. 1467a(m)(4)) is amended by adding at the end the following:

"(C) MICRO-ENTERPRISE LOAN.—The term 'micro-enterprise loan' means a loan—

"(i) to a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise;

"(ii) in amounts not less than $50 and not more than $5,000; and

"(iii) the interest rate on which is comparable to the interest rate charged on secured commercial loans made in the county in which such enterprise is located.".

SEC. 7. ESTABLISHMENT OF MICRO-ENTERPRISE DIVISION IN EACH FEDERAL BANKING AGENCY.

(a) IN GENERAL.—Each Federal banking agency shall establish a division to be known as the "Micro-Enterprise Technical and Operations Office" to promote micro-enterprises by offering technical assistance, training, outreach, and other support to groups and individuals engaged in, or desiring to establish, a micro-enterprise or an institution which offers credit or services to micro-enterprises.

(b) DUTIES OF MICRO-ENTERPRISE DIVISION.—The Micro-Enterprise Technical and Operations Office of each Federal banking agency shall—

(1) facilitate the creation and financing of micro-enterprises by collecting information relating to micro-enterprises and providing such information without charge to interested persons, and generally serving as a clearinghouse for information relating to micro-enterprises; and

(2) monitor and provide assistance to the micro-enterprise divisions established pursuant to section 34 of the Federal Deposit Insurance Act.

(c) MICRO-ENTERPRISE DEFINED.—As used in this section, the term "micro-enterprise" means any commercial enterprise with 5 or fewer employees, 1 or more of whom owns the enterprise.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, and Mr. SHELBY):

S. 1397. A bill to condition funding for coproduction with South Korea of the F-16 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received; to the Committee on Armed Services.

CONDITIONS ON FUNDING FOR KOREAN FIGHTER PROGRAM

• Mr. DIXON. Mr. President, Senators BYRD, BOREN, D'AMATO, FORD, and SHELBY today join me in introducing legislation dealing with the Korean fighter program.

Just last year, after the Korean Government announced that it had decided to purchase 120 F/A-18's, our Government entered into a memorandum of understanding to allow the sale. But in March of this year, all of a sudden, the Korean Government changed its mind and announced that it was ending the F/A-18 program. Instead, the Koreans announced they were going to purchase F-16's.

The legislation my colleagues and I are introducing today simply extends the 30-day congressional review period. Presently, under the Arms Export Control Act, procedures for considering arms sales such as the Korean fighter program give Congress 30 days, once it has been officially notified of the proposed sale, to pass a joint resolution blocking the sale. Our bill says that Congress shall have 30 days from the date of Presidential notification, and that the time does not begin to run until Congress has seen the agreed to memorandum of understanding, as well as all side letters of agreement.

Mr. President, there have been three requests from Congress for the General Accounting Office to look into all aspects of this sale. One of the requests was from my colleagues and me, and the other two requests were from the House. This legislation does not—I repeat—does not do anything to preclude the administration from entering into a final agreement with Korea. But is does provide the Congress with adequate time to review this proposed program, and it does ensure that Congress has access to the agreement for review.

The General Accounting Office, in March of this year, produced a report on the F/A-18. In that report, the GAO raised a number of concerns over the industrial base assessments by the Navy, and most importantly, by the Commerce Department. For example, the Navy's analysis did not take into account the potential Korean competition against United States companies for the spare parts market. The Commerce Department is directed by law to conduct an independent assessment of the MOU to include the impact on the U.S. industrial base. However, Commerce could not provide the GAO any evidence of an analysis of the industrial base impacts. I would urge all Members and their staffs to review this report which, by the way, is classified.

The Constitution—article 1, section 8, clause 3—gives Congress the power to regulate foreign commerce. Arms sales are, of course, a form of foreign commerce. It is imperative that Congress have all the necessary information to carry out this responsibility, including any relevant memorandum of understanding. Congress needs to see the MOU and all related documents. We need to see the details of the offset arrangements. We need to know the details of what kind of technology is being transferred.

Just last week, Mr. President, the Office of Technology Assessment pointed out in its report on global arms trade that the United States has transferred defense technology on 12 major weapons systems to South Korea. The re-

port further points out that "the long-term strategy of the Korean Government is to draw United States defense companies into cooperative production and R&D relationships so that Korean firms can learn from their more advanced partners."

We need to know what written plans the Department of Defense, the Department of Commerce, and the Department of State have on how they will control the licensing of technology and equipment transfers associated with the offsets arrangements for the new Korean fighter program. We need to know what recoupment the U.S. taxpayer will receive for all the moneys we have spent on the development of the F-16, including the avionics and engine upgrades. Congress and the taxpayers of this country should know what offsets are being offered up by the engine manufacturer, and what technology is being given to the Koreans in the way of offsets by the prime contractor. These are just a few of the questions that should be answered by the administration, Mr. President. The General Accounting Office needs time to study this program. I urge my colleagues to join us in cosponsoring this legislation.

The Arms Export Control Act gives the President the right to negotiate sales. However, the power over foreign military sales, like every other area of foreign commerce, belongs to the Congress. Nowhere in the Arms Export Act did the Congress say it does not want to see the agreements.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

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

S. 1397

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

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F-16 AIRCRAFT.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F-16 aircraft until at least 30 days after the Congress has received the proposed memorandum of understanding between South Korea and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) EXTENSION OF THE CONGRESSIONAL REVIEW PERIOD.—No Presidential certification under subsection (b), (c), or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F-16 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).●

By Mr. REID (for himself, Mr. GRAHAM, and Mr. DURENBERGER):

S. 1398. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain riles for determining contributions in aid of construction; to the Committee on Finance.

TAX TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION

Mr. REID. Mr. President, I am joined today by my distinguished colleagues, Senator GRAHAM and Senator DURENBERGER, in reintroducing legislation to restore the tax-exempt status of contributions in aid of construction, known by the acronym CIAC.

When a facility such as a house, school, or government agency is being constructed, builders extend gas and water mains and electric lines into their developments. They then turn this property over to the utilities without charge, or they pay the utilities to install the lines themselves. The utilities receive this financial or property compensation from the developers for establishing service to the new homes and buildings.

Prior to 1986, these contributions were not taxable as income. But in 1986, the tax reform law changed that principle. The impact of this seemingly innocuous technical change is significant. While it may mean increased revenue for the Treasury, it is extracted at a high cost: It increases the cost of new homes by as much as $2,000.

The intent of the tax on CIAC was to place part of the new corporate tax burden under the 1986 act on utilities. This may have made sense in theory, but it has failed miserably in practice. Why? Because utilities pass the tax onto consumers in the form of higher rates.

If the tax burden is shifted to builders, they merely incorporate that extra cost into the purchase price of their homes. The buck stops, once again, at the prospective or current homeowner. A tax intended for a corporation has instead fallen on consumers.

The tax has led to some unusual maneuvering which takes its toll on the homeowner. I was first alerted to such problems by my constituents. They told me that in Reno, NV, the water utility obtains rights to deliver water from the State. These water rights are considered taxable income, even though they have no fair market value and cannot be depreciated. The additional costs borne by the utility are passed on to Reno homebuilders, schools, and homeowners.

Texas also provides an interesting example. There are about 1,200 investor-owned water utilities in Texas. They cannot afford the extra tax so they pass the cost back to developers. Some developers have chosen to circumvent the cost of this tax by running their own water companies. The result is a massive network of small utilities. This leads to uneconomical, inefficient utility service that proves costly and frustrating for the homeowner. It may also leave the homeowner with a water supply that is of poor quality as it typically is not connected to a larger system with purification facilities.

Another consequence of the CIAC tax is the unfair competitive position it puts private utilities vis-a-vis municipally owned utilities. As governmental entities, municipal utilities are not subject to Federal tax. Therefore, they can offer the same services as an investor-owned utility without the added tax burden, which can be as high as 60 percent of the project cost.

Of course, whenever an investor-owned utility is outbid by a municipality, all levels of government lose tax revenue. It also makes it more difficult for investor-owned utilities to survive as going concerns.

During the last Congress, I introduced a similar bill, S. 435, which ultimately had the support of 42 Senators. I hope to generate an equally strong level of support during the 102d Congress. My good friend from California, Congressman BOB MATSUI, has also reintroduced the CIAC repeal bill in the House. With the support of our colleagues, we can repeal this onerous tax.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. PRESSLER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

S. 141

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 191

At the request of Mr. THURMOND, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 191, a bill to grant a Federal charter to the National Association of Women Veterans, Inc.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 272

At the request of Mr. GORE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 272, a bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.

S. 417

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 417, a bill to establish energy conservation and clean energy requirements for Federal buildings, and for other purposes.

S. 447

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 473

At the request of Mr. DECONCINI, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriation by State lotteries.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 501

At the request of Mr. KOHL, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 501, a bill to establish a data collection, information dissemination, and student counseling and assistance network, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the eastern Gulf of Mexico planning area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 911

At the request of Mr. KENNEDY, the names of the Senator from Virginia [Mr. ROBB], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventive care for pregnant women, infants, and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 1040

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1040, a bill to provide a Government-wide comprehensive energy management plan for Federal agencies.

S. 1142

At the request of Mr. GORTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1142, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals.

S. 1157

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1190

At the request of Mr. DASCHLE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added a cosponsor of S. 1190, a bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles.

S. 1216

At the request of Mr. GORTON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1216, a bill to provide for the deferral of enforced departure and the granting of lawful temporary resident status in the United States to certain classes of nonimmigrant aliens of the People's Republic of China.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1281

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1281, a bill to provide for immediate delivery of U.S. savings bonds available to the public at the point of purchase.

S. 1300

At the request of Mr. ROTH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1300, a bill to minimize the adverse effects on local communities caused by the closure of military installations.

S. 1367

At the request of Mr. MITCHELL, the names of the Senator from Louisiana [Mr. FORD], the Senator from North Carolina [Mr. SANFORD], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1367, a bill to extend to the People's Republic of China renewal of nondiscriminatory most-favored-nation treatment until 1992 provided certain conditions are met.

SENATE JOINT RESOLUTION 39

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 39, a joint resolution to designate the month of September 1991, as "National Awareness Month for Children With Cancer."

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Alaska [Mr. STEVENS] was added as cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor

of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 142

At the request of Mr. SHELBY, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Missouri [Mr. DANFORTH], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 142, a joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week."

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. INOUYE, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 161, a joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in the District of Columbia or its environs, and for other purposes.

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Georgia [Mr. NUNN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. CRANSTON, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from Vermont [Mr. JEFFORDS], the Senator from New York [Mr. MOYNIHAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters.

SENATE CONCURRENT RESOLUTION 1

At the request of Mr. HARKIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Concurrent Resolution 1, a concurrent resolution expressing the sense of the Congress regarding policy on underground nuclear explosions.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 146—RELATIVE TO THE RECENT VOLCANIC ACTIVITY IN THE PHILIPPINES

Mr. INOUYE (for himself, Mr. LUGAR, Mr. AKAKA, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 146

Whereas the volcanic eruptions of Mount Pinatubo which began on June 9, 1991, on the northern island of Luzon have buried thousands of acres of farmland and homes under molten rock and ash;

Whereas at least 150 people have been killed and more than 200,000 forced to flee their homes to be housed in makeshift refugee centers;

Whereas it is unclear when many of the refugees will be able to return farmlands to production due to the extremely heavy ash accumulation;

Whereas nearly all unharvested crops in the affected area have been destroyed and the completion of next season's planting is in jeopardy;

Whereas Filipinos in the affected areas now face a serious shortage of food and clean drinking water;

Whereas health conditions are deteriorating due to contaminated air and water and lack of sanitation;

Whereas mud slides threaten to bring greater damage to the affected areas for months to come;

Whereas the emergency resources of the Government of the Philippines have been seriously depleted by last year's devastating earthquake and typhoon;

Whereas travel into affected areas remains impeded, including air travel, which is crucial to relief operations;

Whereas Philippine volcanologists were among the first to recognize the danger from Mount Pinatubo, urged the evacuation of the Filipino civilian population, and have monitored the volcano's activity throughout the crisis;

Whereas the Armed Forces of the Philippines have played a useful role by providing humanitarian relief, logistical support, and rehabilitation resources to the affected area;

Whereas the initial United States assistance has provided a valuable supplement to the extraordinary efforts of the Government of the Philippines to respond to this disaster, as well as to the activities of private voluntary organizations and bilateral and multilateral donors; and

Whereas the people of America and the people of the Philippines have a long and historic relationship and have consistently struggled together through times of adversity to reach common goals: Now, therefore, be it—

Resolved, That it is the sense of the Senate that the President should continue to move expeditiously to provide assistance to the Philippines from all available government resources in an effort to—

(1) alleviate the immediate dangers of starvation, dehydration, disease, and exposure of Filipinos in affected areas;

(2) evacuate Filipinos from zones of continued danger either from further volcanic activity or from mud-slides;

(3) clear ash and debris from particularly critical lines of communication;

(4) increase the safety of air links into the affected region in order to facilitate more effective relief operations; and

(5) help the Government of the Philippines with its long-term goals of reconstruction and rehabilitation in the affected areas.

Mr. INOUYE. Mr. President, I rise to submit a resolution expressing the Sense of the Senate regarding the recent volcanic disaster in the Philippines. I request that Senators AKAKA, LUGAR, and DODD be named as orignial cosponsors.

This resolution expresses the sense of the Senate that in view of the recent devastation caused in the Philippines by the eruption of Mount Pinatubo, the United States should continue to provide assistance to the Philippine people in helping them recover from this disaster.

Mr. President, the volcanic eruptions of Mount Pinatubo which began on June 9, 1991, on the northern island of Luzon have buried thousands of acres of farmland and homes under molten rock and ash. At least 150 people have been killed and more than 200,000 have been forced to flee their homes to live in makeshift refugee centers.

No one knows when many of these refugees will be able to return their farmlands to production due to the extremely heavy ash accumulation that has taken place. Almost all the unharvested crops in the affected area have been destroyed and the completion of next season's planting is in jeopardy. Health conditions are poor due to lack of sanitation and contaminated air and water.

Mr. President, last year the Senate expressed its support for the people of the Philippines after the devastating earthquake in the central Luzon region. At that time the United States relief included financial assistance to the Philippines in the form of disaster funds, and shipments of Department of Defense supplies such as food, medical supplies, relief equipment, clothing and temporary shelter. The Philippine Government is still attempting to help those affected by this disaster.

Despite the fact that the Philippine Government's resources are thus depleted, they have now begun working to bring aid and comfort to the victims of this most recent disaster.

Last week, I requested the Department of Defense to rush emergency humanitarian assistance to the stricken area. It is my understanding that the Defense Department is now seeking to locate and provide desperately needed medical supplies, food and equipment, some of which has already been delivered. I commend the Defense Department for its efforts to assist the Philippine Government in responding to yet another natural disaster in their country.

While I realize that the path to recovery will not be easy, I feel that

United States assistance will be a strong symbol of the enduring friendship between the Filipino and American peoples. Therefore, I believe that the United States should continue to respond with assistance in helping the Philippines recover from the damage caused by the eruption of Mount Pinatubo.

Mr. AKAKA. Mr. President, I am pleased to join the senior Senator from Hawaii [Mr. INOUYE], the Senator form Indiana [Mr. LUGAR], and the Senator from Connecticut [Mr. DODD] in introducing this resolution extending our support to the Government and people of the Philippines in the wake of Mount Pinatubo's violent eruption.

Mr. President, the eruption of Mount Pinatubo, which began on June 9, 1991, has killed at least 150 people and forced at least 200,000 residents to abandon their homes and seek shelter in crowded, makeshift refugee centers. Even today, the volcano continues to spew ash, adding to the blanket already covering thousands of square miles on Luzon Island. The 300,000 residents of Olongabo are suffering from shortages of food and drinking water since being isolated by the continued eruptions from Mount Pinatubo.

On Monday, I had the privilege of receiving a delegation led by His Excellency Emmanuel Pelaez, Ambassador of the Republic of the Philippines. Ambassador Pelaez assured me that the initial relief response from the United States has been swift and welcome. The State Department, Defense Department, AID, and U.S. Geological Survey are cooperating with Philippine authorities in identifying needed resources and assisting Philippine authorities to assess the scale of destruction. However, given the extent of the devastation, it is clear from my discussion with the Ambassador that the Philippine people will need additional assistance for the refugee relief effort underway, as well as for the rehabilitation and reconstruction of the affected areas.

I understand the decision of the Philippine Government to withhold making any formal assistance request until the volcanic activity subsides and a complete damage assessment has been made. Our resolution voices the Senate's support for the continued expeditious provision of all assistance available at the President's discretion, and the favorable consideration of a request for specified relief from the Philippine Government once it has been made to the Administration.

Mr. President, the Philippines is our Nation's most longstanding ally in Asia. The people of America and the people of the Philippines have a long history of friendship, and we share a commitment to democratic ideals and civil liberties. Following on the heels of last year's catastrophic earthquake and typhoon, the eruption of Mount Pinatubo poses another threat to the efforts of President Corazon Aquino and the Philippine Government to build a healthy market economy, improve the standard of living for farmers and workers, attract foreign investment, and strengthen nascent democratic political institutions.

As friends, as a fellow democracy, it is imperative that we send a clear message of our willingness to help the Philippine people in their effort to address the immediate and long-term consequences of Mount Pinatubo's eruption. I urge my colleagues to support the resolution.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

SPECTER AMENDMENT NO. 381

Mr. SPECTER proposed an amendment to the bill (S. 1241) to control and reduce violent crime, as follows:

At the appropriate place, insert the following section:

SEC. . AMENDMENT TO SECTION 2254 OF TITLE 28.

Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

At the appropriate place, insert the following:

"§ . Habeas corpus time requirements

"(a)(1) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any petition for rehearing en banc within 20 days of the filing of such petition unless a responsive pleading is required in which case the court of appeals shall decide the petition within 20 days of the filing of the responsive pleading. If the petition is granted, the time limit of paragraph (A) shall apply.

"(3) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

D'AMATO (AND OTHERS) AMENDMENT NO. 382

Mr. D'AMATO (for himself, Mr. THURMOND, and Mr. MACK) proposed an amendment to the bill S. 1241, supra, as follows:

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

SEC. . Chapter 51 of title 18, United States Code, as amended by this Act, is further amended—

(a) by adding at the end thereof the following section:

"SEC. . MURDER INVOLVING FIREARM.

"(a) OFFENSE.—Whoever has been found guilty of causing, through the use of a firearm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228 shall apply.

"(b) JURISDICTION.—There is federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting murders involving firearms that have moved in interstate or foreign commerce that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under State law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice."

And (b) by amending the section analysis to add:

" . Murder Involving Firearm.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT

BAUCUS AMENDMENT NO. 383

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, as follows:

Strike section 319 of title III, entitled "Grazing on the Public Rangelands."

Mr. BAUCUS. Mr. President, yesterday the House of Representatives approved the fiscal 1992 interior appropriations bill, H.R. 2686. By a 232-to-192 margin, the House approved a provision in this legislation that would drastically increase the fee for grazing cattle on Federal land.

The amendment I submit today would simply strip this odious provision from the bill. This is no rational or moderate increase in grazing fees. Rather, it amounts to an arbitrary economic death sentence for thousands of ranchers in Montana and throughout the West.

The current fee formula, Mr. President, is rational. It is tied to the livestock market. When the price of cattle rises, so does the cost of Federal grazing permits. Make no mistake about it, the quadruple increase proposed by the House would effectively halt grazing as a multiple use on Federal lands. No rancher with common sense would pay such an increased fee and also put up with the redtape and regulation that frequently accompanies a permit to graze on the Federal domain.

I return to my home State every chance I get. I talk to lots of Montana ranchers and not all of them believe the current system, I must tell you, is such a great deal. In fact, in some instances, complying with Federal regulations has made some allotments much more trouble than they are worth.

Under the current fee formula, grazing on public lands remains the lifeblood of many of our rural communities, particularly in eastern Montana.

A study conducted by Montana State University estimates that grazing on Federal lands generates $125.5 million for Montana in total economic activity each year. In a State with just over 800,000 folks, that is an important part of our collective livelihood.

We are a public land State. Uncle Sam holds the deed to 30 percent of the lands in Montana. Montanans do not want to see the land exploited. We believe the land is there to use but not to abuse. Balanced multiple use, including grazing, is essential to our way of life and economy, and to our environment.

Ask any reputable range scientist. He or she will tell you that balanced, well-managed grazing actually improves the condition of the range.

Let me repeat that. Range scientists will tell you that balanced, well-managed grazing actually improves the condition of the range.

Stock water improvements benefit wildlife. Where bison once roamed, cattle now replenish the range and prevent the prairie from going to seed.

I am not now saying there have not been abuses; there have been. But the remedy to these abuses lies in allowing professional land managers to do their jobs. We should not resort to the use of economic pressure to drive the rancher off the land.

I hope the Senate will go strongly on record opposing this high-handed, back-door attempt to limit grazing as a multiple use on our public lands. I ask my colleagues from the West, and those possessing the commitment to the balanced multiple use of our public land, to join me in cosponsoring the amendment.

VIOLENT CRIME CONTROL ACT

SPECTER AMENDMENT NO. 384

Mr. SPECTER proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, add the following new section:

SEC. . AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(1) Section 524(c)(7) of Title 28, United States Code, as amended by Section 6072 of the Anti-Drug Abuse Act of 1988, is hereby amended by striking the existing language and inserting in lieu thereof the following:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General."

(2) Section 524(c)(6)(C) of Title 28, United States Code, is hereby amended by adding at the end thereof the following new sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7)."

NATIONAL LITERACY ACT

PELL AMENDMENT NO. 385

Mr. FORD (for Mr. PELL) proposed an amendment to the bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire he basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs, as follows.

On page 63, beginning with line 12, strike all through page 66, line 23, and insert the following:

TITLE VI—BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS

On page 67, line 1, strike "602" and insert "601".

At the end of the bill insert the following:

TITLE VIII—AMENDMENTS AFFECTING THE TERRITORIES AND THE FREELY ASSOCIATED STATES

SEC. 801. ELIGIBILITY FOR EDUCATION PROGRAMS

(a) HIGHER EDUCATION.—Section 484 of the Act (20 U.S.C.1091) is amended by adding at the end thereof the following new subsection:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.".

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3142) is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.".

(c) TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.—Section 1204 of the Act (20 U.S.C. 1144a) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

SEC. 802. TREATMENT OF TERRITORIES AND FREELY ASSOCIATED STATES.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Subsection (a) of section 1005 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) COMPETITIVE GRANTS.—(A) From amounts appropriated for purposes of carrying out this section, the Secretary shall reserve an amount equal to the amount described in subparagraph (B) for purposes of making competitive grants to local educational agencies in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. The Secretary shall make such grants according to the recommendations of the Pacific Regional Laboratory in Honolulu, Hawaii, which shall conduct a competition for such grants.

"(B) The amount described in this subparagraph is the portion of the aggregate amount reserved in the fiscal year 1989 under sections 1005(a), 1291, 1404, 1405(a)(2)(A), and 1405(a)(2)(B) for the Trust Territory of the Pacific Islands that was attributable to the

Republic of the Marshall Islands and the Federated States of Micronesia.

"(C) Subject to subparagraph (D), grants awarded under this paragraph may only be used for—

"(i) activities consistent with the purposes of—

"(I) title I;

"(II) the Adult Education Act;

"(III) the Education of the Handicapped Act;

"(IV) the Library Services and Construction Act; or

"(V) the Dwight D. Eisenhower Mathematics and Science Education Act;

"(ii) teacher training;

"(iii) curriculum development;

"(iv) instructional materials; or

"(v) general school improvement and reform.

"(D) Grants awarded under this paragraph may only be used to provide direct educational services.

"(E) The Secretary shall provide 5 percent of amounts made available for grants under this paragraph to pay the administrative costs of the Pacific Regional Laboratory with respect to the program under this paragraph.".

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) (20 U.S.C. 1201a(7) and 1211(b)(7)(B)(i)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(2) in sections 313(b) and 361(a) (20 U.S.C. 1201b(b) and 1209a(a)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(c) STAR SCHOOLS PROGRAM.—Section 907(8) of the Star Schools Program Assistance Act (20 U.S.C. 4086(7)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau."

(d) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) section 602(a)(6) (20 U.S.C. 1401(a)(6)) by striking "or the Trust Territory of the Pacific Islands" and inserting "or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 611(a)(2) (20 U.S.C. 1411(a)(2)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau"; and

(3) section 611(e)(1) (20 U.S.C. 1411(e)(1)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

(e) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act is amended in—

(1) section 3(g) (20 U.S.C. 351a(g)) by striking "or the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 5(a)(3) (20 U.S.C. 351c(a)(3)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(3) section 7(a) (20 U.S.C. 351e(a)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(4) section 7(b) (20 U.S.C. 351e(b)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "the Commonwealth of the Northern Mariana Islands and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

GORTON AMENDMENT NO. 386

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following new title:

TITLE —PRECURSOR CHEMICALS

SECTION 1. SHORT TITLE.

This title may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 2. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical' and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in paragraph (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in paragraph (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in paragraph (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before the word "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms 'broker' or 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 3. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

"(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or a list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(3) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in the Heading by adding the phrase "or to import or export a list I chemical";

(2) by redesignating subsection (c) as (c)(1) and by adding a new subsection (c)(2) as follows:

"The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 823(h) shall be considered.";

(3) in paragraph (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in paragraph (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and" and by inserting after 827 ", and 830";

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding the following new subsection:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by designating the opening paragraph "(b)(1)", by redesignating paragraphs (1), (2), (3) and (4) as (i), (ii), (iii) and (iv) respectively, by changing the references to these paragraphs in the text which follows them to reflect these new designations and by adding the following new subsection:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 5. REPORTS BY BROKERS AND TRADERS: CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import/Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this subchapter and by subchapter I of this chapter.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended in its entirety to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—

"Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this chapter; or

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported; or

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(d)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers", if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reports of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) (as amended by Section 5 above) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or record keeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 971(d)(1) or (2) of this title by misrepresenting either the actual country of final destination of the listed chemical and/or the actual listed chemical being imported or exported;".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802 (34)) is amended:

(1) by striking the following chemicals:

"(O) D-lysergic acid."

"(U) N-ethylephedrine."

"(W) N-ethylpseudoephedrine.";

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by adding the following chemicals:

"(V) benzaldehyde."

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in the text of redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802 (37)) is amended in its entirety to read as follows:

"(37) The term "regular importer" means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended:

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended in its entirety to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from such registration under section 822(d) of this title or by regulation of the Attorney General), or a regulated person as defined in section 802(38) of this title, may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by Section 2 above) is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Pub. L. 101–647) is amended as it amends Section 510(f) of the Controlled Substances Act (21 U.S.C. 881(f)) by striking "this title" and inserting in lieu thereof "this subchapter".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Chapter 117 of Title 42, United States Code, is amended by adding the following section to subchapter II:

"11138. Disclosure of information to the Attorney General Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 11134(b) of this title) under this subchapter or section 1396r–2 of this title will be provided to the Attorney General. The Secretary will transmit to the Attorney General such information which the Attorney General may designate or request which will assist the Drug Enforcement Administration in the enforcement of Title 21, Sections 801 et seq., and will transmit such information related to health care providers which the Attorney General may designate or request which will assist the Federal Bureau of Investigations in the enforcement of Title 18 and Title 21, Chapter 7 and Chapter 9, Subchapter V.".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this Act. Except as otherwise noted, this Act will become effective 120 days after enactment.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing on forest land conservation and related economic development within the northern forest lands study area. The hearing will be held on Monday, July 15, at 11 a.m., at the Lyndon Institute Auditorium, in Lyndonville, VT. Senator PATRICK LEAHY will preside.

For further information please contact Tom Tuchmann of the committee staff at 224–2035.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Conservation and Forestry, will be holding a hearing on forest land conservation and related economic development within the northern forest lands study area. The hearing will be held on Monday, July 15, at 9 a.m., at the Bangor City Council Chamber in Bangor, ME. Senator WYCHE FOWLER will preside.

For further information please contact Ben Yarbrough of the subcommittee staff at 224–5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, June 26, 1991, at 10 a.m. to conduct a hearing on the semiannual report to Congress by the Oversight Board of the Resolution Trust Corporation.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 26, at 2 p.m., to hold a hearing on four ambassadorial nominations.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 26, at 3 p.m., to hold a hearing on the Horn of Africa Recovery and Food Security Act, S. 985.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June 26, 1991, to hold a hearing on "Efforts to Combat Fraud and Abuse in the Insurance Industry: Part 2."

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on compensation (S. 775), veterans' reemployment rights (S. 1095), and hospice care legislation, on Wednesday, June 26, 1991, at 9:30 a.m., in SR–418.

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

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 26, 1991, at 10 a.m., to hold a hearing on S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional amateur sports organizations from misappropriation by State lotteries and S. 474, a bill to prohibit sports gambling under State law.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 26, 1991, beginning at 2 p.m., in 485 Russell Senate Office Build-

ing, on S. 362, Mowa Band of Choctaw Indians Recognition Act.

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

ADDITIONAL STATEMENTS

TRIBUTE TO THE COLORADO INSTITUTE FOR FUELS AND HIGH ALTITUDE ENGINE RESEARCH

• Mr. WIRTH. Mr. President, I would like to take a moment to recognize the Colorado Institute for Fuels and High Altitude Engine Research [CIFER] located at the Colorado School of Mines in Golden, CO.

On May 1, 1991, Environmental Protection Agency [EPA] Administrator, Mr. William K. Reilly, officially designated CIFER as the Nation's new High-Altitude, Heavy-Duty Engine Research and Technology Assessment Center. The establishment of this center at CIFER is an important event in our continuing efforts to reduce air pollution problems in our cities. EPA's announcement will help CIFER continue its important research activities, including the development of technologies to reduce air pollution from heavy-duty trucks and buses.

The Colorado Institute for Fuels and High Altitude Engine Research was initiated at the Colorado School of Mines in 1989. Its mission is to advance fuel-saving and emission-reducing technologies for our cars and trucks at high altitudes. The advances achieved at CIFER will help high-altitude cities comply with Federal clean air standards and reduce the brown cloud—a visible air pollution problem that plagues high-altitude cities including Denver, Albuquerque, Phoenix, Salt Lake City, and other cities throughout the world. High-altitude cities have significant air pollution problems caused or aggravated by auto and truck engine emissions.

The research conducted at CIFER is especially important since the recent amendments to the Clean Air Act set new emissions standards for motor vehicles which are largely based on research done at sea level. Motor vehicle engines running at high altitudes, particularly heavy-duty diesel engines, generally cannot yet meet these standards. Automobile and truck engines simply run dirtier and less efficiently in the thinner and drier air at high altitudes. Because most of the world's large cities and manufacturing centers are at or near sea level, little research has been done to address these unique high-altitude problems. CIFER was created to address these problems.

In an effort to combat Denver's air pollution problems, a number of governmental entities and private groups provided the initial support for the creation of CIFER at the Colorado School of Mines. The initial contributors include Colorado's State government, the Regional Transportation District of Colorado, the Urban Mass Transportation Administration, the Colorado School of Mines, the Colorado Health Department, the U.S. Department of Transportation, the U.S. Department of Energy, the U.S. Environmental Protection Agency, the Public Service Co. of Colorado, and Cyprus Minerals.

Current activities at CIFER includes research on the performance of fuels, engine designs, and pollution control devices at high altitudes. This research includes a fuels research center which conducts research on alternative fuels, catalyst systems, combustion processes, materials, emissions and engine designs. The center has already spawned an innovative vegetable oil-based fuel, called M-diesel, developed by Colorado School of Mines chemist, Tom Reed. Initial test results show that M-diesel has significant emission-reducing potential as a cost-effective diesel fuel additive or substitute. Other research involves the development of improved particulate traps and detailed analysis of the materials which make up tailpipe emissions.

A second program at CIFER is a heavy-duty engine research and technology evaluation center. This facility will house a laboratory equipped to measure fuel consumption, performance, and emissions of large vehicles such as buses and trucks—primarily those equipped with diesel engines. This research is very important since nearly one-quarter of brown cloud pollution may be the result of particulate emissions from heavy-duty engines.

Recognizing the importance of the need to conduct research on engine emissions at high altitude, the Clean Air Act Amendments of 1990 included a provision I helped promote which directed the EPA to designate a high-altitude fuels and engine testing facility. With great pride, I wish to congratulate the Colorado Institute for Fuels and High Altitude Engine Research for being selected as the national high-altitude research center.

1991 INTERNATIONAL SPECIAL OLYMPICS GAMES

• Mr. DURENBERGER. Mr. President, summer is a great time to visit Minnesota under any circumstances. But, between July 19 and 27, I am hopeful my colleagues will plan to visit the Twin Cities of St. Paul and Minneapolis to attend the 1991 International Special Olympics games. Each State will field a team of special athletes who will be among more than 6,000 athletes with mental retardation from nearly 90 nations. I am proud to be an honorary coach for the Minnesota team. I know each State's team would appreciate the support of their Senators.

Special Olympics games are a celebration of courage and conviction in the true spirit of competition. They were organized by Eunice Kennedy Shriver and first held in Chicago in 1968. That first event was an awakening for many people. Today, the rollcall of Special Olympics athletes would include more than 1 million adults and children with mental retardation.

During the 1991 games in Minnesota, Special Olympics athletes will participate in 15 sports at 20 different venues. It will be a memorable time for athletes, families, coaches, volunteers, and spectators. I will wager there will not be a single life left untouched by the look on the face of each athlete achieves his or her personal best.

Minnesotans are opening their community to this global celebration. I hope all of my colleagues will be with us to enjoy it.•

A MARSHALL PLAN FOR HIGHER EDUCATION IN THE SOVIET UNION WOULD WORK TOWARD ENDING THE COLD WAR ONCE AND FOR ALL

• Mr. SIMON. Mr. President, one of the people I have had a chance to get acquainted with over the years is Eugene P. Trani, President of Virginia Commonwealth University.

He has suggested in an article in the Chronicle of Higher Education that we have a very sizable student exchange between the United States and the Soviet Union. In all the discussion of what should take place, this makes more sense than a great many other things I have read.

I will be asking my colleagues to consider some moves in the direction that he calls for in his article.

I urge my colleagues in the Senate and the House to read his article, and I urge the staffs in both Houses to read it also.

I ask to insert the article into the RECORD at this point.

The article follows:

[From the Chronicle of Higher Education, March 13, 1991]

A MARSHALL PLAN FOR HIGHER EDUCATION IN THE SOVIET UNION WOULD WORK TOWARD ENDING THE COLD WAR ONCE AND FOR ALL

(By Eugene P. Trani)

For the past seven months, Operation Desert Storm absorbed the hearts and minds of our government officials, journalists, and citizens, especially those with loved ones in our armed forces in the Middle East. America's concentration on the war diverted our attention from other global developments that also could have great ramifications for the United States, particularly the volatile situation in the Soviet Union.

American academic experts know that the beginnings of change in that country are recent and also potentially reversible. The tragic conflict in Lithuania and comparable events in Latvia are ominous, indeed.

During the past 14 years, I have made eight trips to the Soviet Union. On my most recent visit in December, I signed educational-

exchange agreements between Virginia Commonwealth University and several Soviet universities and institutes. Judging by the increased activity among my own and other American colleges and universities in crafting such agreements, the Soviet Union is attracting more and more interest among American academics. There also is evidence that the Soviets are keenly interested in learning our ways. Since Mikhail Gorbachev's glasnost, thousands of Soviet citizens from many walks of life have traveled to the United States on short-term visits, curious about everything from banking to running the corner pharmacy.

It may, therefore, be time to consider a Marshall Plan for higher education in the Soviet Union. Proposed in 1947 by Secretary of State George C. Marshall, the original Marshall Plan was a highly successful program of economic and technical assistance to Western Europe after the disruption left by World War II. Besides a desire to help the Europeans rebuild, we were also thinking of our economic and political self-interest. The Marshall Plan established a long-term program of reconstruction so that Western Europe could once again become a viable trading partner with the United States; it also helped to forestall the spread of communism. Between 1948 and 1952, 16 countries received more than $13 billion in aid.

A Marshall Plan for higher education in the Soviet Union would be forged out of the same twin motives of helping the Soviets rebuild their society and protecting our own interests, by identifying opportunities for both countries to join academic forces. In areas such as technology transfer, agribusiness and agricultural-extension services, hospital administration, and management of small businesses. American higher education could be especially helpful to the Soviet Union in its present quest to modernize its economy. The plan also would serve American faculties seeking to bring a global perspective to their campuses. Joint projects could range from research and testing of new drugs to exhibitions of the work of faculty and student artists, from economic studies to interdisciplinary work in the humanities.

The long-term goal of such a plan would be the training of future leaders and citizens for a new Soviet democracy. We must remember that if we are to realize the vision of a new world order, we must have the cooperation of the Soviet Union—and that means keeping the cold war from heating up again. Doing so will depend on the development of a strong moderate element in the Soviet political mix as a balance to the conservatives who currently seem to have Mr. Gorbachev outflanked.

Soviet-American educational ties thus far have been dominated by a handful of U.S. universities that work primarily with institutions in Moscow and Leningrad that stress the arts and sciences. But most Soviet professionals and managers come from universities and technical institutes spread across the various republics. It is from these institutions that the Soviet Union's moderate political sector is likely to emerge, and they must not be left out of a broadly conceived Marshall Plan for higher education.

Such a plan also could assist reformers like Boris Yeltsin, president of the giant Russian Republic, by helping his supporters formulate new economic and political initiatives—just as a number of political reforms already enacted in the Soviet Union were the ideas of people such as Aleksandr Yakovlev, Mr. Gorbachev's chief foreign-policy specialist during the crafting of *perestroika*. Mr. Yakovlev studied at Columbia University in the late 1950's.

Under such a plan, our colleges and universities would propose projects for federal matching grants. For example, government seed money of approximately $150-million a year for the next 10 years, matched by university funds, could provide as many as 20,000 Soviet students, scholars, and specialists annually with $15,000 each for year-long visits to American campuses. Some of the money could also be used to allow American experts to visit institutions in the Soviet Union, but the major thrust would be to bring Soviets to our institutions. Federal grants would help our own financially hard-pressed institutions afford exchange agreements and might also help make our projects attractive to private donors.

Ideally, a Marshall Plan for higher education ought to be part of a larger package of U.S. economic aid to the Soviet Union. Several European nations have been providing some aid, but the United States has been tentative about providing similar support. Yet the United States and the Soviet Union have much in common that could be exploited to mutual advantage. Both are large geographically, with abundant natural resources and large populations characterized by ethnic and cultural diversity. We have the expertise to help the Soviets exploit their natural resources. A stronger Soviet economy could benefit the American economy by providing a bigger market for U.S. exports and creating opportunities for corporate investment abroad.

Is a broad educational-exchange plan what the Soviets really need right now? The Soviets clearly are struggling with profound economic, political, and social problems that educational-exchange agreements cannot immediately solve. Mikhail Gorbachev is preoccupied with the political uncertainty that continues to mount in the Soviet Union. But he might welcome a long-range plan to aid the faculties of Soviet technical institutes and universities in developing more expertise for economic and social reform.

Further, we should ask ourselves if the current U.S. stance toward the Soviet Union may not be making the situation there worse. The Soviets have got out of Afghanistan, given up Eastern Europe, and implemented a number of other changes in their foreign policy, as well as supporting the United Nations resolutions on Iraq, their old ally. Yet the United States not only has held back on making substantial changes in its own foreign and economic policies toward the U.S.S.R., but also grows more hard-line with each passing week.

In addition to postponing a planned summit meeting with the Soviets, the United States may put off ratification of a treaty signed by 22 nations in November that would make the most extensive cuts in non-nuclear weapons in history. There also is discussion about our backing the secessionist Baltic states with direct economic assistance—an end run around Moscow that Mr. Gorbachev would surely view as provocative. In sum, the United States has continued to up the ante on the Soviet leader—conceivably contributing to his embrace of the Soviet right.

In my view, our reluctance to forge a new relationship with the Soviet Union stems in part from baggage we are still carrying from the past. America had little contact with Russians before this century. That changed after 1900, when the United States experienced a tidal wave of immigration from abroad, of which Russian émigrés made up a sizable percentage. Mostly Jews looking for relief from persecution, the Russians brought with them a justifiable hatred of the Tsar and a desire to bury their past. Unlike many émigrés from other cultures, these Russians did not bring favorable impressions of their native land to America to counteract what limited and naive perceptions Americans had of Russians.

A new wave of Russian émigrés to the United States after the Bolshevik Revolution of 1917 did not reverse this trend. A number of these new émigrés came from Russia's intellectual elite; some were disenfranchised royalists and others disenchanted socialists. Identifying with the losers in the Bolshevik Revolution, these intellectuals exercised considerable influence over the perception of their homeland, particularly in the universities and colleges to which many of them migrated. A Sovietology evolved based on a negative orientation toward all things Russian. The Sovietologists handed down their orthodoxy to their students, thus bolstering ideological and political differences with the Soviet Union.

My point is not to deny that there were gulags, anti-Semitism, and oppression under communist regimes in the Soviet Union. It is that, on the whole, positive perceptions of Russian people, history, and cultures—as distinct from political developments in the Soviet Union—never had a chance to evolve in the American psyche.

Compare this with our very different experience of the Chinese. Dating back to periods when American missionaries, business people, and educators worked to modernize China, America has developed a positive orientation toward China that survived China's embrace of communism, and, more recently, the tragedy of Tiananmen Square. Indeed, America renewed most-favored-nation trade status with China not long after that incident.

Our college campuses also provide striking evidence of both our openness toward the Chinese and our continued lack of exposure to the Soviets. Last year, 33,390 students from the People's Republic of China studied in this country, compared with 510 from the Soviet Union. Of the 46,500 foreign scholars on our campuses, many of them here on exchange agreements to teach and conduct research, 20 per cent are from the People's Republic of China. There are probably no more than 200 scholars from the Soviet Union currently on American campuses.

Now that China has proposed to focus more attention on elementary and vocational education than on higher education, the Chinese numbers may diminish; perhaps American institutions that conducted exchanges with China may become more receptive to exchanges with the Soviet Union. If the 1980's were a decade of overwhelming interest and support of the Chinese, could not the 1990's be the decade of greater interest and assistance to the Soviet Union?

Substantial cultural and economic relations between the United States and the Soviet Union, based on enlightened self-interest, would work toward ending the cold war once and for all. A Marshall Plan for higher education in the Soviet Union could help both countries gain a better understanding of each other's culture, history, language, and people.

I am not sure we can afford to wait.●

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YELLOW RIBBON/PEN PAL PROGRAM, FORT WAYNE, IN

• Mr. COATS. Mr. President, I rise today to honor the efforts of three Hoosiers who embody the spirit of American pride and patriotism. These women, Marvetta Myers, Susan Isaacs and Susan Bennett, made a commitment to support our troops in Operation Desert Storm in a most outstanding manner, and their dedication has resulted in a reaffirmation of support for those called to serve our country.

In August 1990, these women took action to establish a Yellow Ribbon/Pan Pal Program in Fort Wayne, IN. Their dedication blossomed into a citywide project that mobilized local government, businesses, media and scores of volunteers. Mayor Paul Helmke of Fort Wayne, proclaimed the week of September 24, 1990, Yellow/Ribbon Pen Pal week, and the city adopted the U.S.S. *Iowa Jima* to be recipient of their efforts.

In addition to organizing the letter writing campaign and yellow ribbon decorating project, these women coordinated a massive airlift for all troops. Over 114,000 pounds of necessities and treats left Fort Wayne on November 19, 1990, and were received by the troops in time for the holdiays.

The troops of Operation Desert Storm demonstrated once again the bravery and dignity of America's Armed Forces. Those men and women were called to make tremendous sacrifices to serve the United States of America. They deserve the love and support of all Americans, and thanks to great citizens around the country, and particularly Marvetta Myers, Susan Isaacs, and Susan Bennett, they got it.•

DOES THE UNITED NATIONS BELONG AT THE TABLE?

• Mr. SIMON. Mr. President, one of the Israeli leaders for whom I have tremendous respect and admiration is former Foreign Minister, Abba Eban.

His eloquence is combined with a sense of vision and understanding that is unusual among world leaders.

Recently, he had an op ed piece in the New York Times, which, among other things, has some background on how Israel has benefited from the United Nations.

I think the general impression among a great many people is that the United Nations has a strongly anti-Israel tilt to it, and there are actions that have been taken in resolutions that certainly tend to confirm that.

But Abba Eban points out that Israel also has been a major recipient of benefits from the United Nations, and that side is more substantial and not as well known.

I ask to insert the Abba Eban op ed piece into the RECORD at this point.

The article follows:

[From the New York Times, June 13, 1991]

ISRAEL AND THE PEACE PROCESS: DOES THE UNITED NATIONS BELONG AT THE TABLE?

(By Abba Eban)

By accepting the Middle East peace conference proposed by President Bush and Secretary of State James Baker, Israel could register a breakthrough for its central interests. The benefits would include negotiations with Arab states, dialogue with mainstream Palestinians, intimate cooperation with the U.S. in a peace process, a new status in the European Community and diplomatic relations with the Soviet Union.

The total result would be an economic upsurge that would help Israel solve the problems created by the providential arrival of immigrants from the Soviet Union and Ethiopia.

America's proposal envisions the symbolic presence of a U.N. observer at a conference at which the U.S. and Soviet Union would be chairmen. There is nothing new or significant in this idea. The U.N. Secretariat presided in the Geneva peace conference of 1973 without claiming any influence on the proceedings.

Mr. Baker has worked hard and successfully to oppose a Syrian request to give the U.N. a coercive role. It would be tragic if vital benefits were wasted because of an exaggerated fear of a U.N. presence.

Contrary to the standard view, the U.N. is not a traditional adversary of Isarael. No nation has derived comparable advantage from it. The Security Council is the heart of the system; the only General Assembly resolutions called "decisions" define the structure of the world community through U.N. membership.

The Assembly exercised that power in Resolution 273 on May 11, 1949, when it admitted Israel to membership. That decision transcends the obscene graffiti of 1975 defaming Zionism as "racism."

The Security Council's role in Israel's history is complex and, in its overall result, creative. In June 1948, it voted the truce without which the first of Israel's wars could have ended tragically and without victory. In July, the Council denounced the Arabs' resupmtion of war and ordered a cease-fire on pain of sanctions. In November, a Council resolution inaugurated the four armistice accords that stabilized Israel's territorial structure on the basis of successes in its war of independence.

In 1951, the Security Council defined Egypt's blockade of Israeli shipping in the Suez Canal as illegal. From 1957 to 1967, U.N. forces cooperated with Israel in establishing its right of free navigation in the Straits of Tiran and immunity from attacks for Gaza.

In 1967, the Council, even the Assembly, rejected five draft resolution calling for Israeli withdrawal from the newly captured territories without peace. In November 1967, the Council adopted Resolution 242, legitimizing Israel's presence in the territories pending a peace agreement.

In 1973, the Council called on Middle East nations to negotiate under U.S.-Soviet auspices. That year, the Geneva peace conference inaugurated the disengagement agreements among Israel, Egypt and Syria, which prevented a resumption of the Yom Kippur War.

Israel recently joined in asking the Council to maintain the U.N. forces that contribute to stability in the Golan Heights. It would be bizarre to ask the U.N. to risk its forces in a zone of tension while prohibiting the presence of its official in a conference chamber.

There have been many unbalanced Council statements. But these have been rhetorical commentaries on passing events, while the Council's pragmatic, unsentimental determinations of security, national identities, international law and negotiation across four decades are among Israel's principal diplomatic and legal defenses to this day.

The U.N. should neither be idolized nor demonized. It mirrors today's international system. Its flag rightfully belongs wherever the idea of peace is realistically debated.•

TRIBUTE TO DR. HENRY BUCHWALD

• Mr. DURENBERGER. Mr. President, heart disease is the No. 1 killer of people in the United States. In Minnesota, there is a genius who is responsible for major contributions in the treatment of heart disease and related disorders. Dr. Henry Buchwald is responsible for developing methods for reducing cholesterol levels and heart problems in many patients.

Dr. Buchwald is a professor of surgery and biomedical engineering at the University of Minnesota Medical School. One of his best known projects is the program on the surgical control for the hyperlipdemias, or called POSCH. POSCH is a multiclinical evaluation of the cholesterol-lowering ability of a surgical procedure that Dr. Buchwald developed. According to the Philadelphia Inquirer, "this study 'lays to rest' any questions about whether treating cholesterol is worthwhile in patients with heart disease."

Last October, the Philadelphia Inquirer carried a story on the POSCH study and its effects on patients with cholesterol. I would like to share with you parts of that story:

Henry Buchwald was only 29 and a surgical resident at the University of Minnesota School of Mecicine when in 1961 he came up with the radical idea of using surgery to control cholesterol. Since most cholesterol in food isn't absorbed until it reaches the lower third of the intestine, the young surgeon reasoned that bypassing this segment of intestine should keep cholesterol out of the blood.

Although there was much skepticism, this study would absolutely prove that lowering cholestrol levels reduces the risk of death from heart disease, whether it is from reducing cholesterol in diets, from control through drugs, or from an intestinal bypass procedure. The intestinal bypass procedure has been the most efective in reducing cholesterol.

With help from scientists from the University of Minnesota, the University of Arkansas, the University of Southern California, and the Lankenau Hospital and Research Center in Philadelphia, Dr. Buchwald was able to conduct the POSCH experiment.

An article in the October 4, issue of the Star and Tribune reports:

One year after surgery, the cholesterol level of the average surgical parient was 23 percent lower than that of the average control patient. After 5 years, the average sur-

gical patient had a cholesterol reading of 182, compared with 237 for the control patients. Doctors suggest that people keep cholesterol levels below 200. There also has been a 62 percent reduction in the need for coronary bypass surgery, a $42,000 procedure with risks of its own. Intestinal bypass patients also had 55 percent fewer balloon angioplasties, which is a $17,000 procedure. The cost of an intestinal bypass costs an average of $10,000 to $12,000.

Officially, Dr. Henry Buchwald has been working on his study for 15 years. But, in fact, he has been at it for much longer. Since 1979 he has received nearly $60 million for what has become the largest National Institutes of Health [NIH] research project ever initiated by a proposal from a university researcher. Last October researchers reported that the procedure, called a partial ileal bypass, reduced cholesterol levels and further heart disease problems in patients who had already had one attack. One may find a report on Dr. Buchwald's landmark research in the October 4, 1990, issue of the New England Journal of Medicine.

Dr. Henry Buchwald's mark on the medical field is not limited to the work I have been discussing. He also is the director of the Implantable Devices Laboratory, a collaboration of scientists from the Departments of Surgery and Mechanical Engineering at the University of Minnesota. This laboratory has produced the world's first implantable drug infusion pump as well as a recently FDA-approved byvalved catheter, a slim tube that enables doctors and nurses both to administer intravenous drugs and to obtain blood samples for many weeks without having to repeatedly stick the patient with a needle. Industry, NIH, and FDA support for Dr. Buchwald's successful and productive research in the medical devices field totals nearly $45 million.

Dr. Buchwald was named the Minnestoa Inventor of the Year in 1988 and was inducted into the Minnesota Inventors Hall of Fame. In 1990, Minnesota's Medical Alley Association gave him its Outstanding Achievement Award for Research and Development.

I thank and admire Dr. Henry Buchwald for his determination to save people's lives. With me, Minnesota is proud to call him our own. We are indebted to him for the lifesaving research he has done and for the promise of more great things to come.●

THE SITUATION IN YUGOSLAVIA

● Mr. KOHL. Mr. President, the development of democracy, Mr. President, is rarely a neat or tidy enterprise. Indeed, the evolutionary movement toward freedom can be so traumatic that Thomas Jefferson once observed that the tree of liberty must be fertilized with the blood of patriots.

That observation, however, was made over 200 years ago. It is possible—just possible—that we have made enough progress over the last two centuries to use a different form of fertilizer. That certainly is my hope as I look at the situation in Yugoslavia today.

This morning's news was full of mixed accounts about events in Yugoslavia. But there was a common thread running through the reports. As the New York Times put it,

> Leaders of both Republics [Croatia and Slovenia] insisted that despite the definitive tone of the declarations [of independence], which read like acts of secession, they were still eager to discuss creation of a new Yogoslav union with the other four Republics.

Despite the threat of violence and instability, despite the potential for miscalculation and mistakes, despite all that there is also the hope that the people and leaders of the Yugoslav republics, and what is left of its central government, will recognize the need for negotiations and the futility of violence.

In my view, the U.S. Government needs to recognize some things as well. But just last week, Secretary of State Baker was in Belgrade saying that the United States would not recognize Croatia or Slovenia. The leaders of those Republics didn't seem to expect that we would: They have seen what we have done in the Baltics and, as President Kucan of Slovenia said, "under international law, the legal entity is still, for the time being, the Socialist Federated Republic of Yugoslavia."

At the same time that our Secretary of State was expressing our support for what passes as the central government, he was also telling that government that violence was not an acceptable response to the problems it faces. That kind of warning is the least we can do. Similar statements were, from time to time, ignored by the Soviets in the Baltics. I hope they will not be ignored at any time or in any way by those who remain in Belgrade.

I must confess that I am concerned about potential violence which may be instigated by a small minority of extremists. But I have no questions about the legitimate desires of the people to find freedom and independence. I trust and expect our Government to work with all parties to achieve that goal in a peaceful and prompt fashion.●

MSGR. WILLIAM LINDER

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Msgr. William Linder, pastor of St. Rose of Lima Church in Newark, NJ, who has been named the recipient of a 1991 MacArthur Foundation fellowship.

Monsignor Linder is that rare community leader whose commitment is seen not just in words but in deeds and action. He is founder and executive director of the New Community Corp., which builds and renovates nonprofit facilities to serve the black and Hispanic communities in Newark. Also, Monsignor Linder has helped to create child care centers, including one for children with AIDS, senior citizen centers, office space, a supermarket, a restaurant, and a gymnasium, and in the process has played a part in Newark's revival. Recently, the U.S. Conference of Mayors named Newark one of America's most livable cities, and it is the energies of commited and caring citizens like Monsignor Linder that has helped drive Newark's resurgent pride and promise.

The MacArthur Foundation fellowship—the so-called genius grants—recognizes what the people of Newark have known for many years: Msgr. William Linder's energy and creativity have touched thousands of lives and improved the quality of life for the St. Rose of Lima Church community. He is a man of compassion and vision and is, in the words of the MacArthur Foundation, the kind of person "at the heart of a society's capacity to improve the human condition." It is my honor to introduce into the record his achievements that have been recognized by the MacArthur Foundation.●

FLINT CENTRAL HIGH SCHOOL THEATER

● Mr. RIEGLE. Mr. President, today I rise in tribute to the Flint Central High School Theater Magnet Program located in my hometown of Flint, MI. As a graduate of Flint Central High School, I take special pride in honoring an outstanding group of young men and women.

Flint Central Theater Magnet, for the second time in as many years, was chosen to perform a full length mainstage show at the National Thespian Festival held each year on the campus of Ball State University in Muncie, IN. Forty-five students representing three of Flint's high schools will perform Eugene O'Neil's "Ah Wilderness!" for 3,000 of their peers.

Central High School's production received high marks in the areas of superior set design, student ability to work with challenging material, professionalism, and honesty and integrity in their theater work. This honor puts the Flint Central Theater Magnet Program in the top 10 percent of high school theater programs in the Nation.

At a time when education is under constant criticism, and when people read and hear so much about the problems our Nation's youth are experiencing, it gives me great pride to recognize and applaud a group of truly deserving young people from Flint, MI.●

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

I have discussed with the distinguished Republican leader and the managers, Senators BIDEN and THURMOND, the best way to proceed with respect to this legislation tomorrow. I would like to suggest to the distinguished Republican leader that we return to the bill at 10 o'clock in the morning, at which time the managers will proceed to receive and attempt to dispose of other amendments—there are, I understand, a large number remaining—and that we simply operate on the understanding that the distinguished Republican leader and I will meet tomorrow to discuss the subject matter just voted on, the Helms amendment and the subject matter related thereto, and that while we are in those discussions, pending our reporting back to the managers, there will be no further amendments offered with respect to that subject matter on either side, and the managers will proceed with respect to the many amendments that relate to the bill itself or to any other subject matter.

I inquire of the distinguished Republican leader and the managers as to whether or not that is an agreeable procedure to them.

Mr. DOLE. It is an agreeable procedure, if the majority leader will yield. I had discussed it with the manager on this side, the distinguished Senator from South Carolina, [Mr. THURMOND]. He would like to get back on the bill, on the basic amendments. He feels, as I think the Senator from Delware feels, many of these can be disposed of.

We still have over 70 amendments, as I understand it. And there are a number of Members already asking about the weekend. So it would seem to me we ought to try to resolve the so-called Helms amendment some other way.

So we will agree not to get into that until we mutually agree otherwise.

Mr. MITCHELL. Mr. President, I am advised that the managers are working on a unanimous-consent agreement that would permit Senator D'AMATO to be recognized at 10 tomorrow, to offer an amendment, so that we would be underway in accordance with the understanding just expressed by the Republican leader and myself.

In that event, I inquire if we are prepared to proceed to get this agreement now.

Mr. DOLE. We are ready.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Specter amendment, No. 381, be laid aside in status quo for the consideration of other amendments, to be brought back only on a call for the regular order made by the sponsor or the majority manager of the bill; that when the Senate resumes consideration of this bill at 10 a.m., tomorrow, Senator D'AMATO be recognized to offer an amendment with respect to mandatory sentencing for crimes committed with firearms; that there be 30 minutes for debate with 20 minutes under Senator D'AMATO'S control and 10 minutes under Senator BIDEN'S control; that no amendments to the amendment or language proposed to be stricken be in order; that following the conclusion or yielding back of time, the Senate vote, without intervening action or debate, on or in relation to the D'Amato amendment. I further ask unanimous consent that immediately following the disposition of the D'Amato amendment, on Thursday, the Senate proceed to the following amendments, that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer the amendment, and that no amendment to the amendments or to the language proposed to be stricken be in order, and that during the pendency of the agreement on the listed amendments no motions to recommit be in order.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, the amendments to which this referred, to which the statement referred, are as follows: an amendment by Senator SIMON on Federal prisoner drug testing; an amendment by Senator GORTON on precursor chemicals; an amendment by Senator SIMON and Senator BIDEN on cash bail; an amendment by Senator LAUTENBERG on vehicle theft; an amendment by Senator HATFIELD on missing Alzheimer's disease patients. I modify my remarks by inserting prior to the Hatfield amendment an amendment by Senator KENNEDY on counterfeit goods; then the Hatfield amendment to which I just referred; then an amendment by Senator RUDMAN on multijurisdictional drug task forces.

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

The text of the agreement is as follows:

Ordered, That during the consideration of S. 1241, a bill to control and reduce violent crime, the Specter amendment, No. 381, be laid aside in status quo for the consideration of other amendments, to be brought back only on a call for the regular order made by the sponsor or the Majority Manager of the bill.

Ordered, That at 10:00 a.m. on Thursday, June 27, 1991, when the Senate resumes consideration of S. 1241, the Senator from New York (Mr. D'Amato) be recognized to offer an amendment with respect to mandatory sentencing for crimes committed with firearms, on which there shall be 30 minutes debate, with 20 minutes under the control of the Senator from New York (Mr. D'Amato) and 10 minutes under the control of the Senator from Delaware (Mr. Biden): *Provided*, That no amendments to the amendment or language proposed to be stricken be in order.

Ordered further, That following the conclusion or yielding back of time, the Senate vote, without intervening action or debate, on or in relation to the D'Amato amendment.

Ordered further, That following the disposition of the D'Amato amendment, the Senate proceed to the following amendments and that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer the amendment, and that no amendment to the amendments, or language proposed to be stricken, be in order, and that during the pendency of the agreement on the listed amendments, no motion to recommit be in order:

Simon amendment on Federal prisoner drug testing,

Gorton amendment on precursor chemicals;

Simon/Biden amendment on cash bail;

Lautenberg amendment on vehicle theft;

Kennedy amendment on counterfeit goods;

Hatfield amendment on missing Alzheimer's disease patients; and

Rudman amendment on multi-jurisdictional drug task forces.

Mr. MITCHELL. Mr. President, I thank my colleagues, I particularly thank the distinguished Republican leader for his usual courtesy, and the managers of the bill, Senators BIDEN and THURMOND.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 380, AS MODIFIED

Mr. BIDEN. Mr. President, I ask unanimous consent that amendment No. 380 be modified to reflect the following changes, which I now send to the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The amendment is so modified.

The amendment (No. 380), as modified, is as follows:

Strike all after the word "Sec." and insert the following:

TITLE —HABEAS CORPUS REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 02. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. . APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

SEC. . AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. . SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsection "(e)" and "(f)" as subsections "(f)' and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. . SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. . SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991".

SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undistributed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) In one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the courts confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence of direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within one hundred and eighty days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within one hundred and eighty days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within one hundred and eighty days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) the failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"§ 2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

The PRESIDING OFFICER. The Senator from Kansas, the Republican leader.

MILDRED HOLT: 1883–1991—REMEMBERING AN AMAZING KANSAN AND HER 108 YEARS OF LIFE

Mr. DOLE. Mr. President, a remarkable Kansan passed away this weekend, a Kansan whose 108 years of life were a testimony to the rugged individualism of our State.

Mildred Holt of Ellsworth was something special, right up to her final days, still amazing people with her wit, her smarts and her charm. It was a captivating personality that millions of Americans came to know and love, thanks to her memorable appearance in 1987 on the Johnny Carson Show.

Only 105 years young at the time, Mildred wowed the nationwide Carson audience with her spunk, telling the famous talk show host that she was "too mean to die."

Mildred Holt undoubtedly enjoyed her time in the national spotlight, but her true joy in life was her family—and what a family it is: 2 surviving daughters and a son, along with 10 grandchildren and 19 great-grandchildren.

Memorial services will be held this Thursday for this good woman in her beloved hometown of Ellsworth. I know my Senate colleagues join me in sending our prayers and sympathies as so many of Mildred's friends gather at the First Presbyterian Church to pay their respects.

I am proud to say Mildred Holt was my friend, and I am even prouder to say she was a fellow Kansan.

ORDERS FOR THURSDAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. on Thursday, June 27; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the time from 9 a.m. to 9:20 a.m. under the control of Senator BRYAN, the time from 9:20 a.m. to 9:40 a.m. under the control of Senator JOHNSTON, and the time from 9:40 a.m. to 10 a.m. under the control of the majority leader.

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

RECESS UNTIL 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9 a.m. on Thursday, June 27, 1991.

There being no objection the Senate, at 12:05 a.m., recessed until Thursday, June 27, 1991 at 9 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 26, 1991:

DEPARTMENT OF THE TREASURY

MARY CATHERINE SOPHOS, OF CALIFORNIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

DEPARTMENT OF AGRICULTURE

ANN M. VENEMAN, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF AGRICULTURE.

ANN M. VENEMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

EXTENSIONS OF REMARKS

HONORING OUR VIETNAM VETERANS

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. JONES of North Carolina. Mr. Speaker, I have just recently been contacted by students of the West Craven Middle School located within my congressional district in New Bern, NC. While I am contacted by groups all the time, I am especially proud and humbled by the remarks of the West Craven Middle School students. They show great concern and social consciousness for a group of Americans still overshadowed by past events. These Americans, our Vietnam veterans, have never been given the credit and thanks they so richly deserve.

Mr. Speaker, as celebrations continue over the success of our military forces in Operation Desert Storm, let us also remember the Vietnam veteran. I do not want to take away any credit or glory from our current soldiers or support personnel, I would simply like to take this time to rectify a past injustice. As these students so accurately point out, what better time to focus on the sacrifices made by our Vietnam veterans than during these celebrations. Let us truly make this a homecoming for all individuals who have fought to protect and preserve all that is sacred to our great Nation.

Mr. Speaker, for the benefit of this institution, I am including in my remarks a copy of the statement and suggested activities as submitted by the students of West Craven Middle School. I hope that all of my colleagues will pursue them carefully and make them available to their constituents across the country.

Thank you, Mr. Speaker, for allowing me to submit these comments.

The material follows:

WEST CRAVEN MIDDLE SCHOOL,
New Bern, NC.

DEAR REPRESENTATIVE JONES: The current wave of military support and patriotism being experienced throughout the United States is wonderful! This unsurpassed abundance of honor being bestowed upon our Gulf Crisis veterans is well deserved. The welcome home has been truly heartwarming.

In addition to our newest group of veterans, however, another group from our nation's recent history needs and deserves the special recognition which they never received when they returned home from a long and ugly war. This group, our Vietnam veterans, also served our nation with pride and great valor.

We, a group of concerned students and other citizens, feel that our Vietnam veterans should be officially honored and included in what President Bush has promised to be the "greatest Fourth of July ever." Please help us in spreading this message by taking whatever action you have available to you.

To aid supporters in promoting the "It's Never Too Late!" campaign and honoring our Vietnam heroes, we included a list of suggestions for them, their friends, and interested organizations in letters mailed throughout the country. We have attached a copy of this list for your perusal.

Indeed, "It's Never Too Late" to say, "Thank you for serving our country. We appreciate you!" Please join us in shouting it across our nation.

Sincerely,

A. G. STUDENTS.

SUGGESTED ACTIVITIES

Please note that some are appropriate for an individual while others are more appropriate for a class, school, or community organization.

Write letters to newspaper editors requesting support.

Prepare and post in your school a roster of parents and grandparents who served in Vietnam. List the students names with them.

Make banners or posters to put up in stores and other buildings within the community.

Sponsor a Mail booth or display with a sign-up for the petitions.

Post a roster in the mall for accumulating a list of local veterans.

Have a Vietnam awareness pep rally and invite Vietnam veterans.

Invite guest speakers from local Vietnam veterans groups.

Sponsor a poster contest.

Make and enter a parade float.

Plan a reunion party or reception.

Distribute bumper stickers with the theme/slogan—"It's Never Too Late!"

Distribute buttons with the theme/slogan.

Put up billboards.

Design and print front yard signs similar to the ones used in political campaigns and distribute them for display.

Contact parade organizers in your community and request that open invitations be issued to Vietnam vets to march in parades.

Encourage a day for Vietnam history lessons throughout your school.

Ask newspapers to publish a list of Vietnam veterans living within your community. Their years and location of service could be included.

Request that your local T.V. station(s) and newspaper(s) publish stories related to Vietnam veterans.

Design and sell T-shirts with the campaign slogan.

Organize a dance for veterans and their families with Vietnam era music.

TACKLING THE NATIONAL DEBT CRISIS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PORTER. Mr. Speaker, it took the United States from its founding until 1981 to accumulate a $1 trillion debt—it took only 9 more years to increase that debt to more than $3 trillion. Interest on the national debt is currently the fastest growing component of the Federal budget and, in recent years, interest payments on the national debt have been the third largest annual budget expenditure, exceeded only by Social Security and defense. Instead of taking necessary measures to cut Government waste, ensure fiscal restraint, and restore financial integrity, we continue to mortgage our children's and grandchildren's future with this enormous debt and its related interest payments.

In a recent edition of the Chicago Tribune, the president of the League of Cities, Sidney J. Barthelemy, professes amazement that in 1989 America's cities and towns spent $100 billion less to run their operations than the national government paid on interest alone. How is it that our municipalities continually submit and adhere to balanced budgets, while our national government continues to incur increasing amounts of debt? It is clear that Federal elected officials must have the courage to address this crisis if we are to make any real, significant, and lasting progress.

Mr. Speaker, I commend Mr. Barthelemy's column to my colleagues' attention and submit it for the RECORD:

[From the Chicago Tribune, May 24, 1991]

HOW HUGE U.S. DEBT SQUEEZES US ALL

(By Sidney J. Barthelemy)

The American taxpayers ought to know where their money is going, but how many could answer this question: Would you rather pay (a) the entire cost of government for running every city and town in the United States for a year; or (b) the annual interest payment on the federal debt? (Hint: Value aside, we are talking strictly in terms of dollars, and it isn't even close.)

The Census Bureau's annual report on city government finances in 1989 just came out, and it calculated that cities and towns across the U.S. spent $140.3 billion for general government operations that year. That covered all wages, salaries, contracted services, equipment purchases and general expenditures for everything from police, fire, trash and transportation to health, libraries, parks and sewage systems.

Meanwhile, back in Washington, the Treasury Department was paying that much, plus another $100 billion, just to keep from defaulting on Uncle Sam's IOUs. In 1989 interest on the federal debt cost $240.9 billion, which comes to about $660 million per day.

In Chicago general government expenditures for the whole year amounted to $2.721 billion in 1989. Think about it: What paid for an entire year of city operations barely covered four days' worth of interest charges on the federal debt!

That mountain of debt is one of the lasting and tragic legacies of the 1980s. Remember, that's the decade when austerity and accountability were supposed to be hallmarks of federal policy, and when every domestic program that wasn't totally eliminated suffered wholesale cuts to help fight the scourge of deficits.

So just how successful was the battle? To find out, one could try asking the same ques-

tion for fiscal 1979. Which would you rather pay for all municipal government or interest on the federal debt?

The Census Bureau's report from 1979 showed cities and towns spent nearly $65.6 billion that year on general operations. Meanwhile, Uncle Sam's checkbook only got depleted by $60.3 billion for interest on the federal debt.

Municipal budgets slightly more than doubled over the past decade as local leaders wrestled with the yearly task of finding new local resources to deal with a growing array of governmental responsibilities. At the same time, the president and Congress were piling up deficits totaling more than $2 trillion, and in the process quadrupling the cost of paying interest on our national debt.

What came from Washington's "borrow and spend" addiction of the 1980s is difficult for most Americans to comprehend. The money certainly didn't get spent in Hometown America. There were massive cuts in federal assistance for affordable housing, job training and environmental protection. Few resources were forthcoming to deal with the growing problems of drugs, crime, homelessness and poverty.

Yet the money was certainly spent somewhere; and because so much was borrowed instead of pay-as-you-go, the American taxpayers are now forced to pay an extraordinary amount each year just on finance charges. Much more than they pay for the services provided by all our local governments.

Of course, it wasn't intended to be that way at all. Year after year came pronouncements that the federal deficits would be brought under control. Year after year the deadline slipped.

The ultimate solution was supposedly discovered in 1985, when the Gramm-Rudman-Hollings plan for strict targets and forced cuts was adopted. We are now halfway through fiscal 1991, the year the federal budget was supposed to be balanced. Instead, the latest projection by the Congressional Budget Office is that we'll end up the year with a deficit of $309 billion, by far the largest ever.

Just think. If our national government were to even come close to what every city and town must do, that is, balance revenues with expenditures, it would take every cent collected by the IRS on April 15, along with twice as much as all of our cities collect and spend in a year.

Several weeks ago, four leaders of the National League of Cities testified at a House Government Operations Committee hearing on redirecting national priorities to address some of the urgent problems in Hometown America.

One participant urged a commitment of national will and resources to launch and carry out an "Operation Urban Storm" with the same resolve demonstrated in America's commitment to free Kuwait. Our nation faces some truly formidable peacetime threats to our future strength and security, and the current situation on the home front could be described as a light drizzle and a lot of haze.

But considering how Washington simply opened the national checkbook to meet an international threat in the Persian Gulf or to cover the outrageous cost of bailing out the S&L industry, one mayor gave an assessment that probably stunned his former colleagues in Congress.

It came from Mayor Don Fraser of Minneapolis, who ended a distinguished 16-year career in Congress to return to local government in 1979. Responding to a comment by Chairman John Conyers (D-Mich.), Fraser, a staunch Democrat in the mold of Hubert Humphrey, said, "I would never have thought in the years I served here that I'd hear myself saying this, but I do believe we may need to adopt a balanced-budget amendment [to the Constitution]."

The seduction of borrowing to finance dubious tax cuts, scandalous S&L bailouts, unfettered entitlements and other programs with so little concern about paying for them has turned the United States from the world's largest creditor into its largest debtor nation in the past decade alone. The annual cost of financing that debt is destroying our capacity to make the investments we need to secure our nation's future.

The leaders of America's cities and towns have worked hard and creatively over the past decade to meet the pressing needs of today and to prepare for the challenges of tomorrow. I find it hard to say the same about our national priorities. We are literally robbing our children by indenturing them to pay for the federal budgetary excesses of the 1980s.

Most Americans speak proudly and reverently about their parents and grandparents, whose life work seemed dedicated to leaving us something greater than they received. That purpose seemed a basic principle for our government too. Recently, however, our national leaders appear to have opted for a policy simply to pass along an accumulation of problems and an enormous debt they seem disinclined or unable to grapple with.

It's a test of will, and right now in Washington, we're flunking it badly.

ASHLAND COAL SCHOLARS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. RAHALL. Mr. Speaker, remember graduation? High school graduation, not college, where one is on the brink of adulthood. Necessary important decisions concerning the beginning of your life have to be made. Future careers have to be decided with options weighed and outweighed. The balancing of options to some may be quite uneven, sometimes seeming to be tipped more toward the negative rather than the positive. But ultimately decisions are made, schools are selected, and the search turns from what to study at college, to "how am I going to pay for it?"

For five intelligent high school students whose family members are employed by Ashland Coal Inc., the scales are favorably tipped on the positive. Ashland Coal, Inc., is to be commended highly for its responsible and affirmative program, geared to serve its employees and their children through merit-based higher education scholarships. At a time when there is available student aid based on financial need, there is little aid available for students who have worked hard to achieve scholastically, and who merit tuition assistance.

In order to be eligible for scholarships, students must be children of Ashland Coal's employees and have earned high grade-point averages. The outstanding high school studens are John Ghiz, Anthony Linville, Laura Laymen, Garland Strunk, and Ronald Runyon. These outstanding students had the honored privilege of receiving scholarships yearly for up to 4 years of $1,500. They are the 1991 Ashland Coal, Inc., scholars.

I commend you on your accomplishments, and I wish future successes in the years to come.

TRIBUTE TO MSGR. FRANCIS X. CANFIELD

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HERTEL. Mr. Speaker, it is with great honor that I rise today to pay tribute to Msgr. Francis X. Canfield, who is retiring as pastor of St. Paul Parish in Grosse Pointe Farms, MI, on July 31, 1991. Monsignor Canfield is an exemplary individual whose spiritual and educational leadership has touched and changed the lives of many.

Monsignor Canfield's accomplishments rest on a foundation of extensive higher education. Beginning in 1941, he received a B.A. from Sacred Heart Seminary in Detroit. He continued his education in 1945 earning his M.A. in English literature at the Catholic University of America, in Washington, DC. In 1950, he completed a masters in library science at the University of Michigan, and went on to the University of Ottawa in 1951, where he received his Ph.D. in English and American literature.

Monsignor Canfield's intrinsic desire to learn was enhanced inside the classroom, and he was eventually inspired to teach. Through the years, he has awakened the interest and kindled the enthusiasm of his students. From 1946 to 1970, he taught English and history at the Sacred Heart Seminary, and spent his summers from 1955 to 1963 as a visiting lecturer of library services at the Immaculate Heart College in Los Angeles. Medical ethics is yet another of the many diverse topics in which Monsignor Canfield is learned, as he held the position of lecturer on that subject at Providence Hospital Nursing School in Detroit from 1952 to 1963.

Throughout his life, Monsignor Canfield has continued to strengthen the library, perhaps one of our country's richest resources. In 1948, he began his tenure as librarian of Sacred Heart Seminary where he stayed until 1963. He held the positions of chairman, vice-president, and president of the Harvard University and the University of Michigan units of the Catholic Library Association, an organization that promotes and encourages Catholic literature and library work through cooperation, publication, education, and information. He can also be recognized as founder and president of the American Friends of the Vatican Library. His extensive collection of writing acknowledgements includes contributor to the New Catholic Encyclopedia and the Catholic Bookman's Guide, various book reviews and articles in such works as Catholic Library World and the Catholic Education Review, and weekly column that appeared in the Michigan Catholic from 1949 to 1963.

Monsignor Canfield's spiritual leadership has touched people with comfort, compassion,

and moral guidance. He was named domestic prelate by Pope Paul VI in 1963, and in 1971 he was named pastor of St. Paul's Church in Grosse Pointe Farms, MI, where he has continued to pursue his pastoral mission to benefit the community. Throughout his life, Monsignor Canfield has always demonstrated his internal, selfless pursuit of the common good. My dear colleagues, I ask that you join me in honoring Monsignor Canfield for all of his achievements.

GRAND JUNCTION PROJECT OFFICE

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CAMPBELL of Colorado. Mr. Speaker, today I am introducing legislation that will strengthen the Department of Energy's [DOE] environmental cleanup program by making the DOE's highly successful Grand Junction Project Office an independent area office under the direct supervision of the DOE's Office of Environmental Restoration and Waste Management.

Over the past decade, the Grand Junction Project Office has proved to be one of the DOE's most efficient and reliable operations. The Grand Junction Project Office currently manages programs in 21 States and Korea. Over the years, this office has developed expertise and technical skills that make it one of the DOE's crown jewels. The Environmental Protection Agency [EPA] has indicated that the Grand Junction Project Office was a key component in the cleanup of the Denver Radium Superfund Site—a site that captured the National Superfund Team of the Year Award in 1990. In short, the Grand Junction Project Office has been entrusted with some of the Federal Government's most difficult and complex environmental problems—and has, by all accounts, performed excellent work for the DOE and the Nation's taxpayers.

Mr. Speaker, my legislation will allow the Federal Government to fully utilize a valuable asset. The GJPO has the technical capabilities, laboratory facilities, management expertise and most importantly, the human resources needed to address important environmental restoration, geoscience, and energy resource management needs for the Federal Government.

Unfortunately, however, the current administrative framework of the DOE has hindered efforts to fully utilize the skills and engineering resources of the Grand Junction Project Office. An outdated and cumbersome bureaucracy has kept the GJPO reporting to the DOE's Idaho Operations Office, instead of reporting directly to the Office of Environmental Restoration and Waste Management. This arrangement has resulted in the waste of time and resources in an otherwise effective and efficient operation.

My legislation will also assure that the jobs of the current employees of the GJPO are protected. The men and women who work in the Grand Junction office have proved to be its greatest resource. In the last 20 years this office has nurtured and developed a highly trained and skilled pool of people possessing important talents. When the organizational structure of the office changes, the experience of these employees will be even more important. I want to make sure we are able to fully utilize this talent in tackling the myriad of environmental pollution and contamination problems facing the DOE and the Federal Government.

Mr. Speaker, the legislation I am proposing today is a step toward cutting out bureaucracy, fully utilizing resources that American taxpayers have already paid for, and getting on with the important task of cleaning up polluted and contaminated sites owned by the Federal Government.

SACRIFICE AND SERVICE OF SGT. PHILIP ANDERSON

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SHAW. Mr. Speaker, I rise today in recognition of Sgt. Philip Anderson, who was recently awarded the Purple Heart for his bravery in the face of injury in the Middle East. Philip resides in my home district of Fort Lauderdale, Broward County, FL, and served our Nation as a member of the 743d Maintenance Company in the Florida National Guard. Sergeant Anderson and his family recall for us the strength and greatness and willingness to serve which made our Nation great, and which recently brought Saddam Hussein to his knees.

The Purple Heart symbolizes our deep gratitude for Philip's willingness to protect our country's liberty with his life. Because of Philip, and soldiers like him, America remains steadfast—literally, the land of the free and home of the brave. No honor we bestow can precisely convey our appreciation for the sacrifice and service of Sergeant Anderson.

A CONGRESSIONAL SALUTE TO ROY L. PAUL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding leader in Downey, CA. On Tuesday, July 2, 1991, former Downey Mayor Roy Paul will be honored for his distinguished service to the city of Downey. This occasion gives me the opportunity to express my deep appreciation for his many years of service to the citizens of southern California.

Education has always been an important part of Roy's life. He received his B.A. in psychology at the University of Southern California in 1971. Following a 4½-year stint in the U.S. Navy, Roy attended Western State University College of Law in San Diego. He obtained his law degree in 2½ years, and became a member of the California State Bar in 1977.

Another major interest in Roy's life has been politics. Having come from a family which has a long history of participation in local government, Roy seemed predestined for public service. In 1961, Roy's mother was the first mayor of Bell Gardens, CA. However, she was not the last Paul to hold that position. Roy followed in his mother's footsteps by also serving as the city's mayor. Roy also served as a member of the Bell Gardens City Council for 4½ years. Roy's commitment to local government continued when he was elected to the Downey City Council in 1986. He is currently the mayor of Downey, and also serves as the council delegate to the Los Angeles County Transportation Commission, the Contract Cities Association, and the Air Quality Management District.

In addition to his contributions to local governments, Roy has also sat as judge pro tem for courts in Downey, South Gate, and Los Angeles. He is a lieutenant commander in the U.S. Navy Reserves, and is an active hobbyist who has a single-engine pilot's license and enjoys surfing, scuba diving, swimming, offroading, and target shooting.

On this special and most deserving occasion, my wife, Lee, joins me in extending our heartfelt thanks and congratulations to a truly remarkable individual who has devoted his talents and energies to improving the community. We wish Roy all the best in the years to come.

U.S. ACHIEVEMENT ACADEMY COMMENDS WEST VIRGINIA STUDENTS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. RAHALL. Mr. Speaker, congratulations to Jason Jordan and Jamie Kay Ferguson. Both of these Logan County, WV, students were recently honored by the U.S. Achievement Academy for excellence in academics. These two scholars are among a select few chosen each year for recognition by the USAA. Less than 10 percent of all American high school students are recognized by the academy.

Ms. Ferguson, of Logan Central Junior High School, was named a U.S. national award winner in history and government. She was nominated for the award by her history and government teacher, Jackie Tomblin. Mr. Jordan, a student at Omar Junior High School, was nominated for his award as an All-American Scholar in the field of American history by John Mullins.

To be selected by the USAA students must be recommended by teachers, coaches, counselors, or other qualified sponsors. These students should be congratulated on their mastery of very important subject areas—the future is in their hands. Jason, the son of John and Patty Jordan of Omar, WV, and Jamie Kay Ferguson, daughter of James K. and Thea Ferguson of Pecks Hill, WV, both deserve to be commended for their work.

SUPPORT OF THE UNDERWATER PIPELINE SAFETY REQUIREMENTS OF H.R. 1489, THE PIPELINE SAFETY ACT OF 1991

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. TAUZIN. Mr. Speaker, on March 19, 1991, my colleagues Congressmen SHARP, MOORHEAD, LEVINE, BEILENSON, and I introduced H.R. 1489, the Pipeline Safety Act of 1991. I wish to take this opportunity to applaud the inclusion in H.R. 1489, language expanding on our work in the 101st Congress to promote maritime safety and cooperation between the various commercial and recreational users of our Nation's waterways.

On November 16, 1990, President Bush signed Public Law 101–599. This law addresses concerns my colleagues and I shared about underwater, unburied natural gas and hazardous liquid pipelines which posed hazards to navigating vessels and the marine environment. As the chairman of the Merchant Marine and Fisheries Committee's Subcommittee on Coast Guard and Navigation, I have a great concern for the safety of commercial and recreational vessels plying our waterways.

Following an accident on the afternoon of October 3, 1989, in which 11 men perished when the fishing vessel they were working on accidently collided with an exposed, unburied natural gas pipeline off the coast of Texas, I discovered, to my surprise, that pipelines, once buried, are never required to be inspected to certify their proper burial. With the help of my colleagues on the Merchant Marine and Fisheries Committee, the Energy and Commerce Committee, as well as the valuable assistance and input of the Public Works and Transportation Committee, we ensured enactment into law, provisions requiring the expeditious inspection of Gulf of Mexico underwater pipelines and the establishment of a routine and systematic inspection program.

Keeping in mind that 1991 would be the reauthorization year for the Natural Gas Pipeline Safety and the Hazardous Liquid Pipeline Safety Acts, we sought to concentrate on emergency, preliminary measures only, with the intention of making greater and more in-depth progress in the context of 1991 reauthorization bill. Although, we did not address our concerns about pipeline facilities in inland waterways—rivers, bayous, canals—in the text of Public Law 101–599, H.R. 1489 seeks to require inspection and burial of underwater pipelines in shallow, inland, navigable waterways as well as the east and west coasts.

Mr. Speaker, I urge your support of H.R. 1489 and wish to express my gratitude to my colleagues on the Energy and Commerce Committee for their cooperation and responsiveness. I look forward to continuing our reexamination of underwater pipeline safety begun last year.

RULE ON H.R. 2212, HOUSE JOINT RESOLUTION 263, AND HOUSE CONCURRENT RESOLUTION 174, REGARDING MOST-FAVORED-NATION TREATMENT OF AND RELATIONS WITH CHINA

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 2212, regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; House Joint Resolution 263, disapproving the extension of nondiscriminatory treatment, most-favored-nation treatment, to the products of the People's Republic of China; and House Concurrent Resolution 174, concerning relations between the United States and the People's Republic of China.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. SCHROEDER. Mr. Speaker, the Low-Income Home Energy Assistance Program [LEAP] is a lifesaver for poor and disadvantaged families. It is especially critical in Colorado, where winter storms bury the State under mounds of snow and temperatures plunge below freezing.

That is why it is so disappointing to see the administration slashing this program and to see the Labor-HHS appropriations bill cutting funding—though not nearly as much as the administration wants to cut it.

Most of the families that receive LEAP assistance in Colorado are families with children; 35,213 applicants reported children and two-thirds of these families are headed by single women living below the Federal poverty level.

In Colorado, we have seen a 27-percent reduction in the block grants over the last 6 years, while caseloads have increased by 21 percent.

To close the gap, Colorado has taken the initiative to raise private funds. The Colorado Energy Assistance Foundation contributed $1 million for benefits and $250,000 in software and computer equipment this year alone.

But enough is enough. We are looking at a 38-percent cut this year, which will cost Colorado nearly $8 million.

I am tired of hearing talk about children and families and no action. Families in Colorado depend on this program to stay warm; and all they are getting from the White House is the cold shoulder.

POLITICAL AND ECONOMIC SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to discuss the political and economic situation in the People's Republic of China. Ever since the Tiananmen Square massacre, the Communist old guard has used particularly ruthless tactics to suppress the prodemocracy movement. The ruling cadre has engaged in murder, torture, and illegal imprisonment to deliver a significant blow to the supporters of democracy. Nevertheless, the democracy movement is still a potent force in China. Once the old guard has passed away, the supporters of democracy will hopefully cast away the last remnants of communism.

While this transition is not inevitable, it is, in my view, highly likely for the following reasons. The ideology of communism is dying in China. Most Chinese citizens simply do not believe in the party any more because it has been unable to build a society that enables its citizens to attain personal and economic freedom. In response to these failures, and as part of an effort to preserve the Communist system, party leaders initiated a number of crucial social and economic reforms during the last decade. While the social reforms leave much to be desired, the economic reforms have unleashed a grassroots reform of the economy that has proven to be so strong that the hardliners have been unable to crush it.

Many people think that economic reform was killed on the night of the Tiananmen Square massacre. But in actual fact, Government reactionaries have been trying to strangle the economy since 1988. The economy has survived because the economic reforms of the last decade have changed China in ways that its leaders had never anticipated. Over the last 10 years the Government has ended the commune system and allowed free markets for farm products to develop in the countryside. Similar reforms were also implemented in the cities as collectives and privately owned businesses were allowed.

Just before Mr. Deng launched his reforms, state-owned businesses accounted for nearly 80 percent of China's industrial output. Last year the figure was 54 percent. In every category, state-owned businesses are declining relative to the private sector as private firms, collectives, and farms outperform their state-owned counterparts. The strong performance of the private sector has helped China sustain rates of economic growth in the double digits during much of the eighties. Even after the crackdown, economic growth hovered around 5 percent. The private sector has become too powerful and too important to the health of the country for the reactionaries to kill.

It is the private sector that gives me hope for the future of China. As party functionaries come to depend more and more on the successes of private farmers and businessmen to keep the country going, the state-controlled sector will further wither away and the credibility of the Communist system will likewise con-

tinue to erode. A close look at the recent history of such countries as Chile, Hungary, and Taiwan shows that economic freedom does promote political freedom. The ability of reactionary elites to maintain authoritarian control is decreasing as the private sector is flourishing and political freedom, based on capitalism, is becoming a reality in these countries.

American policy vis-a-vis China stands at a crossroad. America can return to its isolationist past by denying MFN to China; or it can seek to reinforce the success of the private sector on the mainland. We should remember that the most brutal period of recent Chinese history, the cultural revolution, occurred at a time when the Communists pursued a policy of isolationism and economic self-sufficiency, partially in response to the Western policy of isolationism. Today, the most reactionary elements in the Communist party look forward to a return to this period in Chinese history because it will give them something they want—complete control.

I hope that we will follow the path of diplomatic and economic engagement. Foreign trade and investment have supported the economic forces that have driven political change—forces that have decreased state control and increased personal freedom. By maintaining MFN, we ensure an active commercial presence in China. This helps us introduce such ideas as free enterprise, democracy, and freedom of expression and the promotion of human rights. By granting MFN, we also help keep China in the international system and we give our policymakers an opportunity to continue to have some political influence with the mainland. President Bush summed it up well when he recently said, "MFN is a means to bring the influence of the outside world to bear on China." We in the Congress would do well to support his position.

Later this summer the House will choose which path to follow. I will stand by the President and oppose any effort to revoke MFN. Efforts to condition renewal of MFN are likewise ill-advised because they could have the same effect—an elimination of trade relations with China. The effect on Hong Kong, possibly the greatest beneficiary of trade between the West and China, would also be devastating.

We are all appalled by the human rights abuses in China. We must pursue a policy that will push the Chinese Government to embrace a position that supports the development of democracy and respects human rights without crippling the private sector. As part of an effort to support this policy, I am introducing the China Sanctions and Incentives Act of 1991. This bill is straight forward—it requires the President to impose noneconomic sanctions on China as long as it continues to pursue its existing policies. When it has reformed its policies by meeting concrete goals, the President will eliminate the sanctions and reward the mainland with additional economic ties. This dual approach will enable us to use all of our resources, in a positive manner, to achieve our policy objectives. China will be rewarded for progress—but progress won't be made impossible by draconian sanctions now.

Mr. Speaker, I hope that this bill will receive fair consideration in our legislative body. It is an approach that is consistent with our democratic philosophy of empowering the people, the farmers, the small businessowners, and the workers, who will ultimately determine the fate of China.

SACRIFICE AND SERVICE OF SPECIALIST TONY COOK

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SHAW. Mr. Speaker, I rise today in recognition of Specialist Tony Cook, who was recently awarded the Purple Heart for his bravery in the face of injury in the Middle East. Tony resides in my home district of Pompano Beach, Broward County, FL, and served our Nation as a member of the 743d Maintenance Company in the Florida National Guard. Specialist Cook and his wife recall for us the strength and greatness and willingness to serve which made our Nation great, and which recently brought Saddam Hussein to his knees.

The Purple Heart symbolizes our deep gratitude for Tony's willingness to protect our country's liberty with his life. Because of Tony and soldiers like him, America remains steadfast—literally, the land of the free and home of the brave. No honor we bestow can precisely convey our appreciation for the sacrifice and service of Specialist Cook.

A CONGRESSIONAL SALUTE TO GARY LARSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. I would like to take this opportunity to acknowledge the outstanding achievements of Mr. Gary Larson.

Thursday, June 27, the San Pedro, CA, Chamber of Commerce is holding its 86th annual installation banquet. The guests of honor on that evening will include outgoing president Gary Larson, and his wife Lynn. The community of San Pedro will acknowledge the tremendous leadership and direction Mr. Larson provided during his tenure.

Mr. Larson's success should come as no surprise to anyone familiar with his distinguished professional career. After graduating from Harbor College with a liberal arts degree, Gary went on to the University of Southern California where he earned his real estate brokers license. Following in the footsteps of his father and grandfather, Gary worked as a successful builder/contractor and in 1986 founded the San Pedro Bay Co., a real estate development and management firm. Gary's specialty and the focus of his company is the rehabilitation, restoration, and preservation of historic structures. Currently, the San Pedro Bay Co. manages $11.3 million in commercial, industrial, and residential real estate. Over the last 5 years, Gary's commercial and residential projects total over 250,000 square feet, with a value in excess of $22 million.

Two of his most recent projects include the restoration of the historic John T. Gaffey Building and the Arcade Building, both in downtown San Pedro. For the latter, Gary received the San Pedro Revitalization Corporation and Councilwoman Joan Milke Flores Business of the Year Award for 1988.

In addition to his position with the San Pedro Bay Co., Gary serves as the managing general partner of Larson Investments, a general partner of Asset Resource Management, and the manager of Larson Properties. His list of seats on community groups is equally impressive, including being on the board of directors for the San Pedro Peninsula Hospital Foundation, and the founding member of the San Pedro Reclamation Committee, among others. His record of service and dedication to the San Pedro community is truly inspiring.

My wife, Lee, joins me in extending this congressional salute to Mr. Gary Larson. We wish him all the best in the years to come.

NATIONAL JOB SKILLS WEEK

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PERKINS. Mr. Speaker, today I am introducing a joint resolution to designate the weeks starting October 27, 1991 and October 11, 1992 each separately as "National Job Skills Week." In so doing I am continuing a tradition started in the House by Mr. MARTINEZ, former chairman of the Education and Labor Subcommittee on Employment Opportunities, and in the Senate by Mr. GORE.

For the past 5 years, National Job Skills Week has focused attention on the need to upgrade the skills of the American work force. As the new chairman of the Employment Opportunities Subcommittee, I am very pleased to propose to my colleagues that we carry on this tradition for another 2 years. The resolution that I am introducing today is identical to those approved in years past, which have enjoyed bipartisan support.

Mr. Speaker, every year the gap between the skills that employers demand and the skills that workers can provide grows bigger. It is imperative that all Americans work together to close this gap. This task is one of the greatest challenges that has ever faced our Nation. We must succeed in this effort in order to maintain a standard of living and an economic vitality that have been the envy of the world.

A recent report by the American Society for Training and Development and the U.S. Department of Labor entitled "America and the New Economy" sums up the changes that are occurring in the workplace and the adaptations that will be required of American workers. The report states that—

> Human responsibilities and skill requirements are increasing and becoming less job specific, job assignments are becoming more flexible and overlapping, and employees are spending more time interacting with one another and with customers.

The report further states that—

The demand for state-of-the-art products and services requires flexible, integrated work organizations that can get innovations off the drawing board and into the hands of consumers quickly.

In this new economy, which requires workers to take on a wider variety of tasks and to respond to changing consumer demands, American workers must have better technical skills as well as a sound basic skills training in reading, writing, and arithmetic. Workers also need good interpersonal skills to function effectively, both in groups and individually with customers. In short, maintaining our Nation's competitiveness will require workers to develop more technical know-how and more generalized problem-solving and people skills.

All Americans must work together to close the skills gap. Educators must work to give current and future workers a solid basic education as well as good technical and interpersonal skills. Employers must invest in worker training and provide a workplace that is conducive to cooperation and creativity. And workers must be committed to producing quality goods and services that will maintain America's strong presence in the global marketplace.

Millions of educators, employers, and workers are already responding to the demands of the new economy. I commend their efforts and urge that National Job Skills Week be used to highlight the many changes underway in America's workplace, to focus attention on private and public job training efforts, and to bring attention to present and future work force needs. Thank you, Mr. Speaker, for this opportunity to present this important resolution, which I invite my colleagues to join in cosponsoring.

FURTHER CRACKDOWN IN BALTIC STATES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HOYER. Mr. Speaker, word has just reached me that Soviet military units occupied for several hours the telephone and telegraph exchange in Vilnius, the capital of Lithuania, as well as communications facilities in the city of Kaunas. Normal communications between Lithuania and the outside world were interrupted by this action, in which both army and internal affairs troops were reportedly involved. While it appears that the occupying forces have now withdrawn, today's events were a provocative display of pressure on the Lithuanian people.

I wish to express my grave concern and even alarm over these developments. The democratically elected leadership in Lithuania is seeking to restore Lithuanian independence in accorance with the will of the Lithuanian people. Despite pledges by the Soviet Government to negotiate with the Baltic States in good faith, the last several weeks have seen an upsurge in violence and attacks on customs posts, involving several fatalities.

Mr. Speaker, the Soviet military action in Vilnius in January of this year resulted in the deaths of 14 people. The Soviet seizure of Lithuania's television and radio center remains in effect, as I can testify, having visited the site in February. Today's action is the latest outrage in a series of actions designed to intimidate the democratically elected leadership of Lithuania and break the spirit of its people.

I call upon the Soviet authorities to put an end immediately to this coercion against the Baltic States which have been occupied since 1940. It is time for President Gorbachev and the Soviet leadership to begin good-faith negotiations with the Baltic States.

A CONGRESSIONAL TRIBUTE TO THE ROBINSON HIGH SCHOOL BAND

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. BRUCE. Mr. Speaker, in less than 2 weeks the high school band of Robinson, IL, will be making its first trip to Washington, DC. They have been chosen to represent the State of Illinois in the annual National Independence Day Parade, here in our Nation's Capital.

This is a great honor, not only for the young men and women who serve in the band, but for the citizens of Robinson as well. The success of the organization is truly a community effort. The band has performed at numerous local events and has played for the Governor of Illinois on his visits to the Robinson area. The members of the community have supported the band in their substantial fund raising efforts which have allowed them to purchase new uniforms and to travel here to Washington, DC.

Also, the Robinson High School Band has begun to compete in field and parade competitions. Under the quality leadership of Director Michael Emmerich and school Principal Phil Trapani, the band has excelled and continues to improve into a top class ensemble.

The dedication and commitment the individual band members have demonstrated deserves special mention. I want to take this opportunity to personally congratulate the members of the Robinson High School Band on their numerous honors and achievements. They have worked long and hard for the honor of representing Illinois in the National Independence Day Parade.

Mr. Speaker and fellow members, please join me in welcoming the Robinson High School Band to Washington, DC, and wishing them the best of luck in their upcoming performance.

TRIBUTE TO NOAH GEVEDEN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to one of Kentucky's most prominent citizens, Noah Geveden, who died March 13, 1991, at Western Baptist Hospital in Paducah, KY, at the age of 82.

Noah Geveden was born in 1908 and grew up in Carlisle County, KY. He attended Murray State Teachers College, now Murray State University, and after graduation he returned to Carlisle County where he became a teacher at the Glass School. Later, he moved to Louisville and worked for the Federal Land Bank. While in Louisville, he attended law school at night at the Jefferson School of Law, which is now the University of Louisville School of Law.

Following his graduation from law school in 1936, Noah Geveden moved to Wickliffe, KY, in 1937, where he continued to work for the Federal Land Bank. Later that year, he married Bertis Billington. The couple had been married 53 years at the time of his death.

In 1942, Noah Geveden was drafted into the military. In 1946, after returning to Wickliffe and Ballard County, he was elected Ballard County attorney. He did not seek reelection in 1950. In later years, he also served as city attorney for the cities of Wickliffe, Barlow, Kevil, and LaCenter.

From 1961 to 1963, Noah Geveden represented the first legislative district of Kentucky in the State general assembly, a position now held by his son, State Representative Charles Geveden of Wickliffe.

In discussing his father, Charles Geveden, a former Commonwealth attorney for Ballard, Carlisle, Hickman, and Fulton Counties, said, "He was a completely honest and ethical man. He set a great example for his children and others in the community to follow."

Even when he was not serving in public office, Noah Geveden remained active in this community. He was a member of the First Baptist Church of Wickliffe for 40 years. He served as church treasurer for 35 years and was active in all church activities.

Noah Geveden was well liked and will be missed by all who knew and loved him.

In addition to his lovely wife and son, Noah Geveden is survived by his daughter Jean Geveden Thompson, also of Wickliffe.

My wife Carol and I extend our sincere sympathy to the family of the late Noah Geveden.

HONORING OUR RETURNING SOLDIERS ON MAIN STREET THIS FOURTH OF JULY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CARR. Mr. Speaker, now that the parades in Washington and New York are behind us—great celebrations of the American spirit that they were—it is time to truly welcome home America's fighting men and women—back home to the communities from which they came, with old fashioned, flag-waving, mom and pop parades.

Those men and women who were able to march behind their commanding general down Pennsylvania Avenue to the White House or down Broadway in New York were indeed fortunate. We simply do not give parades like that anymore, and God willing we will not need to again soon.

But the real measure of America's new spirit will be taken this Fourth of July, when the vet-

erans of the war in the gulf join their comrades from Panama and Grenada, from Vietnam and Korea, from the European and Pacific theaters in World War II.

These will be the parades that bind up the wounds not only of those who suffered in Saudi Arabia, Kuwait, and Iraq, but also of those who suffered at Da Nang and Inch'on. These will be the rallies that bring us all together as a Nation to remember all of those who have risked all, and especially those who did not return.

All the New York ticker tape and all the fancy Washington fireworks—none of it can measure up to the resounding cheers of old friends and neighbors, or the warm embrace at parade's end of family. These are the parades and the rallies that are the real reward for the selfless service of our brave soldiers.

It is with the greatest pleasure that I take these few minutes of the Congress' time to honor all the veterans of highland and heartland, and of all Michigan and America.

A TRIBUTE TO LOUIS L. MILLER

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to Louis L. Miller in recognition of his many years of service to the Democratic Party.

Lou Miller graduated with a bachelor of arts degree in political science in 1972 and a master of science in urban affairs in 1974 from the University of Wisconsin-Milwaukee. He also served as a teaching assistant in the Department of Urban Affairs under the direction of Dr. Michael Barndt. His educational background in urban affairs worked to strengthen his commitment to community service.

Lou has been a strong dedicated leader in his community for over 30 years. From serving as fire and police commissioner for the city of Milwaukee to extensive work with the U.S. Postal Service, Lou Miller has devoted his life to being an active participant in local, county, and State government activities. His dedication continues through his current position as president and owner of Financial Data Systems, Inc. in Detroit, MI.

His extensive political background is exemplified by the many positions he has held over the years. During the last quarter century he has used his extensive political expertise at all levels in democratic campaigns, from membership to management. In 1988 Lou Miller was honored as one of Michigan's Delegates to the National Democratic Convention. He has held many elected offices including treasurer of the Oakland County Democratic Party from 1984–86, chair of the Oakland County Democratic Party from 1986–90, and curently officer-at-large of the Michigan Democratic Party.

Mr. Speaker, I stand today to recognize Louis L. Miller for his continued commitment to the Democratic Party. I ask my colleagues to join me in honoring him for his dedication to service and community.

HOSPITAL INDIGENT CARE ASSISTANCE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. STARK. Mr. Speaker, I am today reintroducing the Hospital Indigent Care Assistance Act. This is a bill to provide critical financial support to the Nation's safety net hospitals burdened by the costs of uncompensated care.

Thirty-four million Americans are without health insurance. When illness strikes, these individuals are often unable to receive physician care in the community. Instead they must either receive emergency or outpatient care from a hospital or delay care until they must be treated as an inpatient. In either case, the hospital ends up footing the bill.

Lack of health insurance coverage often means that proper care is delayed until the problem is serious. Research shows that uninsured persons are less likely to have children appropriately immunized, less likely to receive prenatal care, and less likely to see a physician if they have serious symptoms.

For families without adequate health insurance coverage, any encounter with the health care delivery system, no matter how minor or seemingly routine, presents serious financial consequences. The unsurprising result is that these families do not seek appropriate health care when they need it. Instead, these wait until the problem is so serious that hospitalization is required.

In 1989 U.S. hospitals provided approximately $10 billion in uncompensated care. Virtually all of that care was given by public and not-for-profit hospitals.

While public hospitals have about 21 percent of all hospital beds, they provide 55 percent of all charity care. In large metropolitan areas these hospitals account for only 6 percent of beds, but provide 22 percent of charity care.

However, this is not simply a question of support for public hospitals. Slightly less than half of the Nation's 100 largest metropolitan areas have public hospitals. Most of the Nation relies upon voluntary, not-for-profit hospitals to act as the safety net for the poor and uninsured.

The problem is that the ability of public and voluntary safety-net hospitals to cope with indigent care is stretched to the breaking point. In the past, hospitals employed amounts charged to private patients in excess of the costs associated with those patients to finance care of the indigent.

Unfortunately, the hospitals providing the bulk of indigent care have few charge-paying patients to whom the cost of caring for the indigent can be shifted. In addition, as employers and private insurers have pushed for discounts and rate reductions in order to contain their costs, the continued ability of many hospitals to finance indigent care has been seriously eroded. The financial problems of these hosptials have been further stressed by the short-sighted policies of many States in establishing Medicaid payment rates at unreasonable low levels.

Signs of this stress are increasing. In the late 1970's and early 1980's many States made great progress in developing trauma networks. In the 1990's these networks are falling apart as many hospitals end their participation in trauma networks. This is often characterized as an emergency-care problem, but it isn't; it is an indigent care problem. The reason these hospitals are taking this step is because the trauma system brings them more indigent patients than the hospital can handle financially.

Clearly, the whole system of health care financing demands reform. I believe the time has come to enact comprehensive reform—and to enact it soon. I have introduced H.R. 650, the MediPlan Act of 1991, which would provide every American with comprehensive, cost-effective health coverage.

I have introduced the MediPlan Act because I do not believe that piecemeal approaches based in the private sector will achieve our common goal of universal coverage. I also believe strongly that only a universal approach in the public sector can achieve containment of skyrocketing healthcare costs.

Until a broad plan is enacted, however, I believe it important that we explore other, short-term, approaches which may help alleviate some of the problem. One thing we can do is to stabilize the finances of our Nation's safety-net hospitals.

We must act to assure continued access to necessary medical care for those who cannot afford it. The Hospital Indigent Care Assistance Act of 1991 will focus a limited pool of funds to the hospitals which have demonstrated their commitment to care for the less fortunate in our society. I urge my colleagues to join me in supporting this important step to patch our Nation's tattered social safety net.

A summary of the bill follows:

HOSPITAL INDIGENT CARE ASSISTANCE ACT OF 1989—SUMMARY

I. HOSPITAL INDIGENT CARE TRUST FUND

The Trust Fund is funded through a one percent excise tax on the amounts paid by employers for health benefits. The tax would provide approximately $1.5 billion to the fund in 1992.

II. HOSPITALS ELIGIBLE FOR SUPPORT

A. Hospital Eligibility.

A hospital is eligible for support if:

More than 10% of inpatient days are attributable to Medicaid, or more than 10% of total charges are uncompensated care charges; and,

The hospital has patient care revenues less than patient care operating expenses.

B. Allowable Indigent Care Costs:

Indigent care costs are defined using existing Medicare allowable cost definitions and methods plus labor and delivery service charges and costs.

III. ADJUSTMENTS FOR STATE AND LOCAL SUPPORT OF INDIGENT CARE

Allowable indigent care costs are decreased for hospitals that receive state or local tax support for patient care by one half of the dollar amount of the tax support.

For hospitals in a state with a Medicaid program that provides benefits above the national average, the allowable indigent care costs are increased in proportion to the Medicaid program's contribution to reducing hospital uncompensated care.

IV. DISTRIBUTION OF FUNDS

Each eligible hospital receives up to fifty percent of allowable indigent care costs in

the first year. Thereafter, the percentage is adjusted to reflect available funds in the fund. No eligible hospital will receive more payment than is necessary to assure that the hospital breaks even on patient care.

V. STUDY

The bill provides for a two-year study of the impact of indigent care on hospitals.

VI. EFFECTIVE DATE

The legislation would be effective October 1, 1992.

SANDINISTAS CONTINUE TO LIVE AMID ILL-GOTTEN WEALTH

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. BEREUTER. Mr. Speaker, throughout a decade of absolute rule, the Nicaraguan Sandinistas portrayed themselves as the party of the common man. They condemned the former landholding class as enemies of the people, and seized the assets of the wealthy. By this and other acts of misrule, the Sandinistas destroyed the once-thriving Nicaraguan economy.

In February 1990 the Sandinistas were repudiated in nationwide elections, and Violeta Chamorro assumed the Presidency. However, before leaving office the departing Sandinistas voted to give themselves title to many of the assets that they had seized. The Ortega brothers and their cronies now live in villas that they have deeded to themselves, drive seized limousines, and work out of confiscated buildings.

The democratically elected government of Nicaragua is attempting to recover these ill-gotten gains, and the Sandinistas are threatening to riot in the streets if they are not permitted to keep their spoils. Such behavior clearly demonstrates the corruption that has infested the Sandinista movement, as the difficulties faced by President Chamorro in bringing democracy to Nicaragua.

Mr. Speaker, a June 24, 1991, editorial in the Lincoln Star correctly labels the behavior of the Sandinistas as craven. The editorial notes that the behavior of the Sandinistas continues to pose a grave threat to the fragile Nicaraguan democracy. This Member commends the editorial to his colleagues.

SANDINISTA DEMANDS THREATEN NICARAGUA

Craven is a word that suits the Sandinistas' demands they be allowed to keep property confiscated and given to them when their party misruled Nicaragua.

These items—from cars and computers to luxury homes—were given Sandinista party activists under a law hastily implemented after former Sandinista leader and Nicaraguan President Daniel Ortega lost the February 1990 election but before his successor, Violeta Barrios de Chamorro took office.

The Sandinistas want to keep these ill-gotten gains so badly that they've taken over radio stations and government buildings. Ortega is threatening a return to war if the bill before the General Assembly is passed into law, blaming war, of course, on the government and not his sympathizers' disruptive actions.

Meanwhile the political council of Nicaragua's unwieldy 14-party governing coalition met to consider filing criminal charges against the former president.

Awkwardly enough, the police and armed forces are still controlled by Sandinistas and hardly subordinate to civilian authority. In a conciliatory gesture, Chamorro left Sandinistas in positions of power after her election. The wisdom of that move has long been questioned by rightist Nicaraguans, many of them former Contra rebels.

Chamorro's job has never been easy. She inherited a bankrupt economy, a country devastated by 10 years of civil war and hotwire political factions pulling her in both directions.

If one side isn't criticizing her, the other is.

Democracy is a fragile commodity in Nicaragua.

Ortega is clearly wedded to power and its benefits, and has confused his personal gain with the welfare of the Nicaraguan people. It is a common theme among Latin American leaders, and one explanation for the areas's backwardness and poverty.

If democracy now fails in Nicaragua, we'll know where to place blame. It falls to the Sandinistas.

TRIBUTE TO JOSEPH W. SUMMERS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. JACOBS. Mr. Speaker, when a man like the Honorable Joseph W. Summers dies, we are tempted to believe the old saying that only the good die young.

The following from the Indianapolis Star and the Indianapolis News are eloquent hints at the distinguished public service and private life examples given to us by Representative Summers.

We shall not merely miss him. We shall be severely deprived because of the loss of his blazing talent and generous heart.

[From the Indianapolis News, June 11, 1991]

REPRESENTATIVE JOSEPH W. SUMMERS

The late Rep. Joseph Summers took on his fight with cancer the same way he approached the rest of life.

The Indianapolis Democrat kept on battling and maintained his sense of humor even in the midst of the trials of the cancer that took his life last week.

Friends and political foes enjoyed his company in the General Assembly, even in the midst of disagreements. He had a direct way of speaking to an issue, and people wound up appreciating his forthrightness.

"He was universally compassionate," summed up a close friend, Center Township Trustee Julia Carson. "He didn't have press conferences about what he did, he just did them"

"Joe Summers' tireless fight for the less fortunate in our society was matched only by his valiant effort against the disease that took his life," added Gov. Evan Bayh.

He will be missed both in the area he represented in the inner city of Indianapolis and in the General Assembly.

But his friends and family can take comfort in the kind of life he lived and the contributions he made both to Indianapolis and the entire state.

[From the Indianapolis Star, June 14, 1991]

"SO LONG, JOE"

(By Susan Hanafee)

Joseph W. Summers—family man, churchgoer, funeral director and politician—would have liked his memorial service.

There were tears and laughter, prayers and songs, solemnity and showmanship Thursday.

There were ministers and funeral directors, both preaching about the life and times of Summers with such zeal that it was difficult to tell them apart.

There were politicians who had spent months in angry debate over a budget and redistricting sitting shoulder-to-shoulder.

There were male and female, black and white, all with only one agenda—to remember their friend.

"Joe would not want us to mourn," said Summers' long-time pal William W. Clark, a pastor and fellow funeral director. He delivered a rousing eulogy, characterizing the two-hour service as a celebration.

"Joe is leaning over the balcony in heaven and smiling at us," he told the crowd.

More than 1,200 gathered at Light of the World Christian Church. Afterward, they formed a three-mile procession to Crown Hill Cemetery.

Friends and associates began congregating early for the 11 a.m. services to honor the 61-year-old Summers. He died June 6 after a four-year battle with lung cancer.

In the church lobby they spoke of his honesty, his loyalty, his pride in his family.

State Rep. William A. Crawford, an Indianapolis Democrat, said the large turnout was a measure of the man. "You couldn't look at Joe with anything but respect," he added.

Sixteen speakers, including Gov. Evan Bayh and Summers' daughter, Vanessa J. Barnes, addressed the crowd.

Speakers described the Summers spirit that prevailed despite the discomfort of his disease.

"Joe was held hostage by pain," Clark said. "But he never surrendered."

O'Neil Swanson, who often called Summers to comfort him during his illness, said: "He ended up encouraging me."

However, most remembered the quiet, yet persuasive strength of the man who became a Democratic precinct committeeman before he was old enough to vote.

He had served in the House since 1976, representing a central city area where many low-income families live.

"Joe fought for the more vulnerable members of our society," Bayh said.

"Joe Summers loved us and we loved him," he added. "Tonight, there will be a new star in the firmament and heaven will be a brighter place."

The governor ordered the U.S. and Indiana flags flown at halfstaff for two days on some state properties in Summers' honor.

In the eulogy, Clark characterized Summers as a man who loved to be on center stage and who was not afraid to take a chance to make a difference.

He recalled a visit to the city by former Alabama Gov. George Wallace. Summers wanted to picket the Claypool Hotel where Wallace was staying; he was told to stay away.

But Summers refused to ignore the visit of Wallace, a man he considered the epitome of "racial evilness," Clark said.

The day after he and others carried banners in protest of the visit, their picture appeared in newspapers across the country.

"Joe said 'See, they were wrong,'" Clark said.

Summers kept "100 balls in the air and 200 irons in the fire" but he never forgot he was a funeral director, Clark added.

Once, about 20 years ago, when Clark was preparing to leave town, Summers told him he didn't care where he went or what he did, "just don't develop amnesia about who your funeral director is."

Rep. Hurley C. Goodall, a Muncie Democrat and chairman of the Indiana House black caucus, also described Summers as a man of courage who walked where others feared to tread.

"So long, Joe," he concluded. "Rest in peace."

THE CHATTAHOOCHEE INDIAN HERITAGE CENTER AT FORT MITCHELL, AL

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. RAY. Mr. Speaker, of all the sad, regrettable, conscience-stirring stories in the development of our great Nation, perhaps none is more sad or more regrettable than the story of the great trail of tears that stained this land in the 1820's and 1830's.

A proud, highly civilized and gifted people were taken from their homes and forecefully settled in a west they had never seen.

They were marched westward, a direction that held special terror to the Indians, for to the Indian the West represents blackness, the place where the sun dies every day.

In 1833, just before the largest removal of the Indians began, a census was conducted. It listed every household head of the Indian nation. In all, some 8,065 Indians lived along the Chattahoochee.

Today, on the site of Fort Mitchell, AL, a point of origin for the Creek Indian "trail of tears," the Historic Chattahoochee Commission is raising funds to build an Indian heritage center, a museum without walls on 9 acres of Fort Mitchell Park. Douglas Purcell is executive director of the Historic Chattahoochee Commission, and a member of the Board of Directors of the Chattahoochee Indian Heritage Association.

I had the pleasure this spring of meeting with several board members; former Congressman Jack Brinkley, my predecessor; Beverly Greer, John Lupold, Mr. Purcell, and Fred Sessell.

They told me that thus far they have raised $85,000 toward a goal of $700,000. They suggested that they would like to get help from the U.S. Army for in-kind assistance with the grading and engineering on the site. This probably comes under the National Guard or the Corp of Engineers, or perhaps from a public spirited private construction company.

Former Congressmen Brinkley asked for limited assistance in congressional appropriations. These are details to be considered after a site plan has been developed and the directors have consulted with the Bureau of Indian Affairs.

Details will come later. The point I wish to make today is to advise the Congress about the beginning of this important, historic project. It is to be located just across the Chattahoochee River from the Third Congressional District of Georgia, which I am honored to represent.

Let me add one more point. Very few good Americans are proud of the treatment of the natives of this proud land. The treatment of the Indians is a scar on our proud history. If this Indian Heritage Center at Fort Mitchell, AL, can right just a small bit of the wrong done here it will be a worthwhile project and one that I am proud to support.

MILITARY PERSONNEL AND THE GULF WAR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 26, 1991, into the CONGRESSIONAL RECORD:

MILITARY PERSONNEL AND THE GULF WAR

Military analysts would agree that United States service men and women performed their duties with great skill and professionalism in the Persian Gulf War, and were largely responsible for U.S. and allied success. My visits with returning veterans in the Ninth District have prompted me to think about several important personnel issues.

WOMEN IN COMBAT

Over 33,000 U.S. military women served in key combat-support positions throughout the Gulf. They performed in medical and administrative jobs, as well as a host of nontraditional assignments, including airlifting supplies and personnel, maintaining weapons systems, and serving as intelligence specialists. Women accounted for 6 percent of the U.S. forces in the Gulf region (they are 11 percent of total U.S. forces). Five women were killed in combat and two were taken prisoner of war.

Women are currently prohibited by law from serving in combat in the Air Force, Navy, and Marine Corps. Service policy, not Federal law, bars women from Army combat positions. Defenders of current policy say that it has worked well to-date, and should not be changed. It is also argued that: women are not as strong or aggressive as men; their presence would impair the effectiveness and cohesion of all-male combat units; women would have to be included in any future draft, and could be involuntarily reassigned to combat missions; and a civilized society would not tolerate women fighting and dying in combat.

The outstanding performance of women in the Gulf War has raised questions about combat restrictions. First, modern high-tech warfare distinguishes less between the frontlines and the rear, where women personnel were once considered safe from attack. Women died in combat even though their missions were technically noncombat. Second, today's battlefield places increasing emphasis on technical skills. There is no evidence to suggest that women would be unable to operate sophisticated weapons systems in combat as effectively as men. Third, women cannot advance to the highest ranks without combat experience.

I find merit in these arguments. Women deserve the opportunity to serve in combat missions if they meet service requirements and qualifications. The House, with my support, voted last month to repeal the statutory prohibition against women flying combat missions. I am concerned by the House's decision to leave intact the ban against women serving in nonpilot positions on combat ships. I believe that efforts can be made to accommodate women on these vessels without necessarily creating habitation problems. The House provision, if approved by the Senate and the President, would give the four services discretion in assigning permissible combat missions to women. The proposed law would not compel women to serve in the Armed Forces or in combat missions. All men and women in the services have enlisted of their own choice.

RESERVE VERSUS ACTIVE DUTY

Since the Vietnam era, the United States Armed Forces have relied increasingly on the reserves to meet their mission requirements. Reserves are cheaper to maintain than active forces, and can be called up on short notice to fulfill combat and support functions. Today, reserves comprise over 50 percent of total Army personnel. The Gulf conflict was the first full-scale test of this "total force" approach. Roughly 20 percent of the forces serving in the Gulf were reserves. Their responsibilities included flying combat and military airlift missions as well as providing vital support functions. In general the call-up of reserve units proceeded smoothly; reserves performed well throughout their deployment to the region; and they enjoyed widespread public support. There was no public call for a draft.

The role of Army combat reserve units has spurred the most examination. The Defense Department decided not to activate Army National Guard combat brigades until late last year. It was argued at the time that the maximum 180 days of call-up authority would limit the effective use of these brigades. Others speculated that the Defense Department preferred to use only active-duty divisions. Once activated, the reserve units experienced serious readiness problems; required more training than some anticipated; and were never deployed to the Gulf. The Secretary of Defense prefers a significantly smaller reserve component, and a far smaller role for combat reserve forces in future conflicts. Congress generally supports more modest reductions in the size and readiness of the reserves—in line with those proposed for active forces—and favors using reserves for rapid-deployment missions. I agree that reserves can fulfill combat missions, provided they train in smaller units with their active-duty counterparts, carry the same equipment, and are mobilized more quickly.

ALL VOLUNTEER FORCE

The Gulf War has raised anew questions about representation of minorities and the poor in the All-Volunteer Force. Some have said that these groups are disproportionately represented in the armed services—in part because of limited career opportunities outside the military—and would therefore suffer proportionately higher casualties in an armed conflict. For example, black youth comprise 14 percent of the recruitment age population of the United States, but 22 percent of newly enlisted recruits and 26 percent of Army recruits. These statistics have often been cited in support of instituting a draft, which, some argue, would ensure a more representative military.

A recent congressional report concluded that the present system does not unfairly

burden the poor. There is little difference in the family income of recruits compared to the general population, except for the richest 10 percent. It also concluded that the Services do not unfairly burden minorities with the fighting. Black casualties were 15 percent of the total in the Gulf conflict; that figure might have been slightly higher had the war involved more ground combat, and slightly lower had it entailed more air and sea combat. Hispanics and Asians are underrepresented in the Services. Furthermore, the study noted that a draft would not necessarily produce a fully representative military force, as the individuals who volunteer and reenlist would likely reflect the racial make-up of today's force. Finally, the study found that a draft could compromise the quality of recruits. The current force has more high school graduates than the youth population generally and scores better on standardized armed services tests than the general population.

BOSTONIANS MOVED A MODERN MIRACLE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, one of the great pieces of news which the world received this year was the successful movement of Ethiopian Jews to the State of Israel. This was a great moment for the people of Israel who were able to demonstrate again to the world the essential reason why the existence of a Jewish state is so important. It was a great moment for Ethiopian Jews who were given a chance to join other Jews in a society in which they will be fully respected and face no discrimination. It was a proud moment as well for the United States, and especially for President Bush, who did so much at the critical moment to facilitate this humanitarian operation.

Among those who were entitled to take a great deal of pride in this operation are a number of Americans who worked very hard for a long time to alleviate the plight of Ethiopian Jews. No one in this country worked harder and more diligently over a sustained period on behalf of this cause than Barbara Gaffin, now associate director of the Jewish Community Relations Council of Greater Boston. Barbara Gaffin began her work on this issue more than 10 years ago. In fact, in 1981 she went to Ethiopia as part of a fact-finding mission of the Jewish Federation of Greater Los Angeles. She has not stopped since then. Freedom for Ethiopian Jews has been high on her agenda and she is entitled to great pride at the role she has played in its ultimate success.

Earlier this month Barbara Gaffin presented a history of American-Jewish efforts on behalf of Ethiopian Jews in the Boston Jewish Advocate. Her account is a modest one, and understates the critical role she played in this. I am pleased to note that she was aided to some extent in this by her husband, Douglas Cahn, who was my administrative assistant for most of the time that I have served in the House. I am very proud myself that through Doug, I was able to respond on a number of occasions to Barbara's request for assistance in her work, and I join Barbara and Doug and a lot of other people in this country in feeling especially gratified that this particular chapter in Jewish history has ended so well.

Mr. Speaker, as an example of some of the good work that is done and is too often unchronicled, I ask that Barbara Gaffin's article about this be printed here.

[From the Jewish Advocate, June 7, 1991]

BOSTONIANS MOVED A MODERN MIRACLE

(By Barbara Gaffin)

Last week, the State of Israel rescued nearly 15,000 Ethiopian Jews from Addis Ababa. Flown in the belly of overstuffed 747 cargo jets, these Jews, who trace their ancestry to the Queen of Sheba and King Solomon, arrived in Tel Aviv with nothing more than the clothes on their backs but with their ancient Jewish heritage intact. Indeed, the ingathering of these people gives renewed meaning to modern Zionism's goal of providing a Jewish homeland.

The movement to rescue Ethiopian Jews did not begin this past weekend, however. It was the culmination of years of dedicated efforts, both public and private, made by individuals and groups who, in a few cases, risked their lives to help save this nearly forgotten people.

Long before this most recent airlift began, the seeds of this campaign were planted. Activists in Boston, throughout the U.S., and Israel worked to publicize the plight of Ethiopian Jews and create the public and private will to guarantee that our government would respond.

In 1979, when I began working at Jewish Community Relations Council of Greater Boston (then known as the Jewish Community Council), only a handful of people around the country were familiar with or responding to conditions in Ethiopia. Heightening awareness was not an easy task. Few people were interested. Information was hard to come by.

In 1981, when I had the opportunity to travel to Ethiopia in a fact finding mission of the Jewish Federation Council of Greater Los Angeles, I went. Even though I was told we would never be able to meet with Jews in the villages, my colleagues and I persisted. After travelling illegally for three days by horseback and mule through Ethiopia's Simien Mountains, not only were we able to speak with Jews, but we were able to bring two Ethiopians Jewish students to Israel and with them, important information previously unknown to foreigners.

In 1982 I spent the summer living and working with new olim at an absorption center in Beersheva, an opportunity not afforded others because of the secrecy surrounding the escape route of the Ethiopians. I returned to Boston to provide Jewish community members with fresh ideas for their involvement.

Quietly when necessary, publicly when useful, our efforts move forward. The JCRC worked closely with members of Congress to explore legislative and diplomatic ways to establish relief efforts and evacuation routes. With an active well-informed committee of motivated individuals, Boston area Jews ensured that all possible steps were taken to aid our brothers and sisters in Africa. We brought in Ethiopian Jews to speak before the public. We created slide shows, we travelled to Washington, New York, and Israel to meet with whomever could help.

The response public officials and particularly the role of the U.S. government in both Operation Solomon last week, and Joshua in 1985 was no less a part of the success story. When we became aware that several Jews were imprisoned, we called on Rep. Barney Frank (D-Newton), who immediately implored the State Department to raise these cases with the Ethiopian government. Their release was ultimately secured. Newton Mayor Ted Mann called on national political figures to intervene after receiving a chilling reception from Ethiopian officials in this country. Sen. Kennedy and former Sen. Paul Tsongas, who served in the Peace Corps in Ethiopia, likewise pressed Ethiopian authorities and the Reagan Administration.

Other Massachusetts officials joined the growing ranks of public officials around the country who responded to our pleas. Congressional hearings were held, allowing the true story of the plight of Ethiopian Jews to be placed on permanent record with our government.

As Bostonians, we can be proud that we played an active and vital role in the campaign to ensure that American support was there to facilitate this modern day miracle. We should never forget the potential impact of one community's efforts as we continue to channel our energies into other issues of concern to us as American Jews.

COSPONSOR THE KIMBERLY BERGALIS BILL: PROTECT PATIENTS AND HEALTH PROVIDERS FROM COMMUNICABLE DISEASE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. DANNEMEYER. Mr. Speaker, as you know, Kimberly Bergalis lies near death in her Florida home after contracting AIDS from her dentist. At least four other patients of the late Dr. Acer also are infected and face a similar fate. Kimberly's tragic story has prompted millions of Americans to ask: What went wrong?

Last week, in an extraordinary letter to Florida health officials, Kimberly offered an emotional and accurate response to that question:

Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was.

P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

I'm dying guys. Goodbye.

Today I introduced the Kimberly Bergalis Patient and Health Providers' Protection Act of 1991. This legislation would require States to screen health providers who perform invasive medical and dental procedures for HIV infection and hepatitis B. Infected providers would not be permitted to perform any invasive procedure that poses a risk of transmission to patients, unless the patient expressly consents to the risk.

The legislation would also give physicians broad discretion to test for these diseases without the patient's consent prior to an invasive procedure, provided the physician has a reason to believe that the patient is at risk for a communicable disease.

I have attached a copy of the bill. I have also attached a copy of a letter I delivered yesterday from Kimberly's special medical advisor, Sanford Kuvin, M.D., the vice chairman of the National Foundation for Infectious Diseases. Dr. Kuvin visited with Kimberly and her family on June 24 and in the letter he describes Kimberly's reaction to this legislation. As Dr. Kuvin was leaving, Kimberly told him that if such a law were passed—her death will not have been in vain.

Kimberly and her family have reviewed this legislation, and support it fully. By cosponsoring it, you can help respond to her dying plea that we put appropriate precautions in place to protect the health and safety of patients and health care workers alike.

I urge my colleagues to cosponsor this important legislation.

H.R. —

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kimberly Bergalis Patient and Health Provider Protection Act of 1991".

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT REGARDING CERTAIN COMMUNICABLE DISEASES AMONG HEALTH CARE PROVIDERS AND PATIENTS

SEC. 101. ESTABLISHMENT IN TITLE XXVI IN PROGRAM FOR EARLY INTERVENTION SERVICES.

Subpart I of part C of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-41 et seq.), as added by section 301(a) of Public Law 101-381 (104 Stat. 597), is amended by inserting after section 2648 the following new sections:

"SEC. 2648A. PROTECTION OF PATIENTS FROM HEALTH CARE PROVIDERS WITH CERTAIN COMMUNICABLE DISEASES.

"(a) LIST OF RELEVANT DISEASES AND MEDICAL PROCEDURES.—For purposes of the requirement established in subsection (b) regarding the receipt by a State of a grant under section 2641, the Secretary—

"(1) shall establish a list identifying each communicable disease that poses a risk to the public health (which list shall include HIV disease and hepatitis B, subject to subsection (d)(3));

"(2) in the case of each disease included on the list, shall specify (as a component of the list) the medical and dental procedures that a health care provider with such a disease should be prohibited from performing on the basis that performing the procedure on an individual would pose a risk of the transmission of the disease from the health care provider to the individual;

"(3) in the case of any medical or dental procedure specified for purposes of paragraph (2), shall specify (as a component of the list) the particular health professions and allied health professions whose practitioners perform the procedure;

"(4) in the case of a health care provider who performs any medical or dental procedure specified for purposes of paragraph (2), shall specify (as a component of the list) the frequency of testing for each of such diseases that the provider should undergo for purposes of protecting the public health (including the frequency of such testing that, with respect to the disease involved, is appropriate for a provider who previously has been determined through testing to have the disease); and

"(5) shall periodically review the list, and as appropriate, make revisions in the list.

"(b) REQUIREMENTS REGARDING PROTECTION FROM RELEVANT DISEASES.—Subject to subsection (f), for fiscal year 1992 and subsequent fiscal years, the Secretary may not make a grant under section 2641 to a State for a fiscal year unless—

"(1) in the case of any health care provider who performs any medical or dental procedure included on the list under subsection (a) (as in effect for the fiscal year)—

"(A) the State requires that each such provider undergo testing for each disease with respect to which the procedure is so included; and

"(B) the State requires each such provider to undergo the testing as frequently as necessary to be in compliance with the applicable recommendation included on the list pursuant to paragraph (4) of such subsection;

"(2) in the case of any health care provider determined through testing pursuant to paragraph (1) to have any such disease—

"(A) the State prohibits the provider from performing the medical or dental procedure involved for the duration of the disease, except in circumstances in which the provider—

"(i) informs the patient involved that the provider has the disease;

"(ii) informs the patient of the risk posed by the disease in the context of the procedure; and

"(iii) obtains the written consent of the patient for the provider to perform the procedure notwithstanding such risk;

"(B) the State requires that, with respect to the patients of the provider, the activites described in paragraph (1) of subsection (c) be carried out; and

"(C) the State requires that, with respect to the provider, the activities described in paragraph (2) of subsection (c) be carried out; and

"(3) the State provides for the enforcement of the provisions described in paragraphs (1) and (2).

"(c) ASSISTANCE FOR AFFECTED PATIENTS AND PROVIDERS.—

"(1) PATIENTS.—In the case of an infected health care provider, the activities referred to in subparagraph (B) of subsection (b)(2) are that—

"(A) if the provider has a qualified employer as defined in paragraph (3), the employer, directly or through an arrangement with another entity—

"(i) inform each of the patients of the provider that the patients may have been exposed to the disease involved; and

"(ii) offer to provide to the patients counseling regarding the disease and testing for the disease; and

"(B) if the provider is self-employed, the provider arrange for an entity to carry out the activities described in clauses (i) and (ii) of subparagraph (A) regarding patients of the provider.

"(2) PROVIDERS.—In the case of an infected health care provider, the activities referred to in subparagraph (C) of subsection (b)(2) are that the State involved, directly or through imposing requirements on qualified employers or through other mechanisms, provide for—

"(A) the availability to the provider of counseling regarding the effects on the provider of the prohibition imposed on the provider pursuant to subparagraph (A) of such subsection; and

"(B) the availability to the provider, to the extent practicable, of assistance in making such adjustments in the professional life of the provider in response to the prohibition as are necessary to provide health care in a capacity that is consistent with the protection of the public health.

"(3) QUALIFIED EMPLOYER.—For purposes of this section, the term 'qualified employer', with respect to a health care provider, means an individual, a company or other organization, a State or political subdivision of a State, or other entity, that employs the provider for the purpose of providing health care for an average of 20 hours or more per week during the 60-day period preceding the date on which the provider is determined through testing pursuant to subsection (b)(1) to have a communicable disease included on the applicable list under subsection (a). Such an entity is a qualified employer without regard to whether the provider is a partner in the entity and without regard to whether the provider otherwise owns a portion of the entity.

"(4) RULE OF CONSTRUCTION REGARDING ASSISTANCE TO PROVIDERS.—In the case of an infected health care provider who incurs financial obligations in carrying out the activities described in such paragraph regarding the patients of the provider, paragraph (2)(B) may not be construed to require that a State, as a condition of receiving a grant under section 2641—

"(A) provide financial assistance to the provider for the purpose of carrying out such activities; or

"(B) require another entity to provide financial assistance to the provider for such purpose.

"(d) ISSUANCE AND EFFECTIVE DATE OF LIST AND REVISIONS.—

"(1) INITIAL LIST.—The list required in subsection (a) shall be issued through rulemaking in accordance with the procedures established under section 553 of title 5, United States Code, regarding substantive rules. The final rule for purposes of such procedures shall be published in the FEDERAL REGISTER not later than 90 days after the date of enactment of the Kimberly Bergalis Patient and Health Provider Protection Act of 1991. The list shall be effective for fiscal year 1992 and subsequent fiscal years, with such revisions in the list as may become effective under paragraph (2).

"(2) REVISIONS.—Any revisions made by the Secretary in the list required under subsection (a) shall be issued through rulemaking described in paragraph (1) and shall take effect upon October 1 of the second fiscal year beginning after the date on which the final rule for the revision is published in the FEDERAL REGISTER.

"(3) HIV DISEASE AND HEPATITIS.—HIV disease and hepatitis B shall each be considered to be a communicable disease that poses a risk to the public health for purposes of the list required under subsection (a), as in effect for each of the fiscal years 1992 through 1994. In the case of fiscal year 1995 and subsequent fiscal years, any of such diseases may be removed from the list if the Secretary determines that the disease involved no longer poses such a risk.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'applicable list', with respect to the list required under subsection (a), means the list in effect for the fiscal year involved.

"(2) The term 'health care provider' includes any individual who is a physician or a dentist, or who is an allied health professional as defined in section 701(13).

"(3) The term 'infected health care provider' means any health care provider deter-

mined through testing pursuant to subsection (b)(1) to have a communicable disease included on the applicable list under subsection (a).

"(4) The term 'qualified employer' has the meaning given such term in subsection (c)(3).

"(5) The term 'self-employed', with respect to a provider of health care, means a provider who does not have a qualified employer.

"(f) TIME LIMITATIONS REGARDING REQUIRED LAWS.—

"(1) COMPLIANCE REQUIRING NO ADDITIONAL STATUTES.—

"(A) With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, the Secretary may provide such a grant if—

"(i) in the case of a grant for fiscal year 1992 to State described in subparagraph (B), the State has in effect or provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State will have in effect any requirements, authorities, prohibitions, and other provisions required in subsection (b); and

"(ii) in case of grants to such a State for fiscal year 1993 and subsequent fiscal years, the State has in effect such provisions.

"(B) A State referred to in subparagraph (A)(i) is any State under whose law regulations in accordance with subsection (b) may lawfully be issued without the enactment by the State of any statute in addition to the statutes in effect on the date of the enactment of the Kimberly Bergalis Patient and Health Provider Protection Act of 1991.

"(2) COMPLIANCE REQUIRING ADDITIONAL STATUTES.—With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, the Secretary may provide such a grant if—

"(A) in the case of grants for fiscal years 1992 and 1993 to a State that is not a State described in paragraph (1)(B), the State has in effect or provides assurance satisfactory to the Secretary that by not later than October 1, 1993, the State will have in effect any requirements, authorities, prohibitions, and other provisions required in subsections (b); and

"(B) in the case of grants to such a State for fiscal year 1994 and subsequent fiscal years, the State has in effect such provisions.

"(3) STATE CERTIFICATIONS REGARDING CURRENT COMPLIANCE.—With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, the Secretary may not, in the case of the requirement, authority, prohibition, or other provision involved, require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with subsection (b).

"SEC. 2648B. PROTECTION OF HEALTH CARE PROVIDERS FROM PATIENTS WITH CERTAIN COMMUNICABLE DISEASES.

"(a) LIST OF RELEVANT DISEASES AND MEDICAL PROCEDURES.—For purposes of the requirement established in subsection (b) regarding the receipt by a State of a grant under section 2641, the Secretary—

"(1) in the case of each disease included on the list required in section 2648A(a), shall specify (as a component of the list) the medical and dental procedures whose performance by a health care provider on a patient with such a disease poses a risk of the transmission of the disease from the patient to the provider;

"(2) in the case of any medical or dental procedure specified for purposes of paragraph (1), shall specify (as a component of the list) the particular health professions and allied health professions whose practitioners perform the procedure; and

"(3) shall periodically review the list regarding the components required in paragraphs (1) and (2), and as appropriate, make revisions regarding the components.

"(b) AUTHORIZED NONCONSENSUAL TESTING OF PATIENTS UNDER CERTAIN CONDITIONS.—

"(1) IN GENERAL.—Subject to subsection (f), for fiscal year 1992 and subsequent fiscal years, the Secretary may not make a grant under section 2641 to a State for a fiscal year unless the State provides that, subject to the condition described in subsection (c), a health care provider who is a practitioner of a profession specified for purposes of subsection (a)(2) may, in the discretion of the provider and without the consent of the patient involved, test the patient for any of the diseases included on the list under section 2648A(a) if—

"(A) in the case of a patient who is not a minor, the provider has obtained the consent of the patient to perform on the patient a medical or dental procedure specified for purposes of subsection (a)(1); or

"(B) in the case of a patient who is a minor, the provider has obtained the consent of a legal guardian of the patient to perform such a procedure on the patient.

"(2) RULE OF CONSTRUCTION REGARDING CONFIDENTIALITY.—With respect to compliance with paragraph (1) as a condition of receiving a grant under section 2641, such paragraph may not be construed to prohibit a State from having in effect any law regarding the confidentiality of information that—

"(A) concerns a communicable disease in a patient; and

"(B) is obtained by a health care provider through testing the patient in the circumstances described in such paragraph.

"(c) AUTHORIZED CONDITIONS.—

"(1) IN GENERAL.—In the case of a health care provider who has obtained consent to perform on a patient a medical or dental procedure specified for purposes of subsection (a)(1), the condition referred to in subsection (b)(1) regarding testing of the patient is that—

"(A) the provider have a reasonable basis for believing that the patient has a disease included on the list under section 2648A(a), as indicated by guidelines issued by the Secretary; and

"(B) the provider test the patient only for the diseases with respect to which there is such a reasonable basis.

"(2) ISSUANCE OF GUIDELINES BY SECRETARY.—Not later than 90 days after the date of the enactment of the Kimberly Bergalis Patient and Health Provider Proteciton Act of 1991, the Secretary shall issue guidelines for purposes of paragraph (1)(A).

"(d) ISSUANCE AND EFFECTIVE DATE OF LIST COMPONENTS.—With respect to the list required in section 2648A(a), the components of the list that are required in subsection (a) of this section shall be subject to section 2648A(d).

"(e) DEFINITION.—For purpose of this section, the 'minor' means an individual who has not attained the age of majority, as determined under the law of the State in which, for purposes of subsection (b)(1), the health care provider involved performs the procedure involved.

"(f) TIME LIMITATIONS REGARDING REQUIRED LAWS.—With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, section 2648A(f) shall apply to subsection (b) to the same extent and in the same manner as such section applies to section 2648A(b).".

SEC. 102. ESTABLISHMENT IN TITLE XXVI IN PROGRAM FOR CARE GRANTS.

Part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as added by section 201 of Public Law 101-381 (104 Stat. 586), is amended in section 2617 by adding at the end the following new subsection:

"(e) PROTECTIONS REGARDING CERTAIN COMMUNICABLE DISEASES AMONG HEALTH CARE PROVIDERS AND PATIENTS.—The Secretary may not make a grant under this part unless the State involved agrees that sections 2648A and 2648B apply to the State to the same extent and in the same manner as such sections apply to any State receiving a grant under section 2641.".

TITLE II—GENERAL PROVISIONS

SEC. 201. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

NATIONAL FOUNDATION
FOR INFECTIOUS DISEASES,
June 24, 1991.

Congressman WILLIAM E. DANNEMEYER,
Washington, DC.

DEAR CONGRESSMAN DANNEMEYER: Today I visited with Kimberly Bergalis and her parents to discuss your legislative initiatives to protect the patient and the health care worker against the transmission of the human immunodeficiency virus [HIV] and hepatitis B virus during invasive medical and dental procedures. As you know Kimberly is very near death from the ravages of AIDS simply because she was treated by an AIDS infected dentist who did not tell her that he could transmit a lethal disease to her during a simple dental procedure. Kimberly's death is imminent and I doubt that I will ever see Kimberly alive again.

Today, Kimberly wailed a cry of joy to me that her prayers have finally been answered by the proposed legislation and she expressed the hope that every Member of the Congress will have an opportunity to vote on this legislation to insure that needless deaths from AIDS transmitted from health care workers to patients—and AIDS transmitted from patients to health care workers will never occur again. I told Kimberly that I suggested to you that the proposed legislation be named the Kimberly Bergalis Act and that you had agreed to this because of Kimberly's determination, because of her courage, because of her passion, and because of her persistence to change public health policy that had proven so inept. Kimberly then said to me that if such a law were passed—her death will not have been in vain.

Sincerely,

SANFORD F. KUVIN, M.D.,
Vice Chairman, Board of Trustees.

HEALTHY NEIGHBORHOODS IN WESTCHESTER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, 5 years ago, Westchester County, NY, moved to

correct a serious problem. It moved to bring an end to pockets within its cities which were environmentally unsafe and in which the residents had no access to decent medical treatment. It decided to establish the Healthy Neighborhoods Program, and our county is a better place because of it.

Healthy Neighborhoods' community health workers go into high-risk areas and conduct assessments of environmental deficiencies, of home safety, and of the medical and social needs of the families in the neighborhood. They then refer people and problems to the appropriate agency or individual. This is not the conclusion, however. The Healthy Neighborhoods workers come back to the areas where they serve, time and time again, to make sure that people are getting the help that they need and to help with any new problems that arrive. Keeping a neighborhood healthy is a full-time challenge, and Westchester has done well to put people to work trying to solve this problem on a full-time basis.

This program has prospered under the leadership of director, Olga Mackenrow and county health commissioner, Mark Rapoport. Their unstinting efforts have made the Healthy Neighborhoods experiment a success well worth replicating. As we recognize the Healthy Neighborhoods program's fifth anniversary, and congratulate everyone involved in making it work, let us rededicate ourselves to the principle on which it is founded, that every citizen, no matter where he or she lives, should have access to proper health care.

IT IS TIME TO STRENGTHEN COMMUNITY-BASED LAW ENFORCEMENT AND DRUG PREVENTION EFFORTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CONYERS. Mr. Speaker, today I am introducing a bill amending the asset forfeiture provisions of title 28 of the United States Code to require that the Attorney General devote a portion of his asset forfeiture fund to supporting community-based law enforcement and drug prevention programs.

There are two very different drug wars going on in the United States, only one of which we appear to be fighting. We are fighting, and winning, the drug war for the middle class with prevention and education programs and accessible treatment facilities. We are losing the battle in the inner cities. Waiting lists for treatment programs are still 3 to 4 months long, while those who can afford private care or who have insurance coverage do not have to wait at all.

In the inner cities, the drug war is almost a paramilitary operation, as the police are ordered to crack down and get tough on drugs. I fear that in our cities, all we are really doing is locking up enough drug dealers and users to create the illusion of success. But it isn't working.

It is not the fault of the police. They are doing their part in the drug war, and it is both dangerous and frustrating. But if you ask a drug cop in a candid moment, he will tell you the truth: Going after the little guy will fill the jails, but it does not even begin to make a dent in the drug trade.

My bill is a first step to begin to put some of the seized assets back into the communities, into community-based crime control programs that can make a difference in peoples' lives.

Over the past 2 years, in overseeing the Office on National Drug Control Policy, the Committee on Government Operations has held a series of hearings on the implementation of the national drug strategy at the State and local level. One overriding theme presented by witnesses in all of the committee's hearings has been the lack of adequate funding for drug treatment and prevention programs at both the State and Federal level.

In fact, only 12.5 percent of the country's estimated 6.5 million drug users are receiving treatment. The committee has also heard extensive testimony on the problems that result from the traditional law enforcement emphasis of the war on drugs, and the lack of attention to alternative law enforcement approaches such as community policing, treatment in prison, and community-based crime control efforts.

The committee's report: "The Role of Demand Reduction in the National Drug Control Strategy"—House Report 101–992—recommends a 50 to 50 split in the drug war budget overall between law enforcement and treatment/prevention. As I am sure you know, the administration's proposed budget for the National Drug Control Strategy in fiscal 1992 continues to reflect a 70 to 30 ratio of funding for law enforcement over treatment and prevention programs.

Although the Attorney General has discretion to use funds derived from forfeited assets in drug cases for any law enforcement purpose defined in section 524(c) of title 28, United States Code, the vast majority of these funds are devoted to traditional law enforcement expenditures, such as prisons, rewards for informants, equipment, weapons, and police overtime.

Approximately 20 States have adopted enabling legislation authorizing the use of asset forfeiture funds for drug treatment and prevention programs. There is no reason that the Federal program should lack a similar provision, and my bill seeks to require such leadership by the Justice Department.

In this time of scarce Federal resources, I believe that this is one way of securing needed funds for the neglected community-based components of the war on drugs. In addition, with the inevitable growth of these funds and the recently proposed addition of new offenses that can result in forfeiture, now is the time to begin reclaiming a portion of these moneys for community-based interventions.

Currently, the assets forfeiture fund contains nearly $1.4 billion. Each year approximately $500 million is spent from this fund, largely in State and local equitable sharing payments that are not monitored in any way by the Executive Office of Asset Forfeiture. My staff has also learned that significant funds are being used to hire contractors to do work that would ordinarily be done by Federal employees. These departures from the normal mode of congressional authorization and appropriation of funds are troubling. In addition, the Attorney General has discretion over the use of about $100 million from this fund each year.

The U.S. Marshals Service management of the Attorney General's asset forfeiture fund has been the subject of repeated criticism by the GAO. Nonetheless, GAO recommends consolidating the management of the Justice Department and the Customs Service's asset forfeiture funds under the Marshals Service. Particularly in light of this recommendation, I believe we should act to strengthen the management of these funds.

My bill contains an initial effort to streamline management by limiting expenditures from the fund for administrative and contracting expenses to 10 percent of the total fund, and by requiring the Attorney General to include a report on all administrative and contracting expenses in his annual report to Congress. Improving fund management and increasing the moneys available for distribution is also one way to defuse some of the inevitable law enforcement opposition to the nontraditional uses of these funds.

Over half of the assets seized by the Marshals Service are real property, including crack houses and other marginal central city properties. These properties can seldom be used by the police and, because they are frequently neglected, can generate only modest financial returns. Indeed, it appears that many are routinely razed as nuisances. Community action groups want to convert these properties to provide affordable low-income housing and other community-based services.

My bill amends the real property management and disposition provisions to require that any real property appraised at less than 40 percent of the median prices of comparable real property in any central city be offered for nominal consideration to nonprofit organizations that provide direct services furthering community-based crime control, housing, or education efforts.

Mr. Speaker, I have seen the addicted single mother, with teenage son whose crack profits put food on the table, trying desperately to find a way out. I have seen the search for a treatment program that works, a job, and the self-respect tha allows a drug user to become a productive human being.

Our current drug war, with its virtually exclusive reliance on traditional law enforcement, helps neither our cities nor those trapped there in the downward spiral of drug abuse and failure. It is my hope that by making funds available to community-based interventions, we can begin moving toward a more rational policy that does more than fill our jails.

The text of my bill follows:

H.R. 2774

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

SECTION 1. ONE-HALF OF THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND TO BE USED FOR COMMUNITY-BASED CRIME CONTROL PROGRAMS FOR DRUG EDUCATION, PREVENTION, AND DEMAND REDUCTION.

Section 524(c) of title 28, United States Code, is amended by adding at the end of the following new paragraph:

"(12)(A) In addition to the purposes under paragraph (1), the fund shall be available to the Attorney General for community-based crime control programs (including private, nonprofit programs) for drug education, prevention, and demand reduction, with amounts for such programs to be distributed, in accordance with criteria determined by the States, with priority given to the communities in which the assets involved are seized.

"(B) Not less than 50 percent of the total of the amounts disbursed for all purposes under this section in a fiscal year shall be for programs referred to in subparagraph (A). Not more than 10 percent of the total disbursed for such programs may be used for administrative costs.".

SEC. 2. LIMITATION ON ADMINISTRATIVE AND CONTRACTING EXPENSES PAID FROM THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, as amended by section 1, is further amended by adding at the end the following paragraph:

"(13) The total of amounts paid from the Fund with respect to a fiscal year for administrative and contracting expenses under paragraph (1)(A) may not exceed 10 percent of the total of amounts paid from the Fund for all purposes with respect to such fiscal year.".

SEC. 3. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu therefor "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 4. NOMINAL CONSIDERATION SALES OF LOW VALUE REAL PROPERTY TO CERTAIN TAX EXEMPT ORGANIZATIONS.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4)(A) If any property referred to in paragraph (1)(B) is low value real property located in a metropolitan statistical area, the Attorney General shall offer such property for sale, for nominal consideration, to tax exempt organizations that provide direct services furthering community-based crime control, housing, or education efforts in such area.

"(B) As used in this paragraph—

"(1) the term 'low value real property' means, with respect to a metropolitan statistical area, real property that is appraised at less than 40 percent of the median value of comparable real property in the metropolitan statistical area; and

"(2) the term 'tax exempt organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code.".

SEC. 5. REGULATION.

Not later than 120 days after the date of the enactment of this Act, the Attorney General shall prescribe regulations to carry out the amendments made by this Act.

SEC. 6. EFFECTIVE DATE.

The amendments made by sections 1, 2, and 3 shall apply with respect to fiscal years beginning after September 30, 1991.

THE EXTENSION OF MFN TRADE STATUS TO CHINA

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CHANDLER. Mr. Speaker, I include the following:

Thank you Mr. Chairman, members of the committee, the issue raised before the members of this committee here today is not whether we desire greater Chinese respect for human rights and international norms of behavior.

Indeed, everyone of us want to see greater respect for human rights by the Chinese Government, and a continuation of positive social, political, and economic change.

Rather, what truly lies in question is what actions should the United States take to foster China's democratization. Should the United States extend MFN, and thus keep China open to the international community and support the economic forces that have been driving political and social change? Or should the United States disapprove MFN, allowing this vital link between our two nations to be held hostage to the reactions of a small group of hardliners within China?

The choice is simple, for one fact is clear. If the United States fails to extend MFN to China, the democratic movement within that country will suffer its greatest setback, a setback which will be even more difficult to overcome than Tiananmen Square.

Eliminating a fundamental pillar of our economic relationship—MFN trade status—will destroy our ability to engage the Chinese on issues of concern. In the past, MFN has served to open an isolated China to the outside world and promote reform. The people of China are looking to us for assistance for the democratic movement in China is at a crossroad. We must work with the Chinese people if it is to continue and succeed. We must not abandon them, we must not isolate them, we must extend MFN.

LUTHERAN CHURCH OF THE GOOD SHEPHERD HAS HISTORY OF FAITH AND INNOVATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SOLOMON. Mr. Speaker, as you drive north on Glen Street in my hometown of Glens Falls, NY, one of the most visible landmarks is the Lutheran Church of the Good Shepherd.

The most visible feature is a large figure of Jesus Christ with a sheperd's crook in one hand and a lamb in the other hand.

While this church may not be as old as some of the churches that trace their history to colonial times, its own history is no less interesting.

This particular church has been particularly noteworthy for the spirit of innovation that allowed it not only to survive, but to thrive since its humble beginnings in the late 1940's.

I proudly place in today's RECORD an article from the Glens Falls Post-Star, which, more completely than anything I could say, tells the story of this church.

The article follows:

[From the Glens Falls (NY) Post-Star, June 23, 1991]

DRIVE-IN MINISTRY—CHURCH HAD INNOVATIVE START

(By Tom Calarco)

The Lutheran Church of the Good Shepherd had just a living room for a chapel in 1949. The Rev. Gary Germann, pastor of the young church, was faced with not holding summer services or coming up with an innovative solution.

He chose to innovate. So on June 26, Germann held the nation's first religious service at a drive-in movie theater.

"Sabbath Worship—Behind the Wheel" it was called.

Germann had held services outdoors at a church he started in Peekskill before coming to Glens Falls. And in California, some churches had drive-in services.

But Germann went one step further. The services took place at the old Lake George Drive-In, located at the present site of the Colonel Williams Motor Inn.

The pulpit was mounted in front of the movie screen, and prerecorded hymns were piped in over the car speakers. Printed programs were provided with the words to the hymns, and collections were made from car to car. A Sunday school was also conducted behind the movie screen.

Many tourists attended the services, and visitors were invited to indicate their religious affiliations and hometowns on registration cards.

Germann, who died in 1987, had said at the time of the services that people from all 50 states as well as every known religious faith attended.

"Non-Denominational is the adjective I like best in describing the services," Germann said. "We don't plug the Lutheran concepts."

Dick Willman remembers attending when he was a boy.

"It was a way of life," he said, "the era of the car. You didn't have to dress up, that's what I remember most about it."

The informality proved to be a big draw, said Marian Germann, the pastor's widow.

"Come in your car, dressed as you are," was one of the slogans used to advertise the services, she said.

People going to the beach or on a picnic could come to church without dressing up, and instead of going home to change afterwards, they could go on their way.

As many as 200 autos pulled in for a single service, Susan Adams remembered. In 1954, the services were moved to a larger drive-in theater, the Fort George, which was located at the present site of Waterslide World.

There were drawbacks, Adams said, such as not being able to offer communion, which was offered only once a month during special services at the parsonage.

But the drive-in services continued until the summer of 1964, when attendance began to fall off.

The success of the drive-in services provided much of the revenue for building the church at the corner of Bowman and Glen streets in Glens Falls.

The church had to struggle merely to survive in the beginning. Not until 1946 was the first Lutheran worship service held in Glens Falls.

On March 17 of that year, 20 people met at the Friends Meeting House on 174 Ridge St. with the Rev. Theodore Schulze, pastor of St. Paul's Lutheran Church in Saratoga Springs.

These mission services at the Friends Meeting House continued with Schulze. But collecting enough money to conduct these services was difficult, and often it was necessary for church-goers to make extra contributions out of their pockets.

In November 1947, a house at the corner of Bowman and Glen streets, across from Crandall Park, was purchased to serve a new congregation. The following month, Germann was appointed as the church's first pastor, a position he would hold for 26 years.

"We were married on Dec. 14, 1947," said Mrs. Germann. "We spent our honeymoon in an empty parsonage with a hay field in the back."

A week later, Germann held his first services in the parsonage's living room. It served as a temporary chapel, but it simply wasn't large enough, Mrs. Germann said.

On June 5, 1949, when the church was formally chartered, the ceremony had to be held at the Church of the Messiah to accommodate the numbers.

The new church was also given an official name, voted upon by its members—The Lutheran Church of the Good Shepherd.

It was a fitting choice, pastor Germann said, because it was a name Jesus had given himself.

The church itself was erected in stages. Construction on the present site behind the house on Glen Street began in the early 1950s.

In December 1952, a basement chapel was completed. This served the congregation until the church building was completed in 1959.

Except for additions on the south and west ends of the church made in 1981, its structure has changed little since.

Germann himself described the building as a combination of traditional and contemporary ecclesiastical design.

The church's stained-glass windows represent a revival of 18th century, English-Georgian style. Its colors, However, are atypical pastel beiges, yellows and greens with a tint of purple.

The landmark by which the church is best known today, the seven-foot statue of Christ, was erected in 1968.

This depiction of the Good Shepherd was created by Chestertown artist Jack Binder, who also wrote comic books and originated the character Mary Marvel. He created many of the figures for the old Storytown, as well as the gorilla at Animal Land.

The late artist's son, Ed Binder, said the statute was his father's gift to the church. Its earth tone colors match the beige and brown color scheme of the church's exterior.

Since Germann's tenure, the church has had three pastors: the reverends Peter Hoyer, John Collier and Alfred Glaser. Glaser has been pastor since August 1983.

The church has undergone a resurgence of growth in recent years. Glaser said, mainly because of its educational and outreach programs.

This includes the Sunday school both for children and adults, newcomers classes on Tuesday, and confirmation classes on Thursdays. Church members have also been active in outreach evangelism, periodically going from door-to-door, and also visiting the homes of non-members who might attend services.

The church boasts a fine music program. Besides an adult and youth choir, there is also a cherub choir made up of children from preschool age to the third grade. The choir has attracted a good number of young families in recent years, Glaser said.

The church is continually striving to keep up with the times. It was made handicapped accessible, for instance, by the installation of an elevator in the addition on the west end.

The Lutheran Church of the Good Shepherd's continued growth bodes well for the future. Glaser believes the church's success is due to its dedication to strong Christian principles.

"As human beings, we often tend to measure success and growth in terms of material blessings," Glaser has written.

"However, in our life together as a people of God, it is important we measure ourselves by the standard of God's grace. As our children and grandchildren look back on these years of our history together to this point, let it be said of that we were faithful to our God."

HELEN BURROUGHS: A SMALL BUSINESS CHAMPION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. IRELAND. Mr. Speaker, on occasion a simple statement—"Hello, I'm from the Government and I'm here to help you"—sends small business owners running for cover at very high speeds indeed.

What a pleasure it is, then, to bring to the attention of our colleagues one of the many Government officers who personifies the very best of two words that ought to be held in the highest esteem: "Public servant."

I don't think any of us in Congress would underestimate the importance of exporting to the health of small business and to the Nation as a whole. And, Mr. Speaker, I can't think of anyone inside or outside of Government who has given more of their talent, time, expertise, and energy to promoting small business exports than Ms. Helen Burroughs, and she has done so against insurmountable odds and with remarkable success.

Truly, if it were in my power, I would clone 1,000 like her and solve our country's trade problems overnight.

As many of our colleagues know, Helen Burroughs is the U.S. Department of Commerce's Small Business Trade Policy Analyst for the International Trade Administration, a somewhat prosaic title that hides the magic she creates.

Two years ago, drawing on that unique mix of knowledge, confidence, hard work and good humor that leads to success, Helen conjured and cajoled into existence the first international trade event ever sponsored by the Commerce Department exclusively for small businesses.

Held in Frankfurt, Germany, Export 89 was a revelation to other countries—a magnificent array of products and services built and designed, not by mammouth, multinational organizations, but by small business men and women from America. Perhaps this accomplishment alone deserves our admiration and recognition, but Helen's dedication to the dreams of entrepreneurs goes beyond this victory.

Helen was the first woman to represent the Commerce Department by presenting American technolgy to foreign governments and to businesses throughout the world. Later, she served as coordinator for the United States Joint Economic Commissions for Saudi Arabia, Iran, Egypt, and Israel.

A founding member of Executive Women in Government, Helen currently directs the development of small business trade policy for the Department of Commerce and manages policy development for Secretary Mosbacher's industry Sector Advisory Committee on Small and Minority Business.

And next fall—repetition being another sincere form of flattery—Helen will work her magic again for a second American small business international trade extravaganza.

Mr. Speaker, I have reminded our colleagues on many occasions that it is easy to say you are for small business. It is how you vote that really counts. Helen Burroughs stands as a shining example of what can be done for small business when our actions carry the same weight as our words. I urge our colleagues to follow her inspiring model.

STOP U.S. SUPPORT FOR CIGARETTE EXPORTS

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ATKINS. Mr. Speaker, in 1989, when the British Government sought to ban the sale of smokeless tobacco, the United States Department of Commerce objected on the grounds that some scientific studies had not linked chewing tobacco to oral cancer. In the same year, the United States Trade Representative accepted a cigarette industry petition alleging that Thailand's comprehensive ban on cigarette advertisements was an unfair trade practice.

With over 400,000 American smokers dying each year and another 1.5 million breaking the habit, the cigarette industry needs 2 million new smokers every year just to break even. The good news is that domestic consumption has plummeted 18 percent since 1981. The bad news is that the cigarette industry has teamed up with the U.S. Trade Representative and the Commerce and State Departments to push cigarettes abroad.

Beginning in 1986, the USTR has negotiated four unfair trade petitions on behalf of cigarette firms—an enormous and unprecedented boost for the industry. U.S. cigarette exports have nearly tripled in that period and now represent 23.4 percent of total unit sales. In 1989, 37.2 percent of our cigarette exports went to the USTR-affected countries of Taiwan, Japan, and South Korea.

Today, I am introducing two bills to temper the administration's enthusiasm for cigarette exports.

The Cigarette Export Labelling Act simply requires the Surgeon General's warning on all exported cigarettes. It is outrageous to pretend that the Surgeon General's findings apply only to American smokers.

The Cigarette Export Reform Act prohibits the U.S. Government from seeking to change a country's laws pertaining to the sale, dis-

tribution, taxation, or advertisement of cigarettes if that country imposes the same restrictions on their own brands. The bill also includes a GAO recommendation to add a representative from the Department of Health and Human Services to trade disputes adjudicated by the interagency Section 301 Committee in cases involving cigarettes and chewing tobacco.

In 1989, the World Health Organization asked a special group of consultants to make a calculation of how many people now living will die from tobacco-related diseases if current smoking patterns continue. They reported that nearly one-tenth of the world's population will die—500 million babies, children, and adults are doomed.

Perhaps our country's most enduring legacy is the dissemination of key health-care discoveries to the rest of the world. Let's not allow the cigarette industry to add a new chapter to that legacy—a chapter that makes America the leading exporter of lung disease in the world.

WALTER CAMPBELL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. WOLPE. Mr. Speaker, on July 12, 1991, the Michigan State AFL–CIO will honor a man of singular accomplishment: Mr. Walter Campbell, retired secretary-treasurer of the Michigan State AFL–CIO.

There have been many highlights in Walter Campbell's long and productive history of advocacy on behalf of working men and women. Beginning as an employee of Borg Warner in Muskegon Heights, Walter became active in the AFL–CIO Allied Industrial Workers Local 404, and was elected to several offices, including the local presidency. In 1941, he began working for the international union and subsequently, in 1943, became an international representative for the AIW where he remained until his election as a regional director in 1967.

In the 1970's, Walter's leadership capabilities were recognized by his appointment as secretary-treasurer for the Michigan State AFL–CIO. Walter was also appointed by Governor G. Mennen Williams to serve on the Michigan Employment Security Commission, where he received consecutive reappointments from 1959 until 1987.

Walter Campbell is now officially retired from the AFL–CIO, but his commitment to public service continues unabated. His involvement with several labor and civic organizations—including the United Way of Michigan, the Michigan Welfare Reform Coalition, the Michigan Diabetes Association, and the Greater Lansing Food Bank—attests to Walter's continued dedication to the struggle for social justice that has been the distinguishing characteristic of his entire life.

Walter's leadership, his drive, his determination and commitment have been recognized many times over by his friends and colleagues. In 1977, for example, the Michigan United Labor Community Services School launched the Walter A. Campbell Community Service Award for students active in community services. More recently, the United Way established The Walter A. Campbell Award for Outstanding Voluntarism to recognize volunteers whose service and example stand as an inspiration to others.

Mr. Speaker, Walter Campbell has exemplified throughout his life the highest ideals of the labor movement, and his contributions as a member of numerous State and local civic organizations has touched the lives of working men and women throughout Michigan. I know that my colleagues will want to join with me in paying tribute to a person who personifies the very best in America's tradition of community service, and in thanking Walter Campbell for the labor and community leadership he has provided these past five decades. We are all in Walter's debt, and we wish him and his family continued success and happiness in the years ahead.

THE INFANT MORTALITY CRISIS

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PETERSON of Florida. Mr. Speaker, reducing the country's chronically high rate of infant mortality is the single most important issue facing this Congress.

The national numbers are staggering and the local figures are devastating. In my district, four counties face an infant mortality rate higher than that of some Third World nations.

Mr. Speaker, we know how to lower this rate and it is up to Congress to take action.

Out of the nearly 40,000 babies born every year in this country, that do not live to see their first birthday, 25 percent can be saved by providing adequate prenatal care and nutrition services. By making these vital services readily available to pregnant woman we can reduce the incidence of low birthweight babies and thus lower our infant mortality.

Later today, Congress will take up legislation appropriating funds for labor and health and human services. A significant portion of today's bill will provide much needed funding for prenatal care.

Harry Truman once said "my clients are the next generation, my clients are the children." Today, I urge my colleagues to take this issue beyond lipservice and make a firm commitment to reducing the infant mortality crisis. It is something we can all do for our country and tomorrow's next generation.

THE KGB AND SOVIET REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GRADISON. Mr. Speaker, at a closed session of the Soviet Parliament on June 18, 1991, the chief of the KGB, Vladimir Kryuchkov, delivered a strident address in which he accused Western intelligence services of preparing plans for the "pacification and even occupation" of the Soviet Union in an effort to control Soviet nuclear weapons. He went on to suggest that the Central Intelligence Agency is behind perestroika and that Western intelligence will leave the Soviet Union weak and susceptible to catastrophe.

Later in the same week, the Parliament decisively rebuffed an attempt by Soviet Prime Minister Valentin Pavlov to assume many of the powers reserved for President Mikhail Gorbachev. "Pavlov's Putsch," as it is referred to by the proreform media, reportedly had the support of Interior Minister Boris Pugo, Defense Minister Dmitri Yazov, and KGB Chief Kryuchkov, in addition to the support of the hard-line leadership of the Soyuz faction in the legislature.

Against this backdrop, Soviet Interior Ministry troops, the Black Berets, continued their harassment of Lithuanian customs offices. For several weeks, the Black Berets have been attacking customs posts in Lithuania and Latvia. These customs posts are symbolic of the Baltic States claims to independence from Moscow. Continued military maneuvering in the Baltics by Soviet forces and the position of the Soyuz bloc, associated with the bloody crackdown in the Baltics this past January, should be a warning to those who assume that the Soviets have reached a consensus on reform.

Kryuchkov's xenophobic and paranoid address to the Soviet Parliament is an indication of just how far some in Moscow have not come on the fundamental issues facing Soviet society. After 74 years of Leninist experimentation, the Soviet economy is a disaster and Soviet society exhibits deep functional and structural fissures, many of which may not be adequately dealt with for generations.

Rather than recognizing that only fundamental reform can eventually lead them out of that quagmire and away from catastrophe, a few in Moscow are choosing to blame the outside world. Looking for scapegoats is a tried and true tactic for the totalitarian mentality. Most Soviets, judging by the results of recent elections, appear to be wedded to the reform road. One can only hope that all the members of the senior leadership in Moscow will see that wisdom—and soon.

THE NORTHERN WESTCHESTER HOSPITAL CENTER: CARING FOR THE COMMUNITY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, the months ahead will no doubt see a great deal of talk about health care here in the House and throughout the country. That is a good sign, I believe, because taking care of our people, working for a healthier America, should be one of our top priorities. Nobody knows this better than the people of Northern Westchester Hospital Center in Mount Kisco, NY, community medical center that is doing an exemplary job in meeting the health care needs of those who rely upon them.

Northern Westchester was founded 75 years ago based on the simple premise that a

community could provide for and maintain a place where people could receive high quality compassionate health care. From the start, it has fulfilled that promise, and it continues to honor its commitment to this day. Northern Westchester's doctors and nurses are highly trained, caring individuals who use the most advanced medical technology available to ensure that their patients receive the highest quality of care.

The people of Mount Kisco and the surrounding communities have done their part as well. By consistently providing support for the hospital, they have ensured access to this outstanding facility. They have also provided a valuable asset, the benefits of which reach far beyond Westchester. Northern Westchester Hospital is engaged in several projects in conjunction with the Federal Government that will further important national needs, including helping to control the spread of Lyme disease.

As the Northern Westchester Hospital Center celebrates its 75th year, Mr. Speaker, I urge my colleagues to join me, not just in saluting this noteworthy institution, but in replicating its remarkable success and important service. Northern Westchester is a reflection of how a community can work together to look after the health of its people. I hope that our Nation can meet that challenge with similar effectiveness.

A CONGRESSIONAL SALUTE TO "STAND DOWN '91"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a highly successful project assisting homeless veterans in Long Beach, CA. I sincerely appreciate the outstanding efforts given and the significant results achieved this past Friday through Sunday at "Long Beach Stand Down '91," one of the city's largest ever all-volunteer programs to assist homeless veterans.

As honorary cochairman it has been a privilege to have been associated with a project devoted to such a special group of Americans. It also has been especially pleasing and gratifying to see such tremendous community support for this year long effort. I wish to congratulate the over 400 volunteers and 50 public and private sector organizations, because without their extraordinary efforts, Stand Down '91 would not have been the remarkable success that it was. Additionally, I take great satisfaction in commending a former member of my staff, Gus Hein, now with the Southern California Rapid Transit District, for his extremely capable job as the chairman of Stand Down '91.

Stand Down, taken from the military term—allowing a combat unit to be removed from the field of battle to an area of safety and security— is a comprehensive program designed to provide homeless veterans with the services they need to reenter mainstream society. It is based on a similar program held in San Diego annually since 1988 that has proven to be an innovative and effective way of assisting homeless veterans break the self-perpetuating cycle of homelessness.

Stand Down '91, held at Veterans Memorial Stadium in Long Beach, served 263 homeless veterans ranging in age from their mid-20's to mid-70's. The project provided 261 multiple-service medical appointments, ranging from eye and dental services to testing for tuberculosis, which assisted 150 vets with medical needs, incuding 6 emergency cases that were promptly referred for local hospital care. Additionally, 100 followup medical appointments were scheduled. Stand Down '91 also adjudicated 73 legal cases, located short-term jobs for 19 vets, and shelters for 40 more.

After every homeless veteran was checked in and evaluated for immediate special needs, he or she was given a photo identification card and the opportunity to obtain numerous other services throughout the 3-day event, such as a shower, haircut, and counseling for substance abuse, AIDS, stress, foot problems, and exposure to agent orange. They also received donated shoes and clothing, shelter, and all the food they could eat, in addition to being treated to two, 2-hour USO shows.

Perhaps the most valuable contribution of Stand Down '91 was the manner in which all these services were made available to the veterans. One of the project's volunteers seemed to capture the spirit of the occasion when she told all the veterans that these things were not being given to them, but rather they had earned them for their previous sacrifices during military service to a very grateful Nation. Many Vietnam veterans could be heard saying that "This was the most at home and welcome they had felt in the United States since returning from Vietnam."

Many volunteers remarked at how amazed and gratified they were at the dramatic changes they saw in the way homeless veterans looked—from the downward-looking veteran that arrived Friday morning—to the entire group of veterans on Saturday night who were joining hands and looking skyward as they sang "God Bless the USA." The normally distrusting homeless veterans quickly learned that there were many people at Stand Down '91 who genuinely cared for their well-being. Volunteers, ranging from union members and private business owners to officials from Government agencies and elected offices, could be seen sitting on the grass together with veterans talking about the problems of homelessness, while others could be seen embracing veterans during many of the event's emotional moments.

I was extremely proud to see how Long Beach rallied around our homeless veterans. It was really something, to see so many services available at one site, and the tremendous commitment of everyone in helping these proud vets take a step toward getting off the streets. I really would like to see this kind of cooperative program between the public and private sectors spread not only to other parts of California but throughout our entire country as well. With the knowledge learned from more homeless veterans' assistance programs like Stand Down '91, we will become better able to expand this kind of volunteer effort to all of our homeless people.

While we have immeasurable strength as a united nation, America's inner strength has been found in the pride of its individuals—the kind of pride that can be felt by being both a productive and recognizable part of our society. Therefore, we must ever strive to help our homeless to get back on their feet so they again can feel the pride of contribution, and our country can feel the pride of being truly united.

My wife, Lee, joins me in extending our heartfelt thanks to Gus Hein and all of the volunteers whose contributions made this very worthwhile project possible. They are truly remarkable individuals who have devoted their time and efforts for the betterment of mankind. Stand Down '91 was a remarkable success because of their extraordinary efforts.

A TRIBUTE TO LT. GEN. CARL SPAATZ

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. YATRON. Mr. Speaker, I rise today with much pride to honor a man of glowing credentials and tremendous accomplishments on the anniversary of his 100th birthday. Lt. Gen. Carl A. Spaatz gave so much to our country, and I think we should all take this opportunity to reflect upon his wonderful achievements.

Lieutenant General Spaatz was born on June 28, 1891, in Boyertown, PA. He graduated from the Military Academy at West Point as America was preparing to enter World War I. Although Spaatz was fairly young at this time, he made great contributions to the war effort, including the shooting down of three German Fokker planes. For his efforts, Spaatz received the Distinguished Service Cross for heroism in action.

When the war ended, Spaatz dedicated himself to establishing the American forces in the air as the most powerful in the world. In order to achieve this goal, Spaatz helped develop several innovative methods of flight. It was at this time that the transcontinental flight was improved substantially, and the refueling endurance trip was also attempted. In one such endurance flight, Spaatz completed a refueling operation despite being drenched with scalding aviation gasoline, thus helping to keep the plane in the air for 150 hours and 40 minutes. These heroics in the famous "Question Mark" incident earned him the Distinguished Flying Cross in 1929.

Lieutenant General Spaatz continued to be extraordinarily successful in the field of aviation during the 1930's, and World War II provided him with the perfect opportunity to display all that he had learned. His first assignment in the war was to assist in the invasion of North Africa, which he did by commanding the force that became known as the "Spaatzwaffe." As the war progressed, Spaatz was appointed to several other key positions, including the leadership of the U.S. Strategic Air Forces in the European theater. His direction of the strategic bombing against the Germans throughout 1944 was vital in America's success against Hitler's forces.

As the war in Europe came to a close, Spaatz was reassigned to the Far East, where

American air power was instrumental in completing the victory over the Japanese. By this time, the greatness of his achievements was widely recognized, as he had already achieved the title of "three star" lieutenant general and was called "the best air commander I know" by General Eisenhower.

Mr. Speaker, I hope that you and my colleagues will join me in honoring Lieutenant General Spaatz. This outstanding gentleman is most deserving of all of the accolades he received during his life, and I would like to take this opportunity to recognize everything he has done for this country.

TRIBUTE TO THE 1072D NATIONAL GUARD UNIT

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. UPTON. Mr. Speaker, I rise today to pay my greatest respect and tribute to the 1072d Maintenance Company of Sturgis and Coldwater, MI. We recently welcomed these dedicated public servants home and I wish to express my pride and extend my support to members of the 1072d and their families.

Those in the 1072d Maintenance Company, like other members of the Guard, represent a broad cross-section of occupations; in their daily lives before the war they may have had little in common with each other. Yet, what bound this unit together throughout their months of service, was a profound love for their families, their community, and this Nation.

The commitment and selflessness of these fine men reminds me of an inscription on a memorial for soldiers in Arlington Cemetery that reads: "Not for fame or reward, not for place or for rank, not lured by ambition or goaded by necessity, but in simple obedience to duty as they understood it."

When members of the 1072d were called up to serve, they said farewell to their way of life, their friends, and families and faced the terrifying uncertainty of war. Though the wind was cold, they were warmed by their many neighbors who poured into the street to wish them a safe tour of duty. As I said a few weeks ago in Sturgis, the love and support of troops family members and friends, was the wind behind their sails.

Whether it was in Germany or Japan or on the front lines in the sands of Kuwait and Saudi Arabia, the guardsmen of the 1072d made a sacrifice which few Americans ever make but from which every American benefits. They were a vital and crucial link to the overall success of our military strategy in the gulf. The 1072d stands tall with every branch of the U.S. military and every veteran of the gulf war as the true heroes of Operation Desert Storm.

In celebrating the return of our troops, and our victory in the gulf, I believe it's important that we not glorify war, nor ignore the tremendous sacrifice of those who now come marching home—and those who never will.

We thank God for the selflessness of the people of the 1072d and all the other men and women that contributed to our effort in the gulf. But at the same time, we hope and pray that this will be the last time we call upon their service.

The 1072d Maintenance Company, and all veterans, share in what we hope will be a legacy of lasting peace, sovereignty and freedom for all nations. God Bless the 1072d and God Bless the United States of America.

THE RETIREMENT OF GEN. ARVID E. WEST

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. MORAN. Mr. Speaker, I would like to take this opportunity to congratulate Brig. Gen. Arvid E. West on his retirement and thank him for the years of meritorious service he has dedicated to the U.S. Army and to improving the Fort Belvoir facility in Fort Belvoir, VA.

General West came to Fort Belvoir on September 1, 1989, with a command to "completely turn around and clean up" the Directorate of Logistics at Fort Belvoir. General West did just that. In 2 short years, General West's enthusiasm and dedication has helped develop Fort Belvoir into a model facility which has recently been recognized with the Army Community Excellence Award for the best medium-sized post.

General West, a native of Norway, MI, graduated from the U.S. Military Academy in 1956. He then served two tours of duty in Vietnam where he was awarded the Silver and Bronze Stars, the Legion of Merit, four oak leaf clusters, and the Purple Heart. General West has always been a natural leader and role model for those fortunate enough to serve under him, and a friend for those fortunate enough to work with him in the community.

General West was a friend of mine and will be greatly missed by my constituents and by the U.S. Army. I am confident that he will apply the same level of professionalism and devotion to his new post with the Missouri Division of Public Highway Safety as he did in Fort Belvoir.

THE SEMICONDUCTOR INTERNATIONAL PROTECTION EXTENSION ACT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. EDWARDS of California. Mr. Speaker, as a representative from Silicon Valley, I am pleased that the House is acting on an extension of the Semiconductor International Protection Act. I want to complement Chairman Hughes and the members of the Subcommittee on Intellectual Property and Judicial Administration for their hard work on H.R. 1998.

In passing the original Chip Protection Act in 1984, Congress addressed the unique intellectual property protection needs of the semiconductor industry. The act also authorized the Secretary of Commerce to extend this protection to semiconductor chip producers whose countries have negotiated bilateral chip protection agreements with the United States. This process allows the Secretary to negotiate for our chip producers the protection they need to compete in the international market.

The international negotiation provisions of the Chip Act have been the catalyst for the establishment of bilateral agreements with nineteen countries. We must make certain that progress is allowed to continue on establishing international semiconductor copyright standards. H.R. 1998 will give the Commerce Secretary the opportunity over the next 4 years to bring us closer to establishing those standards. I urge my colleagues to support the bill.

FIGHT FOR HEALTHY BIRTHS AND A LOWER INFANT MORTALITY RATE

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ROWLAND. Mr. Speaker, The rate of infant mortality has been too high, far too long, and we have not done enough to bring it down.

But it is also a fact that we have made some significant progress over the past few years. Congress has gradually increased funding for prenatal care. And we have approved some innovative new programs to help expectant mothers get the care they need. So far, however, we have not come up with the money to implement these programs.

More money would help. But that is not the entire answer. Even if we do not get all of the Federal funds we need, there is a great deal more we can do in this country to address the problem.

What we need more than anything else is education, public awareness, and community involvement. Many thousands of infants can be saved or spared lifetime physical and mental disabilities if we simply inform more expectant mothers about the care they need and about how to obtain it.

Mr. Chairman, the whole country should be involved in the fight for healthy births and a lower infant mortality rate. Many of our churches, businesses, educational systems, health professionals and volunteers, and many individual citizens are already involved. As cochairman of the Sunbelt Caucus Task Force on Infant Mortality and vice chairman of the National Commission to Prevent Infant Mortality, I urge everyone to join in. By working together, this is a fight we can win.

MILITARY MEDICAL CARE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. MURTHA. Mr. Speaker, I rise today to tell you that the state of military medical care is improving. The Defense Appropriations Subcommittee has closely monitored the military's

medical program for many years to ensure that beneficiaries receive the best care that our Nation can provide.

However, the future of military medical care is in question, Mr. Speaker. The Defense Department has proposed a new concept called coordinated care, a concept that is both untested and unproven. The House recently voted to only allow the Defense Department to test this new concept, along with other medical tests such as CHAMPUS reform initiative and catchment area management, to ensure that the Department is making a wise decision on how health care will be provided in the future.

Many organizations have written to the subcommittee praising the action we proposed in the recently passed fiscal year 1992 Defense appropriations bill. The National Military Family Association said in its letter of June 7:

> Your attention to the military health care delivery system is welcomed by military families. You have listened to the beneficiaries of this system and acted accordingly. The committee report and corresponding provisions encourage reform and allow innovative programs to proceed.

The Non-Commissioned Officers Association of the United States of America said in its June 14 letter to the committee:

> The Association is impressed with the House's action to suspend implementation of the Defense Department's proposed new coordinated care program. The Association salutes you and the members of your distinguished Subcommittee for taking what the Defense Department may consider a most antagonistic view of its coordinated care plan.

Mr. Speaker, I believe the House is on the right track as far as improving the quality of military medical care. Even an internal Pentagon document recently came to the same conclusion as that which the House approved in the fiscal year 1992 Defense appropriations bill, when this internal document stated that unless "efforts are coordinated on a DOD-wide basis through a more structured, deliberate effort, little progress can be expected in improving the—military medical—system." We must ensure, Mr. Speaker, that this quality health care is not diminished now that the Persian Gulf war is over and our Nation's attention is focused on other problems. We must ensure that improvements continue to be made only on programs that are tested and proven.

TRIBUTE TO SACRED HEART MEDICAL CENTER

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. WELDON. Mr. Speaker, I wish to congratulate the Sacred Heart Hospital Medical Center in Chester, PA, for being honored as a statewide finalist of the Pennsylvania Hall of Fame Champions of Older Workers.

This project seeks to identify, promote, and honor Pennyslvania employers who have made noteworthy efforts to hire older workers and to increase employment opportunities for people 55 or older. The hospital located in the city of Chester, just outside of my district, was nominated by the Senior Employment Program of the Delaware County Services for the Aged.

Sacred Heart Hospital aims to utilize the experience and wisdom of older workers. These older workers have a great deal to offer our community. Their experience, reliability and pride in their work is unmeasureable. By utilizing our older citizens, Sacred Heart reaps the benefits of a largely untapped resource of our work force. In addition to the great service they provide to others, our senior citizens receive gratification for performing this much-needed public service.

Mr. Speaker, not only does this hospital offer an outstanding opportunity for older workers, Sacred Heart has an excellent reputation for serving the "poorest of the poor." By employing these older citizens, Sacred Heart has established an economically efficient system to give medical attention to all our citizens regardless of ability to pay. Sacred Heart's enlightened employment practices should serve as a role model for all employers.

Mr. Speaker, on behalf of the Seventh District of Pennsylvania, I applaud the Sacred Heart Medical Center for their excellent service committment to our community.

ATTORNEY REPRESENTATION NEEDED FOR VETERANS WHO OWE THE GOVERNMENT MONEY

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. STAGGERS. Mr. Speaker, I am introducing a bill that will help veterans. My bill will allow veterans, who are alleged to owe the Government—the Department of Veterans' Affairs—money, the opportunity to have an attorney represent the veteran in all stages and proceedings. This will allow a veteran, whom the Government believes owes money to the Government, to have a lawyer represent his interests. The veterans interests in this matter are substantial, his credit rating, military security clearance, and his future income.

The idea of allowing a veteran to have legal, competent representation is not new, nor did it develop after judicial review for veterans became law. In large measure, my legislation will allow veterans to have the same opportunity to have representation that they enjoyed from the 1950's until 1986. A 1986 general counsel opinion reversed the policy that allowed a veteran to have representation. Unfortunately, since that time, thousands and thousands of veterans have had their credit ratings ruined, lost their homes, have been unable to resume their lives, and have been driven to the bankruptcy courts of our country.

My legislation will allow the veteran to contact and engage the services of an attorney when first contacted by the Department or at anytime while collection efforts occur. This legislation has been the discussion of hearings before my Subcommittee on Housing and Memorial Affairs of the House Veterans Affairs Committee and has the support of the Veterans' of Foreign Wars, the Vietnam Veterans of America, the Disabled Veterans of America, and other veteran service organizations.

WELCOME, PRESIDENT ROH TAE WOO

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ROHRABACHER. Mr. Speaker, on behalf of the people of the 42d District of California, I would like to take this opportunity to welcome to the United States the President of the Republic of Korea, His Excellency Roh Tae Woo. President Roh arrives in Washington, DC, on Monday, July 1, for an official state visit at the invitation of President Bush.

This is President Roh's fourth official visit to the United States, but this is the first state visit for a Korean President in 26 years. And it is a particularly fitting time for this visit. After 3½ years in office, President Roh is credited with initiating popular reforms to strengthen and expand democracy in South Korea. As a candidate for President in 1987, Mr. Roh issued his "June 29 Declaration" in which he called for major constitutional changes to address the Korean people's desire for greater freedom and democracy. After the first direct popular election in Korea in 16 years, Mr. Roh took office and began to implement his program for democratization.

Today, President Roh is in the final stages of carrying out this plan. Koreans now enjoy virtually unrestricted freedom of the press and speech. The National Assembly and an independent judiciary share power equally with the executive branch of Government. The rights of workers are ensured, and the standard of living among ordinary Koreans has improved markedly in recent years. And free and fair elections are now held at all levels of the political system.

On the international front, Mr. Roh has succeeded in dramatically expanding relations with countries not traditionally friendly to South Korea, including the Soviet Union and the nations of Eastern Europe. And he has done this principally with the aim of improving relations with North Korea and reducing tensions on the Korean Peninsula.

Korea is now considered one of the last outposts of the cold war. Communist North Korea remains probably the most closed society on Earth and poses a formidable military threat. Pyongyang maintains a million troops and a vast array of weapons, including advanced Scud missiles along the border with the South. It is for these reasons that the United States remains firm in our commitment to assist in keeping peace on the peninsula.

But even along the Demilitarized Zone, we are beginning to feel some warmer winds of change. North Korea just recently reversed its position on two longstanding issues of contention. First, it has said that it will see full United Nations membership this year, thus clearing the way for Seoul's own long-desired accession. And then Pyongyang announced that it will sign the nuclear safeguards accord of the

International Atomic Energy Agency. We hope to see both Koreas become full contributing members of the United Nations. And we expect North Korea to fulfill its obligation under the IAEA agreement to open its nuclear facilities to international inspection.

Along with political and security issues, economic concerns will be high on the summit agenda. Korea is the sixth largest customer of American exports and the third largest consumer of United States agricultural products. We expect Korea to continue on its path of market liberalization to ensure that our trade relationship is a fair one.

At a time when the political, security, diplomatic, and economic trends on and around the Korean Peninsula are moving in a positive direction, this summit represents an excellent chance for Presidents Bush and Roh to reaffirm the close ties between the United States and the Republic of Korea. The United States, like Korea, is a Pacific nation. And our alliance is as strong as the bonds which unite us: Friendship, sacrifice, and a commitment to the basic ideals of freedom, peace, and prosperity.

HIGH QUALITY FORESTRY

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SWIFT. Mr. Speaker, today, I and several of my colleagues have introduced a bill which brings a new and innovative idea to the crisis facing the northwest national forests. Simply put, the idea is to increase the length of time for harvest rotations in the three national forests of western Washington State and use more natural means of regeneration of those forests.

The Members of the Northwest have been seeking a balanced approach to the disaster facing the northwest timber industry, and the communities, families, and individuals which are dependent on the national forests. In my district, the harvest level on the national forests have fallen over the last 2 years by 90 percent. As you can imagine, this is causing serious havoc to the timber dependent communities in my district.

Mr. Gus Kuehne, the president of the Northwest Independent Forest Manufacturers [NIFM] came to me several months ago with an innovative concept—high quality forestry. NIFM, composed of small mills throughout western Washington that are principally dependent upon public lands for their log supply has been actively trying to find a solution which would protect ecosystems while permitting a reasonable timber production on the national forests. I introduced the measure today as a stand alone bill, but it is intended to be an amendment to H.R. 2463, a bill recently introduced by Representative HUCKABY. It should be read with that in mind.

This bill directs the Forest Service to amend the forest plans over the next 3 years to incorporate extended harvests of 150 to 200 years and utilize shelterwood and seed trees silvicultural techniques on the Olympic, Mount Baker/Snoqualmie and Gifford Pinchot National Forests. The current rotation for harvesting on these three national forests is between 80 and 100 years.

The benefits of this change in harvest methods include the ability of the forest to sustain wildlife that is dependent upon old growth/mature forests, a higher quality wood for local mills, more protection for streams and wildlife dependent upon free-flowing streams, a more sustainable timber supply for small timber dependent communities, and greatly reduced clearcutting. Further, it is expected that if this management strategy was implemented, much of the land mass currently withdrawn from the timber base in these forests could be returned to the timber base.

The initial reaction by forest scientists who are most familiar with the biodiversity problems facing these national forests has been positive. Further, George Leonard, the U.S. Forest Service associate chief stated after an initial review of this proposal,

> We believe that there is merit in the proposal. Managing forests on long rotations means that a greater proportion of the forest will be in mature stands at all times. Thus, the habitat for species dependent upon older forest conditions will be increased. Also, the proportion of the forest which will be harvested in any decade would be decreased so other environmental concerns, such as water quality, would be mitigated.

He concluded the use of extended rotations and reduced clearcutting as proposed by NIFM is likely to be part of the eventual resolution of this issue. The entire Washington delegation have asked the Forest Service to provide a more detailed analysis of how this proposal might work.

This bill—actually a proposed amendment to legislation currently being considered—is another idea that needs to be carefully evaluated as a supplement or alternative in some forests, to approaches that are currently before us.

THE TRUMAN LIBRARY INSTITITUTE: A PROUD TRADITION OF SCHOLARSHIP

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. WHEAT. Mr. Speaker, since its founding in 1957, the Harry S. Truman Library Institute in Independence, MO, has carried on a widely renowned program of research on the career and administration of President Truman and the history and nature of the American Presidency.

At its most recent annual meeting, on May 4, 1991, the board of directors of the institute named a new president, elected a distinguished slate of new directors, and announced plans for an exciting program of studies for the new coming year.

Today I am pleased to bring to the attention of my colleagues in the U.S. House of Representatives the election of Maj. Gen. Donald S. Dawson as the new president of the Truman Library Institute.

The selection of General Dawson, a board member since 1981, is particularly appropriate in light of his service on President Truman's White House staff from 1947 to 1953 as administrative assistant to the President. General Dawson is a Washington, DC, lawyer, a veteran of World War II, and a former president of the Reserve Officers Association.

Also elected at the May 4 meeting were six new members of the board of directors, the largest number to be selected in the 34-year history of the Truman Library Institute.

The new board members include: Donald H. Chisholm, a Kansas City lawyer and counselor to the Truman family; Robert J. Donovan, a journalist and author of a two-volume history of the Truman Presidency; Thomas F. Eagleton, U.S. Senator from Missouri from 1969 to 1986; Jonathan Kemper, president of the Commerce Bank of Kansas City; Henry J. Massman IV, president and CEO of Massman Construction Co.; and Jonathan McDonnell, president and CEO of DST Systems.

Building on the success of the institute's previous conference on the North Atlantic Treaty Organization, the board announced plans for an additional scholarly meeting on NATO, tentatively scheduled to be held in St. Louis, Missouri, in 1992. The second NATO study group will be sponsored jointly with the University of Missouri-St. Louis and the European Universities Institute of Florence, Italy.

Another important event on the institute's agenda for 1992 will be a seminar on the Truman Presidency and the news media. The seminar, to be cosponsored with the Truman Library and the National Press Foundation, will be held at the National Press Club in Washington, DC.

For more than three decades, the Truman Library Institute has played an invaluable role in expanding our understanding of the historic Truman Presidency. I am proud to extend my sincere best wishes to General Dawson and the new board members as they continue to shed new light on this critical period in our Nation's past.

INTRODUCTION OF THE CANEBERRY DISASTER RELIEF ACT OF 1991

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. KOPETSKI. Mr. Speaker, I rise along with my distinguished colleagues from Oregon, Mr. AUCOIN, Mr. WYDEN, and Mr. DEFAZIO to introduce the Caneberry Disaster Relief Act of 1991. I believe passage of this bill is important not only because of the desperate situation faced by caneberry growers in my State, but also because we must send a message to all growers and farmers in this Nation—to all of the families that put food on tables all over America—that the Congress of the United States will not stand by passively and allow them to be destroyed by the harsh and unpredictable twists of nature. This body cares about them, and we must show this with our deeds.

I now turn to the situation in my State. Mr. Speaker, the caneberry industry is crucial to Oregon's agriculture, and to the State's econ-

omy as a whole. In 1990, Oregon growers produced 62 million pounds of caneberries, including 24 million pounds of raspberries, 32 million pounds of blackberries, 4.5 million pounds of boysenberries and one million pounds of loganberries. These 10,900 acres of caneberries contribute well over $75 million to the Oregon economy. In addition, many jobs are created for training, harvesting and processing Oregon caneberries.

Mr. Speaker, the State of Oregon experienced a devastating freeze this past winter, with temperatures dipping to as low as 5 to 10 degrees above zero. Assessment of the damage to Oregon's caneberry acreage began in late March, when the canes began to leaf out, and this process is continuing. It is clear that its impact has been nothing short of disastrous. The Oregon Caneberry Commission estimates that the 1991 blackberry crop will be approximately 40 percent its normal yield, the boysenberry crop approximately 50 percent its normal yield, and the loganberry crop just one-tenth its normal yield. Last Thursday, Governor Barbara Roberts announced a state of emergency in the eight Oregon counties where damage was most severe.

As you know, it is not major corporate conglomerates who will suffer the most from the freeze. The farms involved in the caneberry industry are generally small family-owned operations with an average size of 25 acres. Many lack the resources to bounce back from such a disastrous harvest. Mr. Speaker, this is the moment of truth for these families. Without disaster relief, many will be driven out of a business in which their families have thrived for several generations.

Mr. Speaker, without aid, even those growers who do survive will continue to suffer next year—they will have little money to invest in their 1992 crop. In addition, the loss of growers and crops will affect food processors not only in Oregon, but throughout the entire Northwest.

In conclusion, Mr. Speaker, I would like to point out that while the December freeze has been described as a "once every 20 year" event—in fact, the last comparable freeze was in 1973—growers were able to get disaster relief for freeze damage as recently as 1989. Considering that this year's freeze was substantially more severe than that one, how can we fail to intervene in this case? Mr. Speaker, I don't think we can afford not to act here. I urge my colleagues to support this legislation.

HONOR AMERICA CELEBRATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LEWIS of Florida. Mr. Speaker, in 1975 the Congress approved and President Gerald Ford signed a law designating the 21 days from Flag Day to Independence Day as a period to honor America. With that in mind, I would like to submit for the RECORD the following comments and an article from the Palm Beach Daily News to encourage Members of this body and all Americans to recognize this important 21-day period as an opportunity to draw attention to all that is good about our great Nation.

Two hundred and fifteen years ago a few brave men struck a note for freedom and liberty. That note still resounds throughout the world because Americans have always been willing to defend their freedom—at any cost.

On the heels of our decisive victory over tyranny in Kuwait, our patriotic celebrations take on even greater meaning at this time this year.

May this year's celebrations be in honor of all our military veterans, past and present. Thanks to them, freedom is more than just a word.

Yes, we have much to honor and observe during this period, most importantly the birthright of personal freedom and individual liberty shared by all Americans.

Mr. Speaker, I am happy to take this opportunity to pay homage to our forefathers for giving us such a precious gift and to extend my gratitude to the millions who have preserved and protected it.

Hail the Red, White, and Blue, and happy birthday, America.

[From the Palm Beach Daily News, May 19, 1991]

"HONOR AMERICA" EVENTS PROPOSED

(By Jack Fleischer)

An open letter to President Bush and members of Congress:

Just a reminder that in 1975, Congress passed Public Law 94-33, and on June 13 of that year, President Gerald Ford signed it into law.

The law reads: "Resolved by the Senate and House of Representatives of the United States of America, that Congress declares the 21 days from Flag Day through Independence Day as a period to Honor America and further declares that there be public gatherings and activities at which the people of the United States can celebrate and honor their country in an appropriate manner."

The suggestion to set aside this special period to honor America was made to counteract the increasing anti-American demonstrations taking place at that time. The Honor America Committee, a non-profit, nonpartisan Washington-based group, headed by Bob Hope, Billy Graham and J. Willard Marriott Sr., felt that it would be helpful to remind Americans that the United States was by far the greatest of all nations despite its many faults, and while we continually strive to correct our mistakes, we must never stop honoring America.

OTHER VOICES

Since the passage of this law, this 21-day period has been observed voluntarily. Mayors and governors have issued proclamations, and there have been various types of observances, but never on an organized national basis.

On the Fourth of July of this year, our nation is planning an all-out celebration in honor of our troops who served in the Persian Gulf as well as those who served in Korea and Vietnam.

I think that it would be most appropriate this year to lead up to the Fourth by observing Public Law 94-33.

Starting on Flag Day, June 14, let us fly the American flag every day and let us wear a small flag on our clothing during the 21 days.

Let every newspaper and magazine print a small flag in each edition during this period. An inscription under the flag would read: Honor America.

When our national anthem is played, let it be introduced with the brief phrase: "And now to Honor America and our troops who served so nobly in the Persian Gulf and all wars, please rise for the playing of our national anthem".

Hopefully, television and radio stations will not cut away for commercials when the national anthem is being played before regularly scheduled sport events during the 21-day period. They are not allowed by the leagues to do this before All Star games, World Series and the Super Bowl, but it is not mandatory during the regular season.

Networks avoid picking up the national anthem whenever possible for two reasons: they claim they need the time for commercials, and they feel the audience will get tired from hearing our anthem too often.

It would not be a great sacrifice for the networks to relinquish 90 seconds to participate in this 21-day tribute, and for the benefit of the small percentage who might not care to hear our anthem too often, other patriotic songs could be substituted from time to time.

The most important thing is to remind all of us that when we rise for the playing of our national anthem or other patriotic songs, we do so to honor America.

With the support of the president and members of Congress, together with veteran and service organizations, let this 21-day celebration be one of the most meaningful in the history of our nation, and let it be the start of an annual organized observance, never forgetting that this nation, with its faults, is still the greatest in the world.

IN SUPPORT OF THE HIGH QUALITY FORESTRY ACT INTRODUCED BY REPRESENTATIVE AL SWIFT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. UNSOELD. Mr. Speaker, today we have reached a new plateau in the debate over how to manage the national forests of the Pacific Northwest. We have introduced real creativity into the solution mix.

Today, my colleague, Representative AL SWIFT, introduced the High Quality Forestry Act. The concept behind it is to find a way to blend the growing need for renewable wood fiber and timber community stability with acknowledging the need for protection of natural ecosystems to foster species diversity and forest health. I want to thank Mr. Gus Kuehne personally and publicly for developing and relentlessly pushing this novel concept. Excellent work, Gus.

High quality forestry requires trees on three national forests in Washington State, the Olympic, Mount Baker-Snoqualmie, and Gifford Pinchot, to be grown twice as long as they traditionally have been before they are again harvested. This allows the forest to develop once more into a mature forest that provides habitat for species such as the northern spotted owl, marbled murrelet, and a host of other older forest dependent creatures.

It's that simple. And it's a great idea.

While high quality forestry is not the whole answer to the many problems facing the Northwest and our forests, it is a step in the

right direction. We need to get creative. We need to be balanced. We need to get the ball rolling toward a final resolution of this gut-wrenching issue.

Mr. Speaker, I look forward to working with my colleagues to help ensure this concept is included in the final package developed by this Congress to address the crisis facing our Northwest timber communities and forests. Thank you.

STOP PLAYING POLITICAL GAMES WITH LIHEAP

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SANTORUM. Mr. Speaker, I wish to express my strong opposition to LIHEAP funding level cuts in H.R. 2707, the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992. This bill, as written, supposedly appropriates $1.6 billion for the total Low-Income Home Energy Assistance Program [LIHEAP], which is a reduction of over $10,235,000 from the fiscal year 1991 level. However, the actual reduction is much greater. And what makes this action truly disgraceful is that LIHEAP has been singled out and is a casualty of political maneuvering by this House's leadership.

From fiscal year 1991 to fiscal year 1992, the committee has changed the base funding level and what the administration has classified as the energy assistance emergency fund. For fiscal year 1992 this committee cut the regular base funding level by $600 million and consequently, increased the emergency contingency fund by $405 million over fiscal year 1991. What must be realized, however, is that these contingency funds may only be released by the President if he declares a home heating emergency. This would only occur if and when stringent conditions are met, thus bringing about the very real possibility that these funds would never be released. This would mean a reduction of LIHEAP funding of approximately $700 million from the 1991 level. Such a cut would be devastating to the millions of citizens serviced by LIHEAP around the Nation.

One of the States that would be hit the hardest by these cuts is my own, Pennsylvania, which receives almost 7 percent of total LIHEAP funding. This is the second highest allotment in the Nation. Yet, despite a growing demand for fuel assistance because of the State's weak economy, Pennsylvania's funding over the last 5 years has decreased from $140 million to $107 million.

Since the introduction of the LIHEAP Program in 1979 more and more households are now eligible for energy assistance despite increasingly stricter State income standards. However, LIHEAP funding levels, including the highest annual appropriations of $2.1 billion in fiscal year 1985 and $2.0 billion in fiscal year 1990, have fallen significantly short of the need for fuel assistance.

An estimated 24 million households in this country need some help paying utility bills. Presently, only a small portion of these consumer's total energy costs are covered by LIHEAP. For example, in 1985, the average heating and crisis benefit was $242. By 1990, the average benefit had fallen to $210 for a recipient household.

It is shameful that the leadership of this House would play political shell games with these funds, taking money from a worthy program like LIHEAP to support pet programs. H.R. 2720 will force low-income Americans to choose between basic necessities such as heat and food. Energy needs are essential to the quality of life, and cannot be separated from the necessities of education, affordable housing, health, and safety. The costs to society of not providing for these needs would be tragic.

Therefore I oppose H.R. 2707, the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992, and trust that funding levels will be restored in conference to a level which will meet the needs of thousands of my constituents. Cuts have to be made, but when they are they should be equitable and across the board, and essential programs like LIHEAP should not be singled out.

TAIWAN'S GATT MEMBERSHIP—FULLY DESERVED, YET ELUSIVE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SCHULZE. Mr. Speaker, for years, the Republic of China on Taiwan has been the success story of the developing world. Starting from ground zero in 1949 with a subsistence agricultural economy, it has step-by-step advanced into the ranks of the world's developed nations. A country with minimal natural resources, its leadership recognized early on that international trade was Taiwan's only hope for long-term prosperity. As we all know, they have become masters of the science, now ranking as the 13th largest trading nation in the world. Yet, ironically, Taiwan is not a member of the General Agreement on Tariffs and Trade [GATT], the organization which for all practical purposes sets the rules for international trade. Taiwan wants to participate in the activities of GATT, and also is willing to honor and obey its rules. In fact, for years Taiwan has voluntarily abided by GATT rules, even though it has been denied membership.

It is time for the United States to formally support Taiwan's application for membership. Its application takes into full account the sensitivities involved in our relationship with the People's Republic of China. There is no logic to denying a seat at the GATT table to Taiwan, America's sixth largest trading partner. Further, there is no logic to the Department of State's argument that the timing of Taiwan's accession to the GATT should be tied to the GATT accession of the People's Republic of China. Clearly, Taiwan was ready years ago for full-fledged membership in the GATT. On the other hand, the People's Republic of China whose repressive human rights practices and obvious disdain for fair trading rules place it in a substandard category, is not ready for nor deserving of GATT membership, and will not be for some time to come. To deny Taiwan its well-deserved seat at the GATT negotiating table solely on the grounds that mainland China has not matured to such a level as to entitle that nation to GATT membership, is totally incomprehensible.

I call the attention of my colleagues to an insightful op-ed article published in the Christian Science Monitor on March 4, 1991. The article is written by T.Y. Wang, a political science professor at Illinois State University. It examines the question of Taiwan's application to the GATT. No one can question Taiwan's qualifications to be a GATT member, yet its application has repeatedly been stalled. The world's trading nations are awaiting a sign that the Government of the United States supports Taiwan's application. I submit the article, "Taiwan's GATT Membership—Fully Deserved, Yet Elusive," for the benefit of my colleagues who may not have seen it. At the same time, I urge the administration to give its support to Taiwan's application.

[From the Christian Science Monitor, Mar. 4, 1991]

TAIWAN'S GATT MEMBERSHIP—FULLY DESERVED, YET ELUSIVE

(By T.Y. Wang)

The following are facts about Taiwan's economic achievements: Taiwan is one of the largest trading partners of the US. Taiwan is the 13th-largest trader in the world. Taiwan has the largest foreign-exchange reserves in the world ($70 billion). And Taiwan is one of the most successful "newly industrialized countries." Still, Taiwan is *not* a member of the General Agreement on Tariffs and Trade (GATT)—the world's only multilateral trade regime.

Early last year the Taiwanese government submitted an application to join GATT. The application was viewed dimly in the US for political reasons. Washington is afraid of offending the leaders of the People's Republic of China (PRC) by supporting Taiwan's application for GATT membership. Chinese officials maintain that to support Taiwan's application to join GATT is a violation of the "one China" policy. They are especially unwilling to see Taiwan receive a GATT membership before the PRC, whose application has been stalled since the brutal massacre at Tiananmen Square in June, 1989.

The Bush administration's lack of support for Taiwan should be reconsidered.

In order to sidestep the "two Chinas" issue, the Taiwan government has asked for membership in the name of the "Separate Tariff Territories of Taiwan, Penghu, Kinmen and Matsu Islands"—the names of the main islands under the Taiwan government's direct and effective control. Such an application should be seen as an honest effort to avoid "two Chinas."

Also, Taiwan's application to join GATT is legally justified. There is not doubt Taiwan has a "separate customs territory" over which the government possesses "full autonomy in the conduct of its external commercial relations." This is consistent with the legal stipulation of Article 33 of GATT's membership application.

Moreover, while Taiwan is not a GATT member, the government in Taiwan has worked hard to liberalize its economy. The national currency has appreciated by about 40 percent against the US dollar since 1987. That decreases the protection on Taiwan's export sectors. Many tariff and non-tariff

barriers on foreign goods, such as liquor, agricultural products, and banking services have recently been reduced or eliminated. While more is yet to be done, these efforts should be recognized by the international community.

Finally, Taiwan's GATT membership would be beneficial to the interests of the international community. During the past four decades, Taiwan took advantage of GATT's "special treatment" principle for developing countries and protected its market. With its economic success, many developed countries, including the US, have proposed that Taiwan should no longer enjoy the benefits from the GATT system without sharing the responsibilities. Currently, this has been carried out by bilateral negotiations. If Taiwan were to be admitted to GATT, it would have to abide by GATT regulations and the liberalization of its market would speed up.

Taiwan was a founding member of GATT in 1947. The seat was abandoned by the Nationalist party (Kuomintang or KMT), which was forced to flee to Taiwan before the Chinese Communists took over the mainland. Taiwan was later granted an observer's seat in 1965, but this status was lost in 1971 when the UN General Assembly voted to recognize the PRC as the only legitimate Chinese government. Under GATT rules, Taiwan needs a two-thirds majority to rejoin GATT. Although the US cannot singlehandedly determine the outcome, its support would carry considerable weight among other the members.

SKYWARN TRIBUTE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GILMAN. Mr. Speaker, it is with pleasure that I rise today in recognition of "Skywarn"—a very important group of volunteers who protect our lives every day.

When severe weather strikes, information on warnings, evacuation, and shelter must reach the public with great haste. "Skywarn" is a volunteer group largely responsible for these services.

After receiving a warning from the National Weather Service, Skywarn watches for the severe conditions and takes appropriate measures to protect the local population.

Mr. Speaker, I am happy to report that there are over 500 local Skywarn chapters around the United States. The importance of these groups in saving lives and property is of the utmost priority.

I would like to take this opportunity to recognize the local chapter of Skywarn from my 22d District in New York. Under the able direction of Dr. Mitchell F. Mayers, the Rockland Climatic Station in West Nyack, NY, provides invaluable protection to the citizens of my district. The only compensation received by Skywarn volunteers is the knowledge that their work saves lives each season.

It is a privilege to enter into the RECORD a list of the outstanding men and women comprising my district's Skywarn organiztion:

Dr. Mitchell F. Mayers, Art Cohen, Peter Wozniak, Mr. and Mrs. Ships, Ted Cooperman, Stacey Isaacs, Vito Vinci, Tom McKelvey, Jack Maloney, Richard Figlar, Rita Mayers, Scott Mayers, Mr. and Mrs. Arthur Paiken, Elliot Schneiderman, Michael Cecchini, Mary Carmody, Frank Schiller, Chester Mayers, Michelle Mayers, Matthew Alevy, Dr. Cary Alevy, Jonathan Mayers, Joseph Galella, Father Robert Duane, Tyler Slater, the Boyd Family, Mr. and Mrs. William Lauer, and Westley Wertheimer.

A TRIBUTE TO ARMIJO HIGH SCHOOL, FAIRFIELD, CA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor the centennial celebration of Armijo High School, located in Fairfield, CA. Prior to 1968, every person who graduated from high school in the Fairfield/Suisun area had one thing in common. At the top of their diploma read the words Armijo High School. This common factor could be traced back 74 years.

The Armijo High School District was formed in early 1891, and the first classes were held later that year. Due to the small size of the student body, a rented upstairs room at the Crystal Grammar School housed all the students. The school remained there for 2 years. But as the student population outgrew the single classroom, a permanent structure was built.

In 1893, an ornate building was constructed on Union Avenue in Fairfield. This was to be the first of three Armijo High School building sites. It was also the first to house a graduation ceremony, under the instruction of J.A. Metzler. By the turn of the century, nine grammar schools were sending their graduates to Armijo.

Due to a growing student population and an outdated heating system in the first school building, the second Armijo High School was built in 1915. This magnificent building was constructed in a neoclassic architectural style. In fact, the San Francisco World's Fair Panama-Pacific Exposition of 1915 honored Armijo's new school with a merit award of architecture. In 1929, a fire gutted the interior of the building. It was immediately rebuilt and an auditorium and gymnasium were added.

In 1952 another school was built on Washington Street in Fairfield. The students continued to travel between the two campuses until the Washington Street campus was officially dedicated on April 27, 1961. With the enactment of strict earthquake codes, the Union Avenue structure could no longer house students and was later sold to the County of Solano for $1. It now serves as the Solano County Hall of Justice.

Over the years, Armijo has seen many distinguished individuals pass through its halls. These people have been leaders in business, education, arts and entertainment, and the community. Recently, Armijo has been recognized both at the State and national level for its educational excellence. Mr. Speaker, during this centennial celebration, I know my colleagues will join me in saluting the students, faculty, and employees, past and present, who have been a part of this fine educational institution, and I hope that Armijo's second century will be as rich as the first.

DEMOCRACY IN NICARAGUA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of my colleagues the situation facing the Honorable Azucena Ferrey, the Third Vice President of the Nicaraguan National Assembly. Ms. Ferrey states that she has endured threats to her life for participating in the democratic process in Nicaragua.

Ms. Ferrey recounts that while returning from a legislative session, which discussed repealing the land seizure laws enacted by the Sandinista regime, a stranger approached her car. This stranger spoke to her by name and said if she supports repeal of this law he will kill her. Moreover, she states that she is constantly receiving threats to her safety at public gatherings and demonstrations.

This crisis must be dealt with before the Nicaraguan exiles in my south Florida congressional district feel safe enough to return to their country. This situation demonstrates the torment and anguish these brave people have to bear in order to maintain peace and prosperity in a free Nicaragua.

The Nicaraguan exile community and the entire world are watching Nicaragua to confirm the progress of democracy in that country. Ms. Ferrey and her fellow members of the Nicaraguan Congress must feel free from threats of personal harm if democrary is to successfully take root in Nicaragua. We must all continue to support the prodemocrary, prohuman rights actions in Nicaragua in this difficult time of reformation.

THE 40TH ANNIVERSARY OF GIRL SCOUT CAMP LATONKA

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. EMERSON. Mr. Speaker, for 40 years, Girl Scout Camp Latonka located on Lake Wappapello, MO, has been the summer home away from home to thousands of young women from all over southern Missouri.

The Indian word "Latonka" means "home by the water" and this home by the water has enhanced the growth and development—socially, physically, mentally, and spiritually—of Missouri Girl Scouts for almost half a century.

Yes, through the years Camp Latonka has developed into a multifaceted camp. In the summer sessions, girls are given the opportunity to participate in a wide range of activities—from swimming, sailing, skiing, canoeing, to horseback riding, hiking, and environmental projects, and, of course, no summer camp would be complete without campfires, folk songs, and the opportunity to learn to live and work together in a democratic situation. Camp Latonka provides this fellowship as well.

Mr. Speaker, I would like to salute the many hard working volunteers who over the years have helped prepare generations of outstanding leaders in southern Missouri. They have generously given their time, their talents, their energy, and, yes, in many cases, their resources, to make Camp Latonka—and the dreams of thousands of young women—a reality.

Congratulations to the Girl Scouts of southern Missouri, the wonderful volunteers of Camp Latonka, and all the young women who for 40 years have had the fantastic opportunity to benefit from the experience of the home by the water.

THE POWER OF THE SUN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. BROWN. Mr. Speaker, with the summer solstice occurring last week, now is a fitting time to think about the power of the Sun—the most potent form of energy available to us—and to realize its enormous potential in meeting our planet's needs for electricity, hot water, warmth and comfort.

Now is also a fitting time to speak about solar energy for another reason; 1991 marks the 100th anniversary of the solar energy industry in the United States—an industry that many people consider relatively new and something for the future, but in reality an industry that has been well-proven, well-used, and well-received by literally millions of people in this country since the 1800's.

It was a full 100 years ago that an inventor just down the road in Baltimore, MD, patented the first solar water heating system manufactured in the United States. Shortly after that time, the solar industry started to grow—first in my home State of California, where more than 1,600 families enjoyed solar-heated water by the turn of the century. As the industry continued to grow and more companies started to manufacture solar systems, companies moved into Florida, then to the Midwest, New England, and throughout the country.

As chairman of the Science, Space and Technology Committee, I'm well aware of the importance of the Sun as an energy resource which could replace fossil fuels. It is important that we reaffirm our country's commitment to the development of solar energy.

Consider the state of the technology's impact today. Solar water heating is currently the most common solar application in the marketplace. More than 1 million homes in the United States use solar water heaters—displacing more than 1,000 megawatts of electricity, an amount actually equal to that generated by a nuclear power plant. A national certification organization assures the quality and performance of these systems. A quarter of a million homes also have solar heating systems for their swimming pools to keep the water comfortable enough to enjoy the pool for many months each year.

Another solar technology, photovoltaics—the process of converting sunlight into electricity—has come down tenfold in costs in just the last decade, while the efficiency of solar cells has increased more than 400 percent. Solar cells, similar to the small cells that power your calculators, are used in the developing world to provide cost effective, reliable power for medical refrigerators, water pumping and irrigation, communications, lighting, and other needs where no other form of energy is available or affordable. In our own country, many utilities are looking toward photovoltaics to provide the remote power that is needed for signs and street lighting, and for line-voltage augmentation and peakpower needs. Today you are likely to find solar cells providing the power for highway road signs, cellular communications systems, lights for bus shelters and city parks, and many other areas where power is needed but is not otherwise readily available. In a number of mountainous and remote parts of the United States, there are more than 10,000 homes which are totally powered by solar electric systems.

I should also add that there are at least 300,000 homes in the United States which use passive solar features in their design and construction to put the Sun to work providing heat in the winter and using building techniques to provide shade and comfort in the summer.

Growing in use and developing in technology is the high temperature solar thermal power industry. The process of concentrating sunlight to create steam can be used to generate electricity. I am proud to tell you that the world's largest solar thermal power facility is located right in my home State of California, where a solar thermal plant is generating more than 350 megawatts of utility-grade electricity, producing 8-cents-per-kilowatt hour power to meet the needs of more than half a million residents. There are also dozens of high temperature solar systems providing industrial process heat and preheat applications for factories, prisons, hospitals, laundries, office buildings and other large facilities across the country.

So the technology has been proven in hundreds of thousands of applications, and we can confidently say that solar energy works. The prospects of using this technology are as bright as the sunshine outside today.

But there's still another reason why all that sunlight outside gives us reason to think about energy. At a time when air pollution, oilspills, global warming, acid rain and other environmental concerns take up our attention and our fears, we are reminded that solar energy is a clean, positive, and environmentally compatible alternative to fossil fuels. For example, if solar electric generation is used instead of fossil fuels, there are significant emissions reductions, even when it is compared to the cleanest fossil fuel options.

The availability of sunlight is virtually without limit. Hundreds of thousands of homeowners, businesses, utilities and others already know that the investment they make in solar energy systems is paid back by the significant energy savings they enjoy. This safe, clean reliable energy resource is the alternative for those who are concerned about our environment.

The first 100 years of the solar industry saw the development and growth of solar products and technology. I hope that the next 100 years will see even more widespread use and adoption of residential, commercial and industrial uses of solar power. For the sake of our planet, it's important to all of us.

TRIBUTE TO SOLANO COUNTY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor the many residents of Solano County for their outstanding contribution to the successful completion of Operation Desert Storm.

When Iraq's Army invaded Kuwait on August 2, 1990, the U.N. Security Council responded by imposing sanctions and a deadline for Iraq to withdraw from Kuwait. On January 17 of this year, the United States and allied forces launched an air attack to repel Iraqi troops, culminating with a large-scale ground assault on February 23. The Iraqi Army withdrew from Kuwait 3 days later, and the allied forces declared Kuwait liberated on February 27.

The spirit of cooperation and courageous service that distinguished the international effort in the Persian Gulf war was epitomized by the men and women of Solano County. Ground troops, pilots, aircraft maintenance specialists, medical and aeromedical staffs, chaplains, and countless other military personnel from Solano County made invaluable contributions to Operation Desert Storm. They, and all of the coalition forces, risked their lives to liberate Kuwait. These forces overcame numerous Scud missile attacks, the constant threat of chemical and nuclear attacks, and harsh conditions to drive the Iraqi Army out of Kuwait.

In addition to the troops, Mr. Speaker, were thousands of Federal employees who served in vital support roles in Saudi Arabia as well as here in the United States. These individuals put in long hours and extra effort in providing the logistical support required to carry out the incredible mobilization of our Armed Forces.

Solano County's veterans of previous wars, who know firsthand of the incredible demands and sacrifices of combat, were among the first in our country to come out in support of our newest veterans. Moreover, through the various veterans organizations in Solano County, they continue to provide the leadership and support that are now required to support the troops as they return home.

Other heroes of the war included family members and concerned residents who wrote countless letters to their friends and loved ones in the Persian Gulf. Elementary school classes adopted Solano County military personnel by corresponding with the troops in the gulf. Best wishes and support were also sent through free faxes, and I was pleased to have had the opportunity to send the first fax from the Solano Mall to the Persian Gulf. Solano troops received thousands of almost instantaneous messages to ease the isolation of the Saudi Arabian desert. They also received care packages filled with items to make the troops more comfortable. Such necessities as soap and deodorant were delivered along with candy, gum, cookies, beef jerky, and other food items.

American flags and yellow ribbons were flown from homes, offices, and cars throughout Solano County. Individuals wore buttons and miniature flags and organized rallies to show their support for the troops. A number of support groups were set up to help counsel family members with loved ones in the Persian Gulf.

I am sure that my colleagues will join me today in honoring Solano County's military personnel, civil servants, their families, and the rest of the Nation, who served so unselfishly and honorably during Operation Desert Storm.

HONORING THE 135TH BIRTHDAY OF NIKOLA TESLA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. NOWAK. Mr. Speaker, this year marks the 135th anniversary of the birthday of Dr. Nikola Tesla, one of the world's greatest scientists and inventors. This anniversary was brought to my attention by Mr. Nicholas Kosanovich, executive secretary-treasurer of the Tesla Memorial Society, Inc., in Lackawanna, NY, located in the 33rd District of New York, which I am privileged to represent. Dr. Tesla's 135th birthday will be noted in Niagara Falls, NY, with a Nikola Tesla Day on July 10, a tribute sponsored by the Niagara County Legislature, the Tesla Memorial Society, Inc., and the Institute of Electrical and Electronics Engineers of Western New York. Further, there will be a IV International Tesla Symposium in Belgrade, Yugoslavia, sponsored by the Serbian Academy of Arts and Sciences on September 6.

Nikola Tesla, who is often and justly hailed as the greatest inventor of the 20th century, was born on July 10, 1856, in Smiljan, Croatia, in what is now Yugoslavia. His remarkable aptitude in mathematics and in the sciences became evident when he was just a boy. At age 14, Nikola was fluent in four different languages and could solve the most complex math problems mentally.

At the age of 19, Tesla entered the Technical University at Graz in Austria to study electrical engineering. It was here at Graz that he first began to formulate the concept of an alternating current induction motor. Nikola Tesla left Graz to attend the University of Prague and to work for the telephone exchange in Budapest, where he invented the telephone repeater-amplifier.

Not for 5 years after his conception of the alternating current motor did he rationalize all the quirks in his invention through the addition of a rotating magnetic field. The way this concept came to him typified the intricate workings of this young scholar's mind. In 1882, while taking a stroll through a park reciting Faust, the answers to his queries with respect to transforming a direct current to an alternating current motor came to him "like a lightning flash." He drew a diagram in the sand, the only design that he would draw of his motor until he applied for his patent 7 years later. Storing the exact dimensions and figures in his mind for so many years illustrates what a true genius Nikola Tesla was. Further, so many of his patents were so thorough and exact that they have not been changed for almost a century.

Having a difficult time gaining acceptance of his theories in Paris and Strasbourg, Tesla emigrated to the United States in 1884, where he went to work for Thomas Edison. Differences in methodology and theories forced Tesla to leave Edison Machine Works. Specifically, Edison and Tesla differed over the best ways to generate power, either through direct or alternating current.

In 1887, the Tesla Electric Co., was formed through the financial assistance of his first set of backers; he was finally able to work on his own increasing his productivity and his output to record levels. One of Tesla's most revolutionary conceptions was the polyphase system which was chosen to generate power for the Niagara Falls Hydro-Electric Power Plant. After the world realized the incredible power that could be amassed through Tesla's system, all Edison's generating plants were converted to this much more powerful and efficient system. All of his work, including the invention of the Tesla coil and his work in the field of robotics, promoted his induction into the Hall of Fame of Great Inventors in 1976.

Nikola Tesla died at the age of 87 in New York City on January 7, 1943. Although he was virtually unknown by most of the world, he held more than 700 patents.

At this point in the RECORD, I would like to insert the proclamation New York's Gov. Mario Cuomo issued marking the 135th anniversary of Tesla's birth, a copy of which Mr. Kosanovich provided:

NIKOLA TESLA

Members and guests of the Tesla Memorial Society Inc. this year celebrates the 135th anniversary of the birth of the outstanding scientist and inventor Nikola Tesla.

Born in 1856 of Serbian parents in what is now known as Yugoslavia, Tesla was educated at the polytechnic school, Graz, and at the University of Prague. He was first employed in the Austrian government telegraph engineering department and later was engaged in electrical engineering in Budapest and Paris. Tesla came to the United States in 1884 and worked with Edison for a short time before he went into business for himself.

Working in his own laboratory, he was the first to conceive an effective method of utilizing alternating current and in 1888 patented the induction motor. Tesla invented the principle of the rotary magnetic field embodied in the apparatus used in the transmission of power from Niagara Falls. Some of his other inventions included new forms of dynamo, transformers, induction coils, condensers, arc and incandescent lamps and other electrical apparatus.

It is fitting that the people of New York participate in this tribute to one of our outstanding citizens, Nikola Tesla.

MARIO CUOMO,
Governor.

CONGRATULATIONS, NEWARK

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the fact that my hometown, Newark, NJ, was recently honored with two prestigious awards.

Earlier this month, Newark was named 1 of 10 All America Cities by the National Civic League, which honors community efforts that reflect broad-based civic involvement and initiative in solving problems. This 42d annual competition was held in San Antonio earlier this month.

Last week, the city received more good news when Newark was selected as the winner of the U.S. Conference of Mayors' 12th annual City Livability Award.

I am extremely pleased to report the success of New Jersey's largest city in winning these awards, especially in light of the fact this year Newark celebrates its 325th birthday. Newark faces many exciting changes today, such as the construction of the Gateway Center; the Legal and Communications Center; the PSE&G Building; the Newark Center which houses Seton Hall Law School; and the new home of Blue Cross. A number of older buildings have been renovated, including St. Joseph's Plaza, the old Two Guys Building, and the Gibraltar Building,

Newark has a rich cultural heritage which is reflected in such attractions as the Newark Symphony Hall, the Newark Public Library, the New Jersey Historical Society, and the Newark Museum, which was featured in Smithsonian magazine this month. I am pleased that last year Congress approved funds for the new Performing Arts Center in Newark, which will be one of the most prominent arts centers in the United States.

I commend the work of the greater Newark Chamber of Commerce and New Community Corp. who were partners in the application process and shared in the presentation made before a panel of judges. The mayor of Newark, Sharpe James, through his vision and hard work, also contributed greatly to the city's successful competition for this prestigious award.

Mr. Speaker, the honors bestowed on the city of Newark are justly deserved. Newark is working very hard to reverse current trends that work to its disadvantage. We have many businesses, large and small, that have played an active role in improving conditions and expanding opportunities within the Newark community. Churches, community-based organizations, and dedicated volunteers have pulled together to address the needs of the community and to move our city forward.

We have many outstanding educational institutions such as the Rutgers campus at Newark, the New Jersey Institute of Technology, Essex County College, the University of Medicine and Dentistry of New Jersey and Seton Hall Law School. We also have many dedicated professionals at Newark's hospitals, including St. Michael's, St. James, Beth Israel, University, United, and Columbus Hospitals.

Mr. Speaker, Newark is truly a most liveable city and an All America City which deserves recognition. I commend all who put their hearts and souls into making Newark a great place to work and live. I know my colleagues here in the U.S. House of Representatives join me in sending our congratulations to the people of Newark and best wishes for continued success.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. REED. Mr. Speaker, I rise today in opposition to the proposed 38 percent cut in the Low Income Home Energy Assistance Program [LIHEAP].

LIHEAP has proven successful in helping low-income and elderly citizens afford energy and energy-saving improvements in their homes. It is one of the only grants available to the working poor and recently unemployed families.

To the 25,000 families this program serves in Rhode Island, LIHEAP is a badly needed safety net that provides them with financial assistance in paying their utility bills.

With the proposed cuts in the LIHEAP Program, 8,000 fewer clients in Rhode Island would be served if the current benefits remained the same. In order to serve the same number of households as in 1991, their benefits would have to be reduced by one-third.

Mr. Speaker, these cuts in the LIHEAP Program are unacceptable. If the proposed cuts of almost 40 percent in the program are approved, as many as 2 million families could be cut off from energy assistance this winter.

Energy needs of low-income families and children, the disabled and the elderly living on fixed income should not be separated from affordable housing, safety, and health. The cost to society of not providing the services provided through the LIHEAP Program will be tragic.

I am pleased that Mr. NATCHER, in a colloquy during the debate today, promised to address this issue again in conference. It is my hope that funding at the fiscal year 1991 level will be restored at this time.

TRIBUTE TO MR. MARK L. STANCIL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CARDIN. Mr. Speaker, today I rise to pay tribute to Mr. Mark L. Stancil, who is retiring as director of the Maryland Rehabilitation Center after 31 years of service.

Under Mr. Stancil's leadership, the Maryland Rehabilitation Center is becoming the most renown facility of its kind in the world.

That is certainly high praise, but Mr. Stancil's care and attention to each and every one of his clients has earned the admiration of such international visitors as the paraplegic son of Deng Xiaoping, Senior Leader of the People's Republic of China, as well as Dr. Po-Yo Chang, Director-General of Public Health in China.

These are not the only examples of Mr. Stancil's work being noticed. He was honored by the Maryland Rehabilitation Association as Administrator of the Year in 1986, was presented with the Chester Troy Award for employment of the handicapped in 1986, and has been cited on numerous other occasions for his excellence in public service throughout his career.

I am proud to stand in recognition of this fine gentleman whose giving of himself has made many contributions to public service in Maryland for more than three decades.

"MR. HUMBLE" GOING STRONG AT 83

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FIELDS. Mr. Speaker, Dr. Haden Edward McKay III recently began his 22d year as mayor of my hometown, Humble, TX. "Mr. Humble," as he is called, is a truly remarkable man whose achievements are legion, whose devotion to his wife and to his community are legendary, and whose energy and determination to serve others is limitless.

The Houston Chronicle recently profiled this amazing man, pointing out that at age 83, Haden McKay continues to be devoted to his twin callings in life: Tending to the health and well-being of his patients, and tending to the health and well-being of his community.

Long before I first sought public office, I looked to Dr. McKay, as many Humble residents did, for sound advice and wise counsel on personal matters, regarding business decisions, and on political questions. I continue to rely on him for those things today.

With his wife of 50 years, Lillian, at his side, Haden McKay remains at the center of civic life in Humble. He remains dedicated to serving others, both as an experienced physician and as a trusted an public official. As the Houston Chronicle story pointed out, "[McKay] chose doctoring for the same reason he entered politics: to help people."

Mr. Speaker, there simply aren't too many men left in America today who command the trust and respect that Mayor Haden McKay commands in Humble and throughout Harris County. After his many years of service to his friends and neighbors, I hope that this remarkable and unique man recognizes the deep respect and the genuine affection which so many men and women in the Humble area feel for him.

I would like to take this opportunity to publicly thank him for all that he has done to help me over the years, to wish him and his lovely wife continued happiness and good health, and to include a copy of the recent Houston Chronicle story about him in the RECORD.

"MR. HUMBLE" GOING STRONG AT 83—MAYOR AND DOCTOR, HE STILL HAS PLENTY OF PATIENTS AND PATIENCE

(By Cindy Horswell)

They call him "Mr. Humble."

At 83, Dr. Haden McKay is a legend after more than half a century of doctoring and an unprecedented two decades as mayor of the northeast Harris County community of Humble.

McKay was unopposed in his reelection this year to his 11th consecutive two-year term in the city incorporated in 1933. He also spent 10 years as a councilman and continues to treat at least 10 patients daily in his general family practice.

Quitting work has never really entered his mind: "I think most people who retire rust. I plan to keep going as long as I'm physically and mentally able. I got too many people depending on me."

Mike Byers, president of the Greater Humble Chamber of Commerce, said McKay is admired as a "father figure" in the community, someone to go to for advice.

"He's slowed down a little, but it's amazing how he keeps up. He rarely misses any social events and patients are always coming and going from his office."

City Secretary Georgia Fields is enthusiastic about her boss: "He's phenomenal. He's never going to be old. His activities are enough to keep two secretaries busy."

Promenading through the corridors of Humble City Hall, McKay's rarely seen without a White Stetson atop his snow-white hair, a diamond spur-shaped tack in his tie, and fancy boots on his feet. Missing is his trademark cigar which he relinquished this year "for health reasons and to set an example."

"It got so a good cigar cost $3. That's expensive when you smoke as many as 10 a day," he added.

He still lives in the same limestone rock cottage a block off Main Street which he built not long after marrying his wife, Lillian, a registered nurse from the Rosenberg area who has worked tirelessly by his side, The couple celebrated their 50th anniversary this year.

His office continues to be housed next door in a clinic he built in the 1930s. Its timeworn furnishings and cases of antique medical instruments resemble something straight from a Normal Rockwell painting.

What does it take to stay the mayor and doctor of a small town for so many years? His blue eyes glint mischievously and his white moustache curves slightly upward as the ponders the question.

"It just takes 51 percent of the vote to be mayor." he drawls. "But to be doctor and Mayor takes both patients and patience."

Though he and his wife have no children, his hands have brought many of the town's voters into this world. He recently quit delivering babies after hitting the 4,000 mark.

He also gave up surgery.

Haden Edwards McKay III was cut from the same fabric as his father and grandfather, who both were doctors and carried the same name. His ancesters include Richard McKay from Maryland who fought in the Revolutionary War and left behind correspondence from George Washington, and Haden Edwards from Virginia who established one of the earliest Texas colonies around Nacogdoches in 1825.

Despite his family's early Texas heritage, McKay did not make his home in the Lone Star state until 11. He spent his early years in Bardstown, KY., where he was born in 1908—the same year Henry Ford introduced the "Model T."

"My father first heard of Humble from a cousin, James Haden Dameron, who looked over the area after leaving the military service. My father and he found a small hospital there and decided to buy it," he said.

McKay moved with his family to Humble in 1919, not long after oil gushers transformed the sleepy farm and ranch community into a boom town.

After graduating from high school, he earned his bachelor's degree from Mississippi State University and his medical degree from Chicago Medical School in 1936.

He returned to Humble to hang out his shingle along side his father's.

"I started during the Depression. An office visit cost no more than $2 then. We never billed anybody. Patients just paid what they could.

"I remember asking my father once if I shouldn't go down and get a job at a filling station," he recalled. "He told me 'No. Just take care of the people and they will take care of you'. He said if they didn't take care of me it wouldn't be because they didn't have any money, it would be because I wasn't worth a doggone."

He and his father made house calls.

"You knew more about people then because you saw them in their environment firsthand. You didn't wonder about their home life," he said.

McKay has served in top executive posts in county, state and national medical associations, including as a past president of the Texas Academy of Family Practice. He also received the Texas Medical Association Distinguished Service Award in 1979.

He chose doctoring for the same reason he entered politics to help people.

"It really wasn't politics back then. People would ask you to serve. You did it as a public service. There was no compensation or competition," said McKay, who labels himself a bipartisan conservative.

His ideas about how to run a city have changed little since he first won a council seat in 1940.

"Citizens used to call about barking dogs then and they still do," he said.

His philosophy is elementary: "Work for the greatest good for the greatest number, allow minority interests to be heard but the majority to rule."

His most prized accomplishments include helping switch Humble from a general law to a home-rule city in 1970 which greatly expanded its governing powers, improvements in roads and sewer systems, and construction of a modern city hall and police headquaters.

Next to doctoring, law enforcement comes closest to his heart. Humble only had a deputy sheriff and one constable on patrol when McKay first joined the council. Today, it has a force of 42 patrolmen and a two-story headquarters in the midst of a $500,000 expansion.

McKay totes around a two-way radio—which provides instant communication with Humble police. He checks in regularly and scans all that happens within the 10-square miles that constitutes this city of 14,000 people.

"I want to know everything that's going on. Also, I'm a certified deputy medical examiner who can sign death certificates and as mayor I can give a magistrate's warning when needed." McKay explained.

What makes the mayor's labors worthwhile?

"Look, you meet people. When you meet people, a lot turn out to be friends. What could be better than that?"

H.R. 2804, THE ELDERLY AND HANDICAPPED TRANSPORTATION IMPROVEMENT ACT OF 1991

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. MARTINEZ. Mr. Speaker, what good is the $1.3 billion our Nation spends annually on senior community centers, meals, employment opportunities, health screening and other vital services made available by the Older Americans Act of 1965 if senior citizens cannot find transportation necessary to travel to receive these services?

As chairman of the Committee on Education and Labor's Subcommittee on Human Resources, I have considered the transportation needs of our senior citizens as the Subcommittee reauthorizes the Older Americans Act this summer. But I have found that the underfunded and overprogrammed nature of the Older Americans Act precludes expansion of the small transportation program authorized by title III–B of the act. Currently, transportation services must compete with other vital Older American Act services—including in-home care, health promotion and a portion of nutrition services—for its funding. Without this funding, many seniors are unable to travel to places where important services like congregate meals are offered.

Non-profit organizations have come to the rescue of many senior citizens by offering them transportation services made possible through Urban Mass Transportation Act 16(B)(2) funding. But the growth of these services has stagnated during the last 5 years due to a $35 million funding cap in the Urban Mass Transportation Act [UMTA]. In addition, many nonprofit organizations have been turned down for 16(B)(2) funding because they are unable to pay for start-up and operational costs.

I am convinced that with a little help, Urban Mass Transportation Act 16(B)(2) funding could answer the prayers of a lot of senior citizens who lack the transportation they need to get to a community senior center or a congregate meal. For that reason, I have joined with Senator FRANK R. LAUTENBERG in introducing the "Elderly and Handicapped Transportation Improvement Act of 1991", legislation that would double the annual authorization for UMTA 16(B)(2) from $35 million to $70 million while making such funding available to nonprofit groups for the start-up and operational costs of their senior citizen transportation programs. Under my legislation, these start-up and operational funds would be targeted to nonprofit organizations who want to provide transportation programs in areas that are currently unserved. These funds will also be available to nonprofit groups that no longer have the money to provide transportation services. Finally, H.R. 2804 would require nonprofit organizations who use these funds to coordinate their services with the delivery of similar transportation services made possible by the Older Americans Act and the Rehabilitation Act.

Mr. Speaker, with every passing day, the growing population of senior citizens in our country places new burdens on the ability of programs like the Older Americans Act to deliver services. By the year 2030 one of every four Americans will be older than 60 years of age. We will be prepared for the exponential growth of this population if public policy foundations are laid today. H.R. 2804 is a step in the right direction because it will build a transportation infrastructure necessary to preserve the quality of life for many senior citizens throughout our country. I urge my colleagues to prepare for this challenge by cosponsoring H.R. 2804 the Elderly and Handicapped Transportation Improvement Act of 1991.

H.R. 2804

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elderly and Handicapped Transportation Improvement Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the population of the United States that is 60 years of age and older will increase by 32 percent within the next 20 years;

(2) the population of the United States that is 85 years of age and older will increase by 88 percent in the next 20 years;

(3) senior citizens are becoming increasingly isolated from transportation services;

(4) a majority of senior citizens view the lack of transportation as a serious problem in obtaining medical care; and

(5) nonprofit social services organizations that provide services to elderly and handicapped persons are facing increasing insurance, maintenance, and operating costs.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase the authorization of appropriations for the existing program providing mass transportation services for elderly and handicapped persons; and

(2) to provide grants and loans to nonprofit organizations and associations to be used to pay operating expenses related to new and existing mass transportation services for elderly and handicapped persons.

SEC. 3. OPERATING EXPENSES GRANTS FOR NEW AND EXISTING TRANSPORTATION PROGRAMS FOR THE ELDERLY AND HANDICAPPED.

(a) IN GENERAL.—Section 16(b) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1612(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(b)";

(3) by striking "and" at the end of subpargraph (A), as redesignated;

(4) in subparagraph (B), as redesignated—

(A) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)"; and

(B) by striking the period at the end and all that follows through the end of subsection (b), and inserting the following: "; and

"(C) to private nonprofit corporations and associations to be used by such corporations and associations for the specific purpose of paying operating expenses related to new and existing transportation services meeting the special needs of elderly and handicapped persons.

"(2) Recipients of grants or loans under paragraph (1) shall coordinate transportation services provided in accordance with this section with other local transportation services designed to meet the special needs of el-

derly and handicapped persons, including those assisted under this Act, the Older Americans Act of 1965, and the Rehabilitation Act of 1973, for the purpose of preventing duplication of such efforts.

"(3) Nothing in subparagraph (B) shall be construed to prohibit the leasing of vehicles purchased in accordance with subparagraph (B) to local public bodies or agencies for the purpose of improving transportation services designed to meet the special needs of elderly and handicapped persons.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 21(g) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617(g)) is amended by adding at the end the following:

"(3) From the funds made available under subsection (a)(2), there shall be set aside to carry out section 16(b)—

"(A) $70,000,000 for fiscal year 1992;

"(B) $75,000,000 for fiscal year 1993;

"(C) $80,000,000 for fiscal year 1994;

"(D) $85,000,000 for fiscal year 1995; and

"(E) $90,000,000 for fiscal year 1996.".

IN SALUTE OF SAN DIEGO'S LEAP WINNERS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LOWERY of California. Mr. Speaker, I rise today to commend and honor three high school graduates from the Class of 1991 from my hometown of San Diego, CA. These young men and women have demonstrated remarkable character in the face of adversity, and are the worthy recipients of the 1991 LEAP Into the Future scholarships.

Supported by private donations, this program was developed to help financially disadvantaged high school students achieve their hopes and dreams. Each of these students has a truly inspirational record of individual achievement. Despite hardship away from campus, they have managed to excel both in the classroom and in many extracurricular activities.

The 1991 LEAP scholarship recipients are: Isaac Aaron Mason of the San Diego School of Creative and Performing Acts, Eric Allan Schneider of the University of San Diego High School, and Maribeth Perna of the Academy of Our Lady of Peace.

The LEAP Into the Future Program is San Diego's way of recognizing outstanding students and encouraging the future leaders of our country. The LEAP board of directors has previously recognized nine deserving students with scholarships and hopes to open the doors of higher education for many more San Diegans in the years ahead.

Mr. Speaker, I hope you and all of our colleagues will join me in saluting these fine young Americans. We praise their accomplishments and wish them future success.

A TRIBUTE TO GOODWILL INDUSTRIES OF SOUTH FLORIDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Goodwill Industries of South Florida is an organization which helps individuals with disabilities fulfill their goals of independence and self-sufficiency. Through rehabilitation and training, Goodwill helps countless numbers of people attain dignity and lead normal, healthy lives.

The Goodwill's vocational programs started in 1986 with United Way funds and academic support from Dade County public schools. The programs help people develop self-esteem and good work habits, overcome disabilities, and acquire necessary job training.

Last year, this organization successfully rehabilitated 1,006 individuals by placing 507 in the competitive labor market, and assisting 499 to achieve other goals leading toward independence. In doing so, it created $5.8 million in new earning capacity for people with disabilities. In the past 6 years, Goodwill Industries of South Florida has won the Goodwill Industries of America national award five times for efficiency in the competitive placement of disabled people. It also received recognition for having one of the best facility-based employability development programs in the United States.

There are many people who are responsible for Goodwill's success in south Florida. The senior staff Dennis Pastrana, president; David A. Bush, director of finance; Jose Cortes, director of operations; Bridget Pallango, director of human services; and Bill G. Ray, director of community relations and development. The officers of the board include William L. Cox, chairman; William Lee Popham, vice chairman; Jayne Harris Abess, secretary; Everett E. Colby, treasurer; and James A. Ryder, chairman emeritus.

Goodwill Industries has ensured accessible and stable income and services to thousands of south Florida residents. I commend its staff's dedication and concern for people with disabilities and I am proud to bring them to the attention of my colleagues.

INTRODUCTION OF STAR SCHOOLS IMPROVEMENT ACT OF 1991

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. KILDEE. Mr. Speaker, I am introducing legislation today to amend the Star Schools Program Assistance Act. The Star Schools Assistance Act was created as part of the Hawkins-Stafford Elementary and Secondary School Improvement Act of 1988. The Star Schools Program links teachers and students by using satellite technology to provide courses that are not normally available through their local school system such as foreign languages, math, and science courses. The program allows a teacher in Kentucky to teach a course such as physics to students in Michigan, Mississippi, South Carolina, and New York simultaneously. This distance-learning technology permits students to interact with not only the teacher but with the other students being taught in the other States.

The legislation I am introducing today would provide an incentive to current star schools grantees to expand technical assistance regarding distance learning to local schools and State education departments. The legislation would also reserve funds to conduct a comprehensive independent evaluation of the program. I believe that both of these provisions are an important contribution to the Star Schools Assistance Program.

TRIBUTE TO BOB JONES

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual, Mr. Bob Jones of Cadillac, MI. Bob has diligently served as the executive director of the Cadillac Chamber of Commerce. As he retires this year from this position, I wish to take a moment to honor his work on behalf of the people of Wexford County.

For the last 26 years Mr. Jones has served faithfully as the executive director of the Cadillac Area Chamber of Commerce and is credited with accomplishing many programs that brought businesses to the Cadillac area, including over 40 industrial firms, along with organization of the US–131 Development Association.

Mr. Speaker, I know that you will join me in thanking and commending this truly exceptional individual for all of his years of service to the people of Wexford County. We all wish Mr. Jones well, and hope for his continued success in all future endeavors.

NATIONAL INVENT AMERICA! WEEK

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LOWERY of California. Mr. Speaker, it is with great pride that I rise today with six of my distinguished colleagues to introduce legislation designating the week of July 27 through August 2, 1991, as "National Invent America! Week." Invent America! is a nationwide program which encourages young inventors in kindergarten through 8th grade to develop problem-solving and advanced thinking skills by sponsoring State, regional, and national invention programs and competitions. Invent America! seeks to inspire in our youth what has always made America great: innovation, imagination, and excellence.

Stories about how America is losing its technological edge have become all too common in recent years. It is said our students now lag

far behind students in Asia and Europe in math and science and that our future as the world's greatest economic power is in jeopardy. To respond to these developments, Invent America! was launched in 1987 by Vice President Bush—who remains honorary chairman—and a nonprofit foundation enjoying generous support from good corporate citizens like Polaroid, Kmart, and Pepsi.

Invent America! invites students to create, to explore their dreams, and to improve life for themselves and their country. This simple yet brilliant program touches the lives of 15 million young people each year and recognizes the importance of nurturing curiosity and spreading the joy of discovery to every classroom in the United States.

Invent America! succeeds because it allows students to learn and have fun at the same time. This year more than 300,000 students from California and millions more nationwide have entered the competition with ideas as diverse as an assist-a-chef apron, battery-powered ski lights, disposable bibs, and a device which extracts prizes from cereal boxes with uncanny speed. Last year I was delighted when a student from my district became one of the regional finalists. Her roadside accident screen is but one shining example of the tremendous potential Invent America unleashes.

National prizes in years past have gone to a biodegradable golf tee, a braille rail that tells blind people when they have reached the top of a flight of stairs, an easy-off label which makes recycling easier, a remember clock to help Alzheimer's victims with daily needs, and a park bench which can double as a bed for a homeless person.

This summer, Invent America! will again bring its 45 regional finalists to Washington to showcase their ideas and to celebrate the 1991 competition. The highlights of Invent America! Week are the annual congressional ice cream social and the national awards ceremony announcing the nine best student inventors in America. I invite all of my colleagues to come out and meet the pioneers of tomorrow later this summer.

Mr. Speaker, Invent America! shows what our children will offer our future if properly motivated and challenged. Congressional recognition of Invent America! Week draws attention to a program that works by harnessing the boundless energy of the mind.

I urge all of my colleagues to support this resolution to further encourage the young dreamers, discoverers, and doers among us. Our future rests with them.

THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS—"FROM BENCH TO BEDSIDE: THE BIOTECHNOLOGY REVOLUTION"

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GEKAS. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS—"FROM BENCH TO BEDSIDE: THE BIOTECHNOLOGY REVOLUTION"

(Remarks by Congressman George W. Gekas)

This is the fourth briefing program that the Caucus has sponsored and I think the quality has been excellent. Our program in March on cloning the cystic fibrosis gene predicted that a gene therapy cure was soon to be achieved and since that program the NIH has announced such a procedure and we are very pleased that this dreaded disease is on the run. The Caucus now has approximately 60 members and we invite any office present here today to become a member.

Today's luncheon topic, "From Bench to Bedside: The Biotechnology Revolution," has generated much excitement and interest from the Congress, as well it should. Biotechnology is among the fastest growing enterprises in the nation and it is among the fastest growing enterprises in the nation and it is uniquely American in character. It reminds us of an era when innovations and products were sought after. This new fledgling industry has all the promise of changing our lives as much as Edison did with making electricity useful. Ben Franklin knew about it but didn't know how to heat our homes with electricity. In much the same way, cell biologists are using basic information to produce useful products.

I can't resist saying that the "genie" is out of the bottle. Recombinant DNA techniques, gene-splicing, are now a basic procedure widely available and relatively inexpensive. The potential for biotechnology to alter human affairs is clearly as great as the impact of the Industrial Revolution in the last century. The capacity for changing organisms to cure diseases and benefit society holds tremendous promise. As with any new technology, the potential for great harm is also present. I am very optimistic that we are fully aware of the dangers and that should not stop us from obtaining the wonderful benefits that will improve our health through new products. There is also great potential to improve the global food supply, particularly in hostile climates subject to killing frost or extreme heat and drought, by developing organisms more hardy and resistant to these climates. Genetic engineering may also be used to improve the quality of the environment and advance the conservation of nature.

We have with us today three scientists who are leaders in the field of biotechnology and are working to make the benefits I described readily available to everyone. Dr. Daniel Nathans from the Johns Hopkins School of Medicine in Baltimore, MD was awarded the Nobel Prize in Medicine in 1978. He is really the one who let the genie out for better or worse because his work led to the recombinant DNA revolution. This work led to the founding of biotechnology enterprises such as the Genetics Institute. I am pleased that we have the Genetics Institute co-founder, Dr. Tom Maniatis, a molecular biologist from Harvard University. He will discuss the interaction of basic science at the university level with industry. At the bedside, we have Dr. David Golde, a hematologist from the University of California, Los Angeles, to discuss the role of the clinician-scientist and the use of new products in treating human diseases. It promises to be an interesting program which will start promptly. But, before I turn it over to Dr. Nathans, I would like to say that I am very pleased with the large attendance today and in particular the presence of Representatives Bill Green, Benjamin A. Gilman, Howard Wolpe and Jim McDermott.

PRESENTATION OF DR. DANIEL NATHANS

Before starting today's discussion I want to express my thanks to Congressman Gekas, and to the other members of Congress and their staffs who are responsible for Congressional Biomedical Research Caucus, for inviting me to participate. I think these meetings are a fine opportunity for us, the scientists, to explain the significance of what we do, and I hope you find our discussions helpful in assessing the value of biomedical research to the health of the American people and to the nation's industrial strength.

I am a Professor of Molecular Biology and Genetics at the Johns Hopkins University School of Medicine and Senior Investigator of the Howard Hughes Medical Institute. In 1978 I shared the Nobel Prize in Medicine with my colleague Hamilton O. Smith and Professor Werner Arber of the University of Geneva for the application of restriction enzymes to problems of molecular genetics. I'll come back to restriction enzymes because they played an important role in the biotechnology revolution. I first want to introduce today's program by making some general observations.

We are in a golden age of the life sciences. In our lifetime the progress in understanding the basic workings of living organisms at the molecular and cellular levels has been breathtaking. As one of my colleagues described it, we have hit "rock bottom" in understanding the chemistry of genes and (in principle) how they work. The same basic principles of gene structure and readout apply to all living organisms, from microbes to humans. For all of us, DNA is the chemical substance of our genes, the main difference being the complexity and nature of the information encoded in the DNA of each organism. Our DNA has a blueprint for a human organism, a yeast's DNA has the blueprint for a yeast cell. A formidable challenge is to understand the steps from DNA to human organism and how inherited or acquired changes in DNA lead to disease.

An exciting outgrowth of the golden age of the life sciences is the biotechnology revolution, a revolution that has given rise to a new industry and is changing the face of established pharmaceutical and agricultural industries. Applied molecular biology is also having a profound effect in medicine, in understanding disease, and in devising new therapies, early diagnostic procedures, and prevention. In today's program Dr. Tom Maniatis, Dr. David Golde, and I will discuss three levels of the biotechnology revolution: 1) some of the scientific roots, 2) the translation of basis research knowledge to applied research and product development and 3) the impact of the revolution on the care of patients.

In considering the roots of the biotechnology revolution we could begin far back with the discovery of the laws of heredity in plants, the discovery of proteins and DNA and their chemical structures, the finding that DNA is the hereditary material, or the Watson-Crick model of the double helical geometry of DNA that ushered in the modern era of molecular biology in 1953. In short, there are many scientific roots of modern biotechnology simply because it is the application of the fundamental concepts and tools of molecular biology. I want to concentrate on some of the more proximate scientific developments, however, and to add a personal flavor, will focus on the discovery and use of restriction enzymes, one of the fundamental tools that sparked the biotechnology revolution.

The story of restriction enzymes illustrates very well the often unanticipated fruits of scientists' urge to understand puzzling natural phenomena. In this case the puzzle was a change in the properties of viruses when they are grown on certain strains of bacteria. After such growth they cannot grow on other strains of bacteria; they are said to be "restricted" by the other strains. After a lot of deft genetic detective work, Werner Arber in Geneva concluded that the restricting strains of bacteria had "restriction enzymes" that recognized the viral DNA as foreign and cut it to pieces. This is the bacterial equivalent of an immune defense system. While Arber's work was progressing, Hamilton Smith at Hopkins discovered an enzyme in bacteria that cut foreign DNA but not the bacteria's own DNA. He realized this fit the description of a restriction enzyme and went on to purify the enzyme and show that it cut DNA at precise sites. This meant that restriction enzymes could be used to isolate genes and to map their location in an organism's genome.

I was at that time studying a virus that causes cancer in animals, and it occurred to me that Smith's enzyme could be used to dissect that viral genome so as to identify and map its genes and regulatory elements, thereby advancing our understanding of how the virus propagates and how it causes cancer. Since that time hundreds of restriction enzymes have been discovered; each of them cuts DNA precisely, but they don't all cut at the same sites. With this set of molecular scissors it is now possible to dissect any large DNA molecule down to single gene size that can be analyzed in chemical detail, changed chemically, and recombined with viral DNA for propagation and cloning in bacteria. It is this recombinant DNA technology, devised by Herbert Boyer at the University of California and Stanley Cohen at Stanford, that opened up the genome of every living organism to detailed study. It also makes possible large-scale production of gene production—the proteins—from any gene in the entire living world.

Restriction enzymes have also been crucial to discovering disease-related genes. For example, discovery of genes or genetic loci related to cystic fibrosis, neurofibromatosis and Huntington's disease all depended on correlations between DNA restriction patterns and inheritance of a defective form of the gene. Similarly, the forensic use of DNA fingerprinting relies on differences in DNA restriction patterns between individuals. Thus what began as an obscure phenomenon in bacteria turned out to yield a key component of the biotechnology revolution.

From the viewpoint of the underlying science, what made the biotechnology revolution possible? First and foremost it was the creativity of individual scientists, each following his own interests. During the decades of the 60's and 70's, molecular genetics attracted some of the best young scientists. The field was full of promise and the opportunities were there. In the U.S., where most of the advances were made, federal support was readily available for pre- and post-doctoral training; and thanks to our system of offering promising young university scientists support for independent research, fresh and energetic minds were attracted to the field. In my own case, after graduation from medical school and an internship, I spent two years at NIH doing research and later was an NIH post-doctoral fellow in biochemistry at Rockefeller University. I received my first NIH grant in 1962 as a starting assistant professor; since then my research has been continuously supported by NIH. Can a promising student today look forward to similar opportunities? For the short term, I believe he can, but for the longer term there is a widespread feeling of uncertainty in academia that research funding will keep up with the increasing cost of research, instrumentation, and facilities.

At the present time the United States is at the forefront of biomedical research and biotechnology, due in large measure to past Congressional support for research and research training. The prospect for discoveries that have a major impact on health and on the biotechnology industry has never been as great as it is now. To maintain this momentum we must contininue to invest in the men and women who will determine the country's future in biomedicine and biotechnology.

THE MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTION ACT OF 1991 (H.R. 2773)

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PETRI. Mr. Speaker, today I am introducing legislation to keep alive hundreds of self-insured multiple employer health plans which provide needed health care benefits to thousands of employees and their dependents. These plans, typically run by business associations like the auto dealers, realtors, printers, bankers, and chambers of commerce, are defined under ERISA as "multiple employer welfare arrangements," or MEWA's. At a time when increasing access to health care is of great concern, we should be taking these needed steps to prevent the shutdown of existing viable health plans covering small businesses.

My colleagues Representatives WILLIAM F. GOODLING, STEVE GUNDERSON, RICHARD K. ARMEY, HARRIS W. FAWELL, CASS BALLENGER, SUSAN MOLINARI, BILL E. BARRETT, JOHN A. BOEHNER, SCOTT L. KLUG, FRED GRANDY, and JAMES F. SENSENBRENNER have joined me in sponsoring this bill which addresses important ERISA enforcement and health care access issues.

In short, the legislation clearly defines the role of the Department of Labor to regulate the reserve funding of those health benefit MEWA's which seek a Federal "certificate of compliance."

Since the enactment in 1983 of the ERISA Preemption Amendments sponsored by former Representatives Burton and Erlenborn, the States have had the authority to regulate MEWA's. However, it has only been in the last several years that the States have accelerated their enforcement activity in this area. The basic argument favoring MEWA legislation is that for too long the States have failed to regulate these entities in a vigorous and uniform fashion. However, in accepting their responsibility, some States have chosen to throw out the baby with the bathwater, thereby threatening the very existence of long-standing multiple employer health plans like those maintained by the rural telephone cooperative and other associations.

The choice is simply stated—should States be allowed to shut down all MEWA's as unlicensed insurers or should reasonable funding standards be applied uniformly to true employer-sponsored health plan arrangements to allow them to continue to exist, but in a sound operating fashion? The thrust of the legislation introduced today is to ensure the latter.

Specifically, the bill adds a new part 7 to title I of ERISA which allows MEWA's providing health care benefits to obtain a Federal certificate of compliance from the U.S. Department of Labor. Arrangements with certificates would be subject to uniform standards under ERISA regarding reporting, disclosure, fiduciary requirements, and new funding/reserve requirements. Health benefit MEWA's choosing not to obtain a certificate of compliance from the Department would be required to register and report to the Department and to each State in which they operate. The bill also clarifies the ability of the States to regulate any MEWA which lacks a certificate of compliance from the Department of Labor.

Mr. Speaker, I insert the bill and the section-by-section explanation in the RECORD at this point:

H.R. 2773

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiple Employer Health Benefits Protection Act of 1991".

SEC. 2. CERTIFICATION UNDER TITLE I OF ERISA OF CERTAIN MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AS EMPLOYEE WELFARE BENEFIT PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"PART 7—MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) INSURER.—The term 'insurer' has the meaning provided in section 401(b)(2)(A).

"(2) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employers, or any of the dependents of its employees, are or were covered under such arrangement during the employment of such employees.

"(3) EXCESS/STOP LOSS COVERAGE.—The term 'excess/stop loss coverage' means, in connection with a multiple employer welfare arrangement, a contract under which an insurer provides for payment with respect to claims under arrangement in excess of an amount or amounts specified in such contract.

"(4) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(5) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"SEC. 702. CERTIFIED MULTIPLE EMPLOYER WELFARE ARRANGEMENTS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS AND EXEMPT FROM CERTAIN RESTRICTIONS ON PREEMPTION.

"(a) IN GENERAL.—A multiple employer welfare arrangement which is not fully in-

sured and with respect to which there is in effect a certificate of compliance under this part or there is pending a complete application for such a certificate and the Secretary determines that provisional protection under this part is appropriate—

"(1) shall be treated for purposes of subtitle A and the preceding parts of this subtitle as an employee welfare benefit plan, irrespective of whether such arrangement is an employee welfare benefit plan, and

"(2) shall be exempt from section 514(b)(6)(A)(ii).

"(b) COVERAGE.—Subsection (a) shall apply to a multiple employer welfare arrangement only if the benefits provided thereunder consist solely of medical care described in section 607(1) (disregarding such incidental benefits as the Secretary shall specify by regulation).

"SEC. 703. CERTIFICATION REQUIREMENTS.

"(a) APPLICATION FOR CERTIFICATION.—

"(1) IN GENERAL.—A certificate of compliance may be obtained under this section only by application filed with the Secretary in such form and manner as shall be prescribed in regulations of the Secretary. Any such application shall be signed by the operating committee and the sponsor of the arrangement.

"(2) FILING FEE.—The arrangement shall pay to the Secretary at the time of filing an application under this section a filing fee in the amount of $1,000, which shall be available, to the extent provide in appropriation Acts, to the Secretary for the sole purpose of administering the certification procedures under this part.

"(3) INFORMATION INCLUDED.—An application filed under this section shall include, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) The names and addresses of the sponsor and the members of the operating committee of the arrangement.

"(B) Evidence provided by the operating committee that the bonding requirements of section 412 have been met.

"(C) A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other evidence of the benefits and coverage provided to individuals covered under the arrangement.

"(D) A copy of any agreements between the arrangement and service providers.

"(E) A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) A statement, certified by the operating committee of the arrangement and a qualified actuary—

"(I) in the case of an ongoing arrangement, that all applicable requirements of sections 706 and 707 are met, or

"(II) in the case of a newly established arrangement, that the requirements of section 707 will be met upon commencement of operations, that the requirements of paragraphs (1), (2), and (3) of section 706(a) will be met during the 1-year period commencing on the date of the commencement of operations, and that the requirements of paragraph (4) of section 706(a) will be met during the 2-year period commencing on such date.

"(ii) A complete actuarial statement certified by a qualified actuary which sets forth a description of—

"(I) the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement, and

"(II) the changes, if any, needed in the contribution rates to attain such adequacy and to meet the requirements of section 706, taking into account the expected coverage and experience of the arrangement. Such description shall include the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in subclause (I).

"(iii) A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(iv) Any other information which the Secretary provides by regulation as necessary to carry out the purposes of this part.

"(b) ISSUANCE OF CERTIFICATE.—Subject to subsection (c), the Secretary shall issue a certificate of compliance under this section to an arrangement if the following requirements have been met with respect to the arrangement:

"(1) A complete application has been filed with the Secretary in accordance with this section.

"(2) The sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 3 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce or other business group, for substantial purposes other than that of obtaining or providing medical care referred to in section 607(1), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members.

"(3) The arrangement is operated, pursuant to a trust agreement, by an operating committee which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the applicant demonstrates to the satisfaction of the Secretary that the operating committee has in effect rules of operation and financial controls, based on a 5-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the committee are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the committee if they constitute not more than 25 percent of the membership of the committee and they do not provide services to the arrangement other than on behalf of the sponsor. The committee has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(4) The written instrument referred to in section 402(a)(1)—

"(A) provides that the committee is the named fiduciary required under section 402(a)(1) and is the plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor is the plan sponsor (referred to in section 3(16)(B)),

"(C) incorporates the requirements of sections 706 and 707, and

"(D) provides that, effective upon issuance of the certificate of compliance—

"(i) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(ii) all individuals thereafter commencing coverage under the arrangement must be—

"(I) active or retired owners, officers, directors, or employees of, or partners in, participating employers, or

"(II) the beneficiaries of individuals described in subclause (I).

"(5) The Secretary is satisfied that information provided in the application is complete and accurate and such information demonstrates to the satisfaction of the Secretary that the contribution rates described in subsection (a)(3)(E)(ii) are adequate.

"(6) Such other requirements are met as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

Any such certificate issued to an arrangement by the Secretary shall not be deemed property of the arrangement and shall be subject to surrender under section 709.

"(c) TREATMENT OF PARTY SEEKING CERTIFICATE WHERE PARTY IS SUBJECT TO DISQUALIFICATION.—

"(1) IN GENERAL.—In the case of any application for issuance to a multiple employer welfare arrangement with respect to which this part applies of a certificate of compliance under this part, if the Secretary determines that the sponsor of the arrangement or any other person associated with the arrangement is subject to disqualification under paragraph (2), the Secretary may deny the issuance of such certificates to such arrangement.

"(2) DISQUALIFICATION.—A person is subject to disqualification under this paragraph if such person—

"(A) has intentionally made a material misstatement in the application for certification;

"(B) has obtained or attempted to obtain a certificate of compliance under this part through misrepresentation or fraud;

"(C) has misappropriated or converted to such person's own use, or improperly withheld, money held under a plan or any multiple employer welfare arrangement;

"(D) is prohibited (or would be prohibited if the arrangement were a plan) from serving in any capacity in connection with the arrangement under section 411,

"(E) has failed to appear without reasonable cause or excuse in response to a subpoena, examination, warrant, or any other order lawfully issued by the Secretary compelling such response,

"(F) has previously been subject to a determination under this part resulting in the denial, suspension, or revocation of a certificate of compliance under this part on similar grounds, or

"(G) has otherwise violated any provision of this title with respect to a matter which the Secretary determines of sufficient consequence to merit disqualification for purposes of this part.

"(d) FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement established and maintained by a franchisor for a franchise network consisting of its franchisees, such franchisor shall be treated as the sponsor referred to in the preceding provisions of this section, such network shall be treated as an association referred to in such provisions, and each franchise shall be treated as a member (of the association and the sponsor) referred to in such provisions, if all participating employers are such franchisees and the requirements of subsection (b)(2) with respect to a sponsor are met with respect to the network.

"SEC. 704. ADDITIONAL FILING REQUIREMENTS.

"(a) NOTICE OF MATERIAL CHANGES.—Descriptions of material changes in any information required to be submitted with the application for a certificate of compliance under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certificate of compliance.

"(b) ANNUAL REPORTS.—Under regulations of the Secretary, the annual reporting requirements of sections 103 and 104 shall apply with respect to any multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such arrangement is such a plan. The annual report required under section 103 for any plan year in the case of a multiple employer welfare arrangement shall also include information described in section 703(a)(3)(E) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(c) ENGAGEMENT OF QUALIFIED ACTUARY.—The operating committee of each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part shall engage, on behalf of all participants, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"(d) FILING CERTIFICATES OF COMPLIANCE WITH STATES.—A certificate of compliance issued to a multiple employer welfare arrangement under this part shall not be effective unless such certificate is filed with the Insurance Commissioner (or similar official) of each State in which at least 5 percent of the plan participants and beneficiaries who are covered under the arrangement are located. For purposes of this paragraph, a participant or beneficiary shall be considered to be located in the State in which a known address of such participant or beneficiary is located or in which such participant or beneficiary is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"SEC. 705. DISCLOSURE TO PARTICIPATING EMPLOYERS.

"(a) IN GENERAL.—A multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part shall issue to each participating employer—

"(1) a summary plan description,

"(2) information describing the contribution rates applicable to participating employers, and

"(3) a statement indicating—

"(A) whether or not there is in effect with respect to the arrangement a certificate of compliance under this part and, if there is in effect such a certificate, that the arrangement is (or is treated as) an employee welfare benefit plan under this title, and

"(B) that the arrangement is not a licensed insurer under the laws of any State.

"(b) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.

"SEC. 706. MAINTENANCE OF RESERVES.

"(a) IN GENERAL.—Each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part and which is not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve for unearned contributions,

"(2) a reserve for payment of claims reported and not yet paid and claims incurred but not yet reported,

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement, and

"(4) a reserve, to be held in escrow for the sole purpose of meeting obligations of the arrangement upon termination of the arrangement, in an amount not less than 10 percent of expected incurred claims and expenses for the plan year.

"(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in paragraphs (1) and (2) of subsection (a) shall not be less than an amount equal to 20 percent of expected incurred claims and expenses for the plan year.

"(c) TRANSITIONAL RULES FOR MEETING ESCROW REQUIREMENTS.—

"(1) IN GENERAL.—In the case of an arrangement which is an ongoing arrangement as of January 1, 1992, and to which a certificate of compliance is issued before 1997, the requirements of paragraph (4) of subsection (a) shall be treated as satisfied if—

"(A) as of the date of the application for certification, the requirements of such paragraph would be met if the specified percentage were substituted for '10 percent' in such paragraph (4), and

"(B) the Secretary is satisfied that the arrangement has provided, in a 5-year plan of operation commencing on the date of the issuance of the certificate of compliance, for compliance with the requirements of paragraph (4) as applied without the substitution described in subparagraph (A)) by not later than January 1, 1997.

"(2) SPECIFIED PERCENTAGE.—For purposes of paragraph (1), the 'specified percentage' is the percentage specified in connection with the year in which the certificate of compliance is issued, as provided in the following table:

"If the year in which the certificate of compliance is issued is:	The specified percentage is:
1992	5 percent.
1993	6 percent.
1994	7 percent.
1995	8 percent.
1996	9 percent.

"(d) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"SEC. 707. EXCESS/STOP LOSS COVERAGE REQUIREMENT.

"Each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part and which is not fully insured shall for each plan year establish and maintain aggregate and specific excess/stop loss coverage as follows:

"(1) The arrangement shall secure aggregate stop loss coverage providing coverage for the arrangement with an attachment point which is not greater than 125 percent of expected claims. The Secretary may by regulation define the incurred or paid basis and relevant claims periods for purposes of determining expected claims under this paragraph and provide for upward adjustments in the amounts of such percentage in specified circumstances in which the arrangement specifically provides for and maintains reserves in excess of the amounts approved under section 706.

"(2) The arrangement shall secure specific stop loss coverage with respect to covered individuals providing coverage for the arrangement with an attachment point which is not greater than 5 percent of expected claims. The Secretary may by regulation define the incurred or paid basis and relevant claims periods for purposes of determining expected claims under this paragraph and provide for adjustments in the amount of such percentage as may be necessary to carry out the purposes of this part in specified circumstances.

Any regulations prescribed by the Secretary pursuant to paragraph (1) or (2) may allow for such adjustments in the required levels of excess/stop loss coverage under this section as the qualified actuary may recommend, taking into account the specific circumstances of the arrangement. The Secretary may, in particular cases, waive any requirement of this section, or provide an alternative requirement, if the Secretary determines that such waiver or such alternative requirement is consistent with, and furthers, the purposes of this part.

"SEC. 708. CORRECTIVE ACTIONS

"(a) ACTIONS TO AVOID SUSPENSION OR REVOCATION OF CERTIFICATION.—The operating committee of each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part shall determine monthly whether the requirements of section 706 are met as of the end of the preceding month. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the

committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 706. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 706 are met.

"(b) TERMINATION.—

"(1) NOTICE OF TERMINATION.—In any case in which the operating committee of a multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part determines that there is reason to believe that the arrangement will terminate, the committee shall so inform the Secretary, shall develop a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and shall submit such plan in writing to the Secretary. Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"(2) ACTIONS REQUIRED IN CONNECTION WITH TERMINATION.—In any case in which—

"(A) the Secretary has been notified under subsection (a) of the failure of a multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part to meet the requirements of section 706 and has not been notified by the operating committee of the arrangement that corrective action has restored compliance with such requirements, and

"(B) the Secretary determines that the continuing failure to meet the requirements of section 706 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the operating committee of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require as necessary to ensure that the affairs of the arrangement will be wound up in a manner which will result in timely payment of all benefits for which the arrangement is obligated.

"SEC. 709. EXPIRATION, SUSPENSION, OR REVOCATION OF CERTIFICATION.

"(a) EXPIRATION AND RENEWAL OF CERTIFICATION.—A certificate of compliance held by a multiple employer welfare arrangement under this part shall expire 5 years after the date of its issuance. An expired certificate may be renewed by means of application for certification in accordance with section 703.

"(b) SUSPENSION OR REVOCATION OF CERTIFICATION BY SECRETARY.—The Secretary may suspend or revoke any certificate of compliance held by a multiple employer welfare arrangement under this part—

"(1) for any cause that may serve as the basis for the denial of an initial application for such a certificate under section 703, or

"(2) if the Secretary finds that—

"(A) the arrangement, or the sponsor thereof, in the transaction of business while holding such certificate, has used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence, untrustworthiness, or financial irresponsibilty,

"(B) the arragnement, or the sponsor theeof, is using such methods or practices in the conduct of its operations, so as to render its further transaction of operations hazardous or injurious to participating employers, or covered individuals,

"(C) the arrangement, or the sponsor thereof, has refused to be examined in accordance with this part or to produce its accounts, records, and files for examination in accordance with this part, or

"(D) any of the officers of the arrangement, or the sponsor thereof, has refused to give information with respect to the affairs of the arrangement or the sponsor or to perform any other legal obligation relating to such an examination when required by the Secretary in accordance with this part.

Any such suspension or revocation under this subsection shall be effective only upon a final decision of the Secretary made after notice and opportunity for a hearing is provided in accordance with section 710.

"(c) SUSPENSION OR REVOCATION OF CERTIFICATION UNDER COURT PROCEEDINGS.—A certificate of compliance held by a multiple employer welfare arrangement under this part may be suspended or revoked by a court of competent jurisdiction in an action by the Secretary brought under paragraph (2), (5) or (6) of section 502(a), except that the supension or revocation under this paragraph shall be effective only upon notification of the Secretary of such suspension or revocation.

"(d) SURRENDER OF CERTIFICATE AND NOTIFICATION OF PARTICIPATING EMPLOYERS.—Any certificate which expires, is suspended, or is revoked under this section shall be surrendered to the Secretary, and all participating employers shall be notified thereof, by such persons and in such form and manner as shall be prescribed in regulations of the Secretary, not later than 20 days after such expiration or after receipt of notice of a final decision requiring such suspension or revocation.

"(e) PUBLICATION OF EXPIRATIONS, SUSPENSIONS, AND REVOCATIONS.—The Secretary shall publish all expirations of, and all final decisions to suspend or revoke, certificates of compliance under this part.

"SEC. 710. REVIEW OF ACTIONS OF THE SECRETARY.

"(a) IN GENERAL.—Any decision by the Secretary which involves the denial of an application by a multiple employer welfare arrangement for a certificate of compliance under this part or the suspension or revocation of such a certificate shall contain a statement of the specific reason or reasons supporting the Secretary's action, including reference to the specific section or sections relevant to the determination.

"(b) DENIALS OF APPLICATIONS.—In the case of the denial of an application for a certificate of compliance under this part, the Secretary shall send a copy of the decision to the applicant by certified or registered mail at the address specified in the records of the Secretary. Such decision shall constitute the final decision of the Secretary unless the arangement, or any party that would be prejudiced by the decision, files a written appeal of the denial within 30 days after the mailing of such decision. The Secretary may affirm, modify, or reverse the initial decision. The decision on appeal shall become final upon the mailing of a copy by certified or registered mail to the arrangement or party that filed the appeal.

"(c) SUSPENSIONS OR REVOCATIONS OF CERTIFICATE.—In the case of the suspension or revocation of a certificate of compliance issued under this part, the Secretary shall send a copy of the decision to the arrangement by certified or registered mail at its address, as specified in the records of the Secretary. Upon the request of the arrangement, or any party that would be prejudiced by the suspension or revocation, filed within 15 days of the mailing of the Secretary's decision, the Secretary shall schedule a hearing on such decision by written notice, sent by certified or registered mail to the arrangement or party requesting such hearing. Such notice shall set forth—

"(1) a specific date and time for the hearing, which shall be within the 10-day period commencing 20 days after the date of the mailing of the notice, and

"(2) a specific place for the hearing, which shall be in the District of Columbia or in the State and county thereof (or parish or other similar political subdivision thereof) in which is located the arrangement's principal place of business.

The decision as affirmed or modified in such hearing shall constitute the final decision of the Secretary, unless such decision is reversed in such hearing.".

(b) AMENDMENT OF PREEMPTION RULES.—

(1) CLARIFICATION OF EXEMPTION FROM PREEMPTION.—Section 514(b)(6)(A)(ii) of such Act (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by striking "to the extent not inconsistent with the preceding sections of this title".

(2) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) For additional rules relating to the certification of certain multiple employer welfare arrangements, and exemption from subparagraph (A)(ii), see part 7.".

(c) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(5)) of a multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance issued under part 7.".

(d) CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.—Section 3(40)(B) of such Act (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "common control";

(2) in clause (iii), by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control", and by striking "and" at the end,

(3) by redesignating clause (iv) as clause (v), and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, at the time the determination under clause (i) is made, the

number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 95 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement.".

(e) ALTERNATIVE MEANS OF DISTRIBUTION OF SUMMARY PLAN DESCRIPTIONS.—Section 110 of such Act (29 U.S.C. 1030) is amended by adding at the end of the following new subsection:

"(c) The Secretary shall prescribe, as an alternative method for distributing summary plan descriptions in order to meet the requirements of section 104(b)(1) in the case of multiple employer welfare arrangements, a means of distribution of such descriptions by participating employers.".

(f) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 608 the following new items:

PART 7—MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS

"Sec. 701. Definitions.
"Sec. 702. Certified multiple employer welfare arrangements treated as employee welfare benefit plans and exempt from certain restrictions on preemption.
"Sec. 703. Certification requirements.
"Sec. 704. Additional filing requirements.
"Sec. 705. Disclosure to participating employers.
"Sec. 706. Maintenance of reserves.
"Sec. 707. Excess/stop loss coverage requirement.
"Sec. 708. Corrective actions.
"Sec. 709. Expiration, suspension, or revocation of certification.
"Sec. 710. Review of actions of the Secretary.".

SEC. 3. FILING REQUIREMENTS FOR HEALTH BENEFIT MULTIPLE EMPLOYER WELFARE ARRANGEMENTS WHICH ARE NOT FULLY INSURED AND HAVE NOT BEEN CERTIFIED UNDER PART 7.

Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1992) and no later than February 15th of each year (in the case of an arrangement in operation since the beginning of the calendar year), unless, as of the date by which such filing otherwise must be made, such arrangement provides no benefits consisting of medical care described in section 607(1), such arrangement is fully insured, there is in effect with respect to such arrangement a certificate of compliance under part 7, or there is pending a complete application for such a certificate and the Secretary determines that provisional protection under part 7 is appropriate.

"(2) Each registration statement shall—

"(A) be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation, as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) contain a certification that copies of such registration statement have been transmitted by certified mail to the Insurance Commissioner (or similar official) of each State in which the multiple employer welfare arrangement currently conducts (or is to conduct) business.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect January 1, 1992, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall issue all regulations necessary to carry out the amendments made by this Act not later than July 1, 1992.

SECTION-BY-SECTION EXPLANATION OF THE MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTION ACT OF 1991

IN GENERAL

The bill adds a new Part 7 to Title I of ERISA which allows multiple employer welfare arrangements (MEWAs) providing health care benefits to obtain a federal "certificate of compliance" from the U.S. Department of Labor. Arrangements with certificates would be subject to uniform standards under ERISA regarding reporting, disclosure, fiduciary requirements, and new funding/reserve requirements. Regulations would be promulgated by the Department of Labor in connection with these standards. Health benefits MEWAs operating under the uniform ERISA standards would be required to so notify the states in which they operate. Health benefit MEWAs choosing to obtain a certificate of compliance from the Department of Labor would be required to register and report to the Department of Labor and to each state in which they operate. The bill also clarifies the ability of the states to regulate any multiple employer welfare arrangement which lacks a certificate of compliance from the Department of Labor.

ERISA PART 7—MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS

Sec. 701. Definitions.

This section defines insurer, participating employer, excess/stop-loss coverage, qualified actuary, and the sponsor of an arrangement.

Sec. 702. Certified MEWAs Treated as ERISA Employer Welfare Benefit Plans and Exempt from Certain Restrictions on Preemption.

A self-insured health benefits MEWA obtaining a certificate of compliance under Part 7 would be treated as an employee welfare benefit plan which is exempt from the state regulation that is currently permitted under section 514(b)(6).

Sec. 703. Certification Requirements.

Subsection (a) sets forth the information required to be included in the application for a certificate of compliance. A filing fee is required to be paid at the time of the application. Among the items of information to be supplied are: the identity of the members of the MEWA's "operating committee", documents and evidence of the arrangement's governance, coverage, operations, and compliance with ongoing reserve/funding and stop-loss requirements; and a complete actuarial statement prepared by a qualified actuary on the arrangement's costs of coverage and current and projected actuarial status.

Subsection (b) sets forth additional requirements which must be met by both the sponsor and the arrangement before a certificate of compliance can be issued. The association, chamber of commerce, or similar business groups sponsoring the arrangement must meet certain thresholds of operation and be established as a permanent entity. The operating committee of the MEWA must also meet certain membership requirements and accept responsibility as the plan's "named fiduciary" under ERISA. The MEWA's written plan documents must incorporate reserve/funding and stop-loss requirements not less stringent than the ERISA minimum and must provide that all future plan participants be employees or dependents of participating employers who are members or associate members of the plan sponsor.

Subsection (c) authorizes the Secretary to deny the issuance of a certificate if the sponsor or any person associated with the arrangement is subject to "disqualification". Persons may be subject to disqualification for a variety of reasons including misrepresentation, fraud, and misappropriation of funds.

Sec. 704. Additional Filing Requirements.

Under subsection (a) MEWAs may be required to notify the Secretary of material changes in the information submitted with the application for a certificate of compliance.

Under subsection (b), the ERISA annual filing requirement is to include updated actuarial and financial information.

Subsection (c) requires each MEWA to engage a qualified actuary to report and provide information on behalf of all plan participants.

Subsection (d) requires each MEWA which is issued a certificate of compliance to file a notice with certain states in which it operates.

Sec. 705. Disclosure to Participating Employers.

This section requires MEWA's to provide prospective participating employers with information indicating their scope of coverage, rates of contribution, and self-insured status.

Sec. 706. Maintenance of Reserves.

This section requires each self-insured MEWA to establish and maintain minimum unearned contribution and unpaid claim reserves in an amount not less than 20% of expected incurred claims and expenses. Subject to certain phase-in rules, an additional reserve of up to 10% of expected incurred claims and expenses is to be held in escrow for the sole purpose of meeting plan termination obligations. A margin for error and additional reserves for any other obligations of the arrangement would be required in amounts recommended by the plan's qualified actuary.

Sec. 707. Excess/Stop-Loss Coverage Requirement.

This section requires each self-insured MEWA to establish and maintain (1) aggregate stop-loss coverage with an attachment

point not greater than 125% of expected claims (subject to upward adjustments if excess reserves are held), and (2) specific stop-loss coverage with an attachment point not greater than 5% of expected claims (subject to adjustments based on plan circumstances). In particular cases the Secretary of Labor may provide waivers or alternative means of meeting such requirements.

Sec. 708. Corrective Actions.

Under subsection (a), in order to avoid a suspension or revocation of a certificate of compliance, the operating committee of each self-insured MEWA shall regularly determine whether the reserve/funding requirements of section 706 are met. If there is reason to believe that such requirements may not be met, then the operating committee is required to obtain recommendations for corrective action from the plan's qualified actuary and report to the Secretary as to the nature and effect of the corrective actions actually taken by the committee. The Secretary is generally authorized under ERISA to enjoin any act or practice violating any provision of Title I, or to obtain other appropriate equitable relief to redress any such violation and enforce the provisions of Title I and the terms of the arrangement.

Subsection (b) requires the operating committee of a terminating MEWA to provide notice to the Secretary and submit a plan for winding up the affairs of the arrangement which will result in the timely payment of all plan obligations. The Secretary may take action to terminate an arrangement which is in violation of the reserve requirements and which can reasonably be expected to fail to pay benefits as obligated.

Sec. 709. Expiration, Suspension, or Revocation of Certification.

Subsection (a) requires a five-year renewal of each certificate of compliance.

Under subsection (b), the Secretary may suspend or revoke a certificate of compliance after a showing of cause and after compliance with the provisions of section 710 requiring notice and an opportunity for hearing.

Under subsection (c), a certificate of compliance may also be revoked pursuant to a court proceeding brought by the Secretary.

Sec. 710. Review of Action of the Secretary.

This section provides for the appeals procedure to be followed in connection with the denial, suspension, or revocation by the Secretary of a certificate of compliance. Notice and an opportunity for a hearing is required in the case of a suspension or revocation.

Sec. 2(b) of the Act.

This amends ERISA section 514(b)(6)(A)(ii) by striking the phrase "to the extent not inconsistent with the preceding sections of this title". This further clarifies the ability of the states to regulate MEWAs which do not possess a certificate of compliance under Part 7.

Sec. 2(c) of the Act.

This conforms the definition of plan sponsor to include the sponsor of a MEWA having a certificate of compliance.

Sec. 2(d) of the Act.

This provision clarifies the definition of a MEWA maintained by a single employer by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be greater than 25%. In addition, employees and dependents of a former common control member, for example in a spin-off situation, could be retained in the plan for up to one plan year without violating the common control requirement. Also, a plan would be considered a single-employer plan if less than 5% of the covered employees are employed by other affiliated employers.

Sec. 2(e) of the Act.

This provision requires the Secretary to provide MEWAs with an alternative and more workable means for distributing summary plan descriptions.

Sec. 3 of the Act. Filing Requirements for Health Benefit MEWA's which are not Fully Insured and have not been Certified Under Part 7.

This provision amends section 101 of ERISA to require certain MEWAs to file an annual registration statement with the Secretary and with each state in which they operate. The MEWA's required to report are any self-insured health benefits arrangements lacking a valid certificate of compliance under Part 7 of ERISA.

Sec. 4 of the Act. Effective Date.

The amendments made by the Act take effect January 1, 1992 except that the Secretary of Labor may issue regulations before such date.

BASIC BIOMEDICAL RESEARCH AND THE DEVELOPMENT OF DRUGS FOR THE TREATMENT OF HUMAN DISEASE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GEKAS. Mr. Speaker, I submit the following remarks by Tom Maniatis:

BASIC BIOMEDICAL RESEARCH AND THE DEVELOPMENT OF DRUGS FOR THE TREATMENT OF HUMAN DISEASE

(Remarks by Dr. Tom Maniatis)

I would like to thank Dr. Nathans and the Congressional Biomedical Research Caucus for this opportunity to speak. Like Dr. Nathans, I would like to discuss the importance of funding basic biomedical research. I will also discuss the relationship between basic research that goes on in academic labs and the development of drugs for the treatment of human diseases.

My perspective on these issues is shaped by personal experiences in academic research and my role in founding a biotechnology company. I currently teach at Harvard University and direct an NIH-funded research program. The focus of my research in this field is to understand how a single cell, the fertilized egg, develops into an adult human being. An important concept to emerge from studies of many different organisms over the last fifty years is that this development occurs by a sequential and highly specific expression of individual genes. For example, during development, muscle cells express one set of genes, while brain cells express an entirely different set of genes. Therefore, understanding how these patterns of gene expression are controlled is really fundamental to an understanding of how we all develop. The funding of studies from a broad spectrum of organisms—from bacteria to man—has led to the fascinating discovery which Dr. Nathans mentioned in his remarks. That is, the mechanisms involved in gene expression of the simplest organisms—from bacteria, to yeast, to fruit flies—are virtually identical to those involved in human development. It has therefore been possible to use these less complex, more experimentally tractable systems to discover unifying principles in gene expression. In addition, studies of gene expression in bacteria have contributed directly to the development of the powerful tools to study human biology of the sort that Dr. Nathans mentioned. These methods also make it possible to produce large amounts of specific proteins, the products of these genes.

Thus, recombinant DNA technology, which was initially developed to study fundamental questions in gene expression, has become the foundation of the biotechnology industry. Federal funding of basic biomedical research during the past 20 years has therefore provided important inroads into the treatment of human diseases, both in terms of expanding our understanding of the basic concepts of biology and by providing powerful tools to develop new products for human health care.

To illustrate these points I would like to briefly mention how my research played a role in the development of this new technology. As a postdoctoral fellow supported by an NIH fellowship, I studied gene expression in a simple virus that infects bacteria. Investigation of the inner workings of this virus by a number of laboratories in the United States and in other countries led to an incredibly detailed understanding of how the virus replicates and how its genes are expressed. This knowledge was essential to the subsequent development of recombinant DNA methods as we know them today. When I established my own laboratory at Harvard I was interested in studying the expression of human genes but this was not possible because of the enormous complexity of the human genome. At that time basic gene isolation methods had been developed by others, as Dr. Nathans mentioned. However, this technology could not be effectively applied to the isolation of specific human genes because of the large size of the human genome. To tackle this problem, my laboratory developed a method which involved packaging each human gene into an individual bacterial virus. The collection of these recombinant viruses became known as a human genomic DNA library, since this collection contained within it all the genes present in a human cell. We then used this library to isolate specific human genes to determine how they are expressed.

However, in order to accomplish this, another key technological advance was required. Specifically, it was necessary to develop a method for reintroducing the isolated gene into the cell in which it is ordinarily expressed. This objective was accomplished in collaboration with Richard Axel's lab at Columbia University. Together we showed that a gene isolated from the genomic library could be transferred into cells in a test tube and then expressed. These two methods, gene isolation and gene transfer, have not only been widely used to study gene expression but they have also been used to produce large amounts of specific proteins in cultured cells, again a fundamental method used in biotechnology.

This ability to isolate and express virtually any human gene has obvious human health care potential. The recognition of this potential in the late 1970's and early 1980's rapidly led to the establishment of several biotechnology companies. Together with Mark Ptashne, a colleague at Harvard, I participated in founding one of these companies: Genetics Institute, in Cambridge, Massachusetts. In contrast to existing pharmaceutical companies which primarily developed drugs by synthetic organic chemistry, the new biotechnology companies envisioned the use of recombinant DNA technologies to produce

protein-based drugs. Initially these companies benefited from technology transferred from university labs. However, as the companies grew they rapidly attracted outstanding scientists and these scientists not only developed and published new technology, but they also made fundamental contributions to the understanding of basic biology.

For example, the scientists at Genetics Institute have played a major role in the field of blood clotting, blood growth factors, and bone development over the past 10 years. At present I believe there is a mutually beneficial relationship between academic labs and biotechnology companies. In addition, the biotechnology companies have also developed important drugs. For example, I would like to briefly describe the development at Genetics Institute of a drug called Factor VIII. Individuals with an inherited disorder called hemophilia A are lacking a critical blood clotting factor called Factor VIII. Most of you are probably familiar with this genetic disease because of its frequent occurrence among members of royal families in Europe. Individuals with this disease can literally bleed to death from a small scratch or bruise. Hemophilia A is currently treated by injection of Factor VIII extracted from donated blood samples. Unfortunately, a large number of hemophilia A patients were infected by hepatitis or AIDS viruses present in the donated blood. Although precautions have now been taken to screen blood for the viruses, as long as blood is used as a source of Factor VIII, the possibility of contamination by these and other viruses is a serious problem. In fact, you may have read in The New York Times this morning about how the Red Cross is reorganizing its whole program to make blood contamination less likely to happen.

The two recombinant DNA methods that I mentioned, gene isolation and gene transfer, have been used to solve the contamination problem. The gene that encodes human Factor VIII was isolated from the genomic library that I described before and the Factor VIII gene was transferred into a virus-free cell that is grown in culture. Factor VIII is secreted from the cells, which are engineered for very high levels of protein production. The highly purified Factor VIII obtained in this manner is currently in the final stages of clinical trials, and approval by the Food and Drug Administration (FDA) is expected later this year. When this happens, hemophilia A patients will no longer have to be concerned about the possibility that a drug essential to their lives may carry a lethal contaminant. This is only one example of the large number of protein-based drugs that have been developed, which includes insulin, human growth hormone, interferon, a variety of blood cell factors which David Golde will discuss and, most recently, factors that stimulate bone growth and bone healing.

I've discussed only one example of how the investigation of fundamental biological problems can benefit society. None of us fascinated by the inner workings of the small bacterial virus 15 years ago could have predicted that the knowledge gained in these studies could contribute so directly to the current biological revolution. The first human gene was isolated in 1978 and less than a decade later drugs derived from these genes are being used routinely in clinical practice. The short time frame between discovery in the lab and direct application to the treatment of human diseases is clearly unprecendented in human history. None of these advances could have been made without the Federal support of basic biomedical researchers over the past 40 years. Currently there is little doubt that the United States leads the world in biomedical research and biotechnology. However, in order to sustain this leadership we must continue to support a broad spectrum of basic research. Although it is tempting to concentrate our resources on more directed research, for example, wrestling with the AIDS and cancer problems, it is important to keep in mind that the most important technical and conceptual breakthroughs in understanding these diseases often come indirectely and totally unexpectedly from basic research on other systems. The development of recombinant DNA technology provides an important case in point. Without this technology, which is based primarily on studies of gene expression in bacteria, we'd know little or nothing about the biology of the AIDS virus, and the dramatic advances of our knowledge in cancer and human genetic diseases simply would not have occurred.

It's important to note that continued funding of basic research alone is not sufficient to maintain our lead in biotechnology. We must strengthen educational programs in natural sciences at the secondary school level and provide incentives for young people to choose science as a career. The most important incentive is the assurance that research and teaching positions will be available and research funds will not dry up. Science is a difficult and demanding career that requires a great deal of commitment and sacrifice. The hours are long; the day-to-day work can often be tedious and frustrating. The rewards, however, are the exhilaration of discovery and gratification derived from making important contributions to society. However, the rewards cannot materialize if the research positions and funds are not available. Young people will simply not endure the hardships of an academic career if they feel that after years of hard work they will not be able to function in a productive research environment.

In a recent Gallup poll of academic investigators and NIH grant holders conducted by the Pharmaceutical Manufacturers Association, more than 80 percent of the respondents expressed the view that fewer American students are going into biomedical research. In addition, there is a widely perceived problem of the overall quality of American graduate students going down. In fact, at Harvard we can see that more and more of our students are from other countries, rather than from the United States. Ironically, this is occurring at a time in which the most exciting advances are being made in biology. But sadly, the brightest and best of our students are not choosing science as a careeer. Obviously, the long-term impact of this trend could be devastating to the biomedical research community in the United States. More than 90 percent of the academic leaders polled see a risk that the United States will lost its leadership in biomedical research over the next ten years, and the most serious threat is from Japan. The bottom line is, I think, that if we are going to maintain our leadership we have to strengthen science education at the primary and secondary level; we should not overemphasize targeted research at the cost of basic research; and we should actively recruit the brightest young people for careers in science and provide them with the right incentives: jobs and research support.

H.R. 2707

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LEWIS of Florida. Mr. Speaker, in voting today in favor of H.R. 2707, the Labor, Health and Human Services, and Education Appropriations bill, I do so with some serious reservations.

This appropriations bill provides vital funding for Medicaid and Medicare. Funding is also provided for many other important programs, including cancer and AIDS research, health, education, drug treatment, and job training. These programs must be provided appropriate funding so that they continue to serve the needs of our Nation. I voted to support the continued operation of these programs, but I am hopeful that the excessive funding levels in this bill will be reduced in conference.

I will work with my Senate colleagues in an attempt to reduce overall increased levels of spending. If H.R. 2707 returns to the House from conference without substantial reductions, I will be obliged to oppose the bill.

I also oppose the bill's provision that prohibits the use of funds to enforce or implement HHS regulations that prohibit federally funded family planning clinics from providing information to clients about abortion.

H.R. 2707 is not the mechanism in which to attempt to overturn the Supreme Court decision in Rust versus Sullivan. Quite frankly, I find it irresponsible that the Democratic leadership would entangle these initiatives through debate on an issue which clearly merits discussion on its own standing.

I have in the past and will continue to support the title X family planning program which provides critical resources for education and counseling programs that include prenatal care, maternal care, child care, and family planning programs. The program was never intended to provide abortion as an option for an unintended pregnancy.

The Supreme Court ruling in Rust versus Sullivan simply enforces existing regulations—section 59.9—that prohibit title X projects from encouraging, promoting, or advocating abortion as a method of family planning.

As my voting record clearly indicates, I do not support spending Federal tax dollars to pay for abortion under any circumstance. Consequently, I do not support the promotion of abortion as an option for an unintended pregnancy under the federally funded title X family planning program.

In my opinion the attempt to overturn this ruling would seriously damage the intent of the family planning program to support preventive family planning services.

A SALUTE TO VICTORIA McKINNEY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. DYMALLY. Mr. Speaker, I would like to salute Victoria McKinney, a distinguished citi-

zen from Carson, CA, who was honored recently as one of the two 53d Assembly District's Democrats of the Year.

Only two Democrats are chosen for this distinction each year. Victoria has earned this honor by her hard work, perseverance, and loyalty. A longtime activist in South Bay politics, Victoria is a member of the 53d Assembly Democratic State Central Committee, State chairperson of the California Democratic Council African-American Caucus, a member of the Carson/Compton Martin Luther King Democratic Club, and other political affiliations.

Victoria has demonstrated a concern for issues which affect her fellow African-Americans as well as a strong dedication to community service. Despite a full schedule of political as well as domestic duties—she is the mother of two—Victoria has found time to earn a masters degree in behavioral science from California State University at Dominguez Hills. Presently, she is pursuing a doctorate degree from the University of Southern California.

In my district, we are extremely appreciative of the contributions and sacrifices made by Victoria to our community. The Carson community is much better off because of her 20-year involvement. These are among her community affiliations: Chair, NAACP Political Action Committee, Carson/Torrance Branch; Young Women for Good Government; California Women in Government; Association of Black Social Workers; Association of Black Psychologists; Black Women's Forum; Carson Concerned Citizens; Del Amo Homeowners Association; American Tennis Association, Carson Mall Advisory Committee, and Carson Players Theatrical and Cultural Group.

It is my belief that Victoria will continue her public service and in so doing will further distinguish herself and better the community in which she lives. Because my staff and I have worked with her in the past, I am doubly proud of her accomplishments. Understanding her sacrifices, I join friends and the community in saluting Victoria McKinney.

HOST DEFENSE: THE NEW MEDICAL FRONTIER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GEKAS. Mr. Speaker, I submit the following remarks by David W Golde, M.D.:

HOST DEFENSE: THE NEW MEDICAL FRONTIER

(Remarks by David W. Golde, M.D.)

I would like to begin by thanking Congressman Gekas for the opportunity to discuss with you the enormous advances that have been made in the treatment of human disease as a direct result of the application of recombinant DNA technology and the biotechnology revolution. As you have heard, recombinant DNA technology allows for the isolation of human genes encoding specific proteins and the subsequent production of these proteins in quantity using bacterial, yeast, or mammalian cell structures containing the cloned human gene. This technology has been especially useful for the isolation and production of hormones that are produced normally in the body in minute quantities. Also, genetic engineering is being used to tailor-make monoclonal antibodies, to develop vaccines such as those against hepatitis, and to produce proteins important in blood coagulation. Ultimately, genes can be inserted into human cells in gene therapy strategies to correct genetic abnormalities or to provide normal cells with valuable new properties. While the applications of modern biotechnology to human therapeutics are becoming obvious for disease states requiring replacement of endocrine hormones, clotting proteins, or enzymes. I would like to focus on an area of biotechnology that I believe will change medical treatment in a very profound manner. I am speaking now of drugs produced by recombinant technology that have the capability of enhancing host defense—that is, the ability of the individual to defend himself against a hostile microbial environment as well as against internal threats such as cancer.

I am a physician scientist who has followed a rather traditional academic career for over 20 years in the University of California System. My entire career has been supported by the NIH and without that support I would not be here today speaking on this subject. What is a physician-scientist? A physician scientist is an academician, a teacher who practices medicine usually in a specialty area and also conducts biomedical research that may be at a basic level but is directed at clinically relevant problems. The advantage of being both a practicing physician and a scientist is the insight and motivation that result from seeing patients. The physician-scientist has the opportunity to directly ascertain the important questions that need to be asked about human disease—ultimately with an emphasis on therapeutics. When I finished my internship at the University of California in San Francisco (UCSF), I came to the NIH in Bethesda, Maryland, and from my studies in the Clinical Pathology Department, I became enthusiastic about blood cells, how they are made, what they do, and what goes wrong in disease states. Seeing patients with various types of Leukemia, particularly young children with acute Leukemia, intensified my desire to investigate blood disorders.

Upon returning to UCSF I decided to focus my research on the study of how these blood cells are produced and how ultimately we can affect their control in the manner that will impact favorably on patients' care. I did not know in the early 1970's, that I would be part of a revolution that would change medicine. When I joined the University of California faculty some 20 years ago I was a trained hematologist and oncologist, with my main interest being in the area of blood-related cancers, primarily leukemia. In those days, physician-scientists such as myself had quite categorical interests with regard to studies of specific disease states in the laboratory and the clinic. One of the major contributions of the biotechnology revolution has been the joining of clinicians and scientists of widely disparate interests and capabilities in the common goal of understanding the pathophysiologic basis of disease states and in developing new and effective therapeutic approaches. Thus, Ph.D.'s who previously worked only in model systems such as the fruit fly or the slime mold now are comfortable and very effective working with human tissues and using human disease models. My lifetime interest has been the study of the production and function of the blood cells; yet when I initiated my research career few had even conceived of the possibility of controlling the production and function of the blood cells. I began studying the growth and development of bone marrow cells in culture. The culture systems allowed for the identification of certain proteins, referred to as colony-stimulating factors (CSFs) which regulate the development of blood cells from the bone marrow. Within the last 8 years these CSFs were purified and molecularly cloned as a result of the cooperative enterprise of academia and the biotechnology industry. The CSFs allow us to do what was almost inconceivable two decades ago, that is, control the production and function of the blood cells.

In Leviticus, the Bible states that "the life of the flesh is in the blood." This statement is literally true in that each type of blood cell is required for life. Erythrocytes, (red blood cells) carry oxygen to the tissues and therefore defend against lack of oxygen, (hypoxia). The white blood cells defend the body from microbial pathogens and tumors, and the platelets defends against bleeding caused by trauma. The lymphocytes are a class of white blood cells that are primarily concerned with immunity the B lymphocytes produce immunoglobulins antibodies, and the T lymphocytes are concerned with recognition of foreign antigens as well as killing tumor cells, foreign tissue cells, and certain virus-infected cells. Since we now have isolated hormones that control the production of such cells as well as the technology for producing safe vaccines and generating specific antibodies in the test tube, we are finally gaining control of the fundamental elements of host defense. What does this mean for medicine? It implies that we have a whole new sphere of therapeutic interventions that regulate normal body processes leading to an enhanced state of defense against disease.

Humans have a highly developed, complex system of defenses to protect them against invasion by microorganisms. These defenses include barriers such as the skin and the mucous membranes and dynamic elements such as the hairlike structures or cilia in the tracheobroncheal tree that push unwanted particles out of the respiratory tract. Standing alone, however, these systems are not sufficient to prevent the entry of disease-causing organisms. Rather, the host's main line of defense necessarily involves the immune system and white blood cells produced in the bone marrow.

The introduction of immunization was one of the major advances in the history of medicine. Edward Jenner (1749–1823) found that milkmaids exposed to the virus causing pox in cows became resistant to human smallpox. Thus it was discovered that the host immune system could be specifically activated to combat disease-causing viruses if the host had previously been exposed to either a killed or attenuated form of the virus. This same principle has held to establish immunity against toxins, such as the toxins produced by tetanus-causing bacteria (lockjaw), and immunity toward certain bacteria can be heightened by injection of parts of the organism's outer coat. The host produces antibodies (circulating proteins that bind specifically to components of a microorganism), and also develops a cell-mediated immunity (recognition and killing by white blood cells).

While vaccination and immunization have had a major impact on heightening defenses of the individual host to specific disease-causing organisms, no treatment had been available that would make the host a better "defender" against microbial attack in gen-

eral. For example, until the introduction of antibiotics, therapy against tuberculosis was largely relegated to the sanatorium. Throughout history, tuberculosis (consumption) has been a disease of the economically disadvantaged, mainly because of unhealthful living conditions and inadequate nutrition. Thus, individuals with tuberculosis living in a relatively more exposure-prone location such as New York City might be sent to a sanatorium in Colorado, where they would rest, eat a healthful diet, sun themselves, and breathe clean mountain air. In many instances this was sufficient to allow the individuals' own host defense mechanisms to contain the tuberculosis bacillus.

As you have heard, the last decade has seen enormous progress in the field of recombinant DNA technology and we have successfully isolated genes for those hormones that control white blood cell production and function. These hormones are referred to as colony-stimulating factors (CSFs) and interleukins and they stimulate the production of white blood cells from bone marrow precursors. Now, the genes for at least 12 of the CSFs and interleukins have been cloned. Erythroprotein, GM-CSF, and G-CSF are FDA-approved drugs produced by recombinant DNA technology which allow physicians today to regulate the number of circulating white and red blood cells. The CSFs will be used to ameliorate bone marrow toxicity resulting from cancer chemotherapy, increase host defense against infections in persons with acquired immunodeficiency syndrome (AIDS), and improve the host defense capability of the elderly, diabetics, victims of burns, and patients undergoing complicated operative procedures. Our newfound ability to marshal the body's host defense cells will lead us to a new era in the treatment and prevention of human disease much as the introduction of vaccination and antibiotics did in the past.

The clinical use of erythroprotein, which can only be produced in therapeutic quantities by recombinant technology, has enhanced the quality of life of thousands of patients with kidney disease and promises to decrease the need for blood transfusion over a wide range of indications. Erythropoietin, being the normal hormone regulating red cell production, is nontoxic and leads to a stimulation of red cell production that can be as much as 10 times normal. Thus erythroprotein will be useful in patients undergoing elective surgical procedures as well as in reducing the need for transfused blood in emergency cases. It is also effective in stimulating red cell production in cancer patients and in AIDS.

The colony-stimulating factors (CSFs) have already proved their utility in situations as diverse as chemotherapy of cancer, bone marrow transplantation, and acquired immunodeficiency syndrome (AIDS). An example of the therapeutic power of some of these agents is an experience we had with a faulty member at UCLA who had hairy-cell leukemia with a marked diminution in circulating normal white blood cells. He developed an infection of the blood stream (septicemia) that did not respond to antibiotics and his blood pressure was falling as he developed septic shock, a normally fatal situation under these conditions. We were able to give him G-CSF as an experimental agent and dramatically his white blood cell count rose, his fever came down, and his blood pressure returned to normal as his body was now able to fight off the infection in conjunction with the antibiotics. There is no question in my mind that the G-CSF saved his life at that juncture and allowed us to give subsequent therapy which has controlled his leukemia. The specific therapy for his leukemia was alpha interferon, another important product of biotechnology. Human interferon produced in bacteria by genetic engineering is a natural antiviral protein and important part of the host defense mechanism that has been found to have marked therapeutic efficacy in hairy-cell leukemia. The professor has been back to work for several years and his disease is well under control. Interferon is now widely used in treating chronic myelogenous leukemia, viral hepatitis, and various solid tumors such as kidney cancer and Kaposi's sarcoma associated with AIDS.

Advances in biotechnology will not only permit enhancement of host defense but also novel means of immunosuppression to allow engraftment of organs as well as techniques for interfering with inappropriate immune responses such as those that occur in autoimmunity leading to inflammatory conditions such as rheumatoid arthritis and systemic lupus erythematosis. In short, the modern tools of biotechnology have permitted the opening therapeutic avenues not even conceived of a decade ago. These therapeutic advances will help us to contain catastrophic disease processes and hopefully to prevent them by allowing individuals a greater range of protection against harmful environmental influences.

I hope I have communicated the profound impact the technology revolution will have on medical therapeutics as well as the need to continue this line of development. Looking back, however, it is instructive to analyze the preeminence of the United States in the development of products of modern biotechnology. My belief is that the U.S. leadership stems directly from the major investment made by Government in the biomedical sciences over the last several decades. I believe this investment has and will continue to pay huge dividends not only in the amelioration of human suffering but also in the economic development of our nation. At the core of our leadership in this area lies the support our Government has given to creative and entrepreneurial biomedical research as well as the ability to transfer technology from the public to the private sector for ultimate commercial development and widespread application.

What can Congress do to support and nurture the biotechnology revolution that will increase the quality of medical care, decrease costs, maintain our competitive advantage worldwide, and help our economy?

Support the National Institutes of Health. This is the main source of funding for our biomedical scientists in training and in academia. The NIH is probably the main reason we have the best biomedical research in the world.

Support the biotechnology enterprise. Eliminate unnecessary regulatory restraints and remove obstacles to research such as restriction on the use of fetal tissue.

Enact legislation to stop the avalanche of frivolous and reckless malpractice and liability lawsuits. Eliminate contingency fees and instead provide legal assistance to guarantee appropriate representation of the economically disadvantaged.

Strengthen the FDA to enable it to deal effectively with the new products of biotechnology.

Enact legislation defining guidelines for the use of human tissues in research. If scientists are to study human disease they must use human tissue and not be subject to the burden of potential legal liability. The use of human tissue in research is critical and greatly reduces the need for animal experimentation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 27, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 28

9:00 a.m.
Joint Economic
To hold hearings on the allocation of resources in the Soviet Union and China.
SD-628

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1324, to revise the Public Health Service Act to generate accurate data necessary for maintenance of food safety and public health standards, and to protect employees who report food safety violations.
SD-430

JULY 8

3:30 p.m.
Armed Services
Defense Industry and Technology Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

JULY 9

8:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold oversight hearings on implementation of the research title of the 1990 farm bill (P.L. 101-624).
SR-332

Armed Services
Readiness, Sustainability and Support Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-232A

9:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, and other proposed legislation authorizing funds for clean water programs, focusing on effluent guidelines, pretreatment and water quality standards.
SD-406

11:00 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

2:00 p.m.
Select on Indian Affairs
Business meeting, to markup S. 668, to authorize consolidated grants to Indian tribes to regulate environmental grants to Indian tribes to regulate environmental quality on Indian reservations; to be followed by an oversight hearing on the Navajo-Hopi relocation program.
SR-485

2:15 p.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-232A

4:15 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

JULY 10

9:00 a.m.
Armed Services
Business meeting, to mark up S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.
SR-253

Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on implementation of section 404 of the Clean Water Act (P.L. 100-4), providing for a Federal wetland protection program.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR-253

JULY 11

9:00 a.m.
Armed Services
Business meeting, to continue to mark up S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on employment on Indian reservations.
SR-485

JULY 15

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the Department of Energy's role in math and science education.
SD-366

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.
SD-342

JULY 17

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.
SR-485

JULY 18

2:30 p.m.
Energy and Natural Resources
To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.
SD-366

JULY 19

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

JULY 23

9:30 a.m.
Rules and Administration
To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.
SR-301

2:00 p.m.
Energy and Natural Resources
To hold hearings on Senate Joint Resolutions 22 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.
SD-366

JULY 24

9:30 a.m.
Joint Printing
To resume hearings to examine the technological future of the Government Printing Office.
B-318 Rayburn Building

JULY 25

9:30 a.m.
Rules and Administration
To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.
SR-301

10:30 a.m.
Rules and Administration
To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.
SR-301

JULY 30

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.
SD-366