

SENATE—Tuesday, October 22, 1991

(Legislative day of Thursday, September 19, 1991)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:
*Righteousness exalteth a nation * * * sin is a reproach to any people.—Proverbs 14:34.*

Sometimes the mirror of God's truth helps us see ourselves in the light of that truth, and we do not like what we see. Somehow this happened during the Judge Thomas/Professor Hill hearings watched by multiplied millions. Their revulsion, their cynicism, their criticism aimed at the Judiciary Committee and the Senate are reflections of the social deterioration of our Nation. We are an addictive society—addicted to power, pleasure, money, comfort, drugs, sex, instant gratification. We don't like ourselves and what we are, so we must blame someone. And public figures are easy targets for our dissatisfaction with ourselves.

Forgive us, Lord, in this time of cultural disintegration and blindness to our condition, our preoccupation with materialism, our surrender to secularism, and our indifference to ethical values—our propensity for fabricating, stereotyping, and scapegoating.

God of all wisdom, help us face these realities. Take off our masks, our blinders, and help us acknowledge our moral bankruptcy. Give us grace to repent of our godlessness and open our hearts to a fresh visitation of the Holy Spirit upon us.

In the name of the holiness of the Father, the Son, and the Holy Spirit. 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 22, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a

Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time reserved for the two leaders, there will be a period for morning business, not to extend beyond 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

From 12:30 p.m. until 2:15 p.m., the Senate will stand in recess in order to accommodate the party conferences.

Upon reconvening at 2:15 p.m. this afternoon, the Senate will resume consideration of S. 596, the Federal Facilities Compliance Act, with that measure now governed by a unanimous-consent agreement limiting amendments remaining in order to the bill.

It is my hope that the Senate will be able to act expeditiously on those amendments which do remain in order to the bill and that we will be able to pass that bill this afternoon.

Last Thursday, a cloture motion was filed on the motion to proceed to the civil rights bill. The vote on that cloture motion will occur at a time to be determined by the majority leader, following consultation with the Republican leader. I have discussed the matter briefly with the Republican leader and expressed my hope that we will be able to have that cloture vote today, following disposition of the Federal Facilities Compliance Act.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve all of the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader, and I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business for not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak

therein for not to exceed 10 minutes each.

Who seeks recognition?

Mr. GORE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Tennessee [Mr. GORE].

Mr. GORE, Mr. President, I ask unanimous consent that I be allowed to speak for up to 20 minutes and at the conclusion of my remarks it be in order to recognize the Senator from Vermont.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Tennessee is recognized for up to 20 minutes.

TAX RELIEF FOR MIDDLE-INCOME FAMILIES

Mr. GORE. Mr. President, we are now 16 months into a recession. Some say we have entered the recovery stage, but most Americans have found it impossible to distinguish between the recession and the recovery. Finally, 16 months later, President Bush is at long last beginning to recognize what Americans on Main Street have known since this recession began; that is, something has to be done. The President has no plan, no proposal, no ideas to advance, nothing except politics.

What is new is in the last few days we have seen evidence that a whiff of political panic has hit the White House. New public opinion polls make it abundantly clear that the American people have reached the conclusion that indeed this President does have nothing to offer.

He has plenty of ideas where foreign policy is concerned. I have differed with him on some of those ideas. But he has at least paid attention to the challenges facing this country in the international arena. He has not paid attention to the problems facing Americans here at home.

Some people say, OK, that is political rhetoric from Democrats. Mr. President, it is a fact that people in this country are hurting economically. A lot of Americans are wondering when they go to the mail box whether or not they are going to have to worry about some pink slip. They are worried whether or not they are going to have some bill that is going to bust their bank account. That is not rhetoric; that is reality. And they also remember from times past that once upon a time Presidents of the United States of America stepped forward to offer lead-

ership to get our Nation's economy moving again and to help the people of this country make ends meet.

When is this President going to offer anything remotely resembling that kind of leadership? Look at health care. Polls indicate that is the No. 1 concern immediately facing many families. A lot of our colleagues here, especially on the Democratic side of the aisle, have put forward some imaginative proposals. I am listening for the President to say word one about health care. I am waiting for the first proposal from the White House on health care. Where is it? He has none. He has no plan for this country whatsoever.

Oh, wait a minute. He does have one proposal. Another tax cut for the wealthiest 1 percent of Americans. We have tried that one all right, and look at where it has gotten us. In the worst recession since Herbert Hoover's times, since the Great Depression, coupled with astronomical budget deficits far beyond the worst nightmares of any financial analyst who would have dared to speculate on these kinds of circumstances only a few short years ago.

I believe it is time for action. I believe it is time for us to put forward here in the U.S. Senate and in the other body proposals that will get this economy moving again. It is past that time, in fact.

Seven months ago I joined with Congressman TOM DOWNEY in the other body to put forward the Gore-Downey proposal for middle-income tax relief, tax cuts for American families who need it for a change. In a budget-neutral proposal we explained how to get the money in the hands of those families with children who were having the most trouble making ends meet. It provoked a lot of discussion. Many have now begun to support this basic proposal. I believe that we can see a time not long from now when a measure similar to the Gore-Downey proposal can pass both here in the Senate and in the other body.

In that connection, let me speak very favorably this morning about a proposal offered over the weekend by my colleague the senior Senator from Texas, and chairman of the Senate Finance Committee, Senator LLOYD BENTSEN.

And in the process I want to again urge my colleagues to finally and decisively help to relieve the financial pressures squeezing America's middle-income families. I believe that Senator BENTSEN deserves tremendous credit for raising the volume on this issue and for putting forth a proposal that deserves and will get the most serious consideration of every Member of this body and the other body, both Democratic and Republican.

In the legislation that I introduced earlier this year with Congressman DOWNEY, which I referred to a moment ago, we offered an idea that is also con-

tained in this innovative, new proposal from Senator BENTSEN: real tax relief for middle-income families with children. And I look forward to working with Senator BENTSEN, with the Finance Committee, and with all of my colleagues here to move this idea forward.

We are talking about putting money back in the empty pockets of middle-income families in America, while President Bush is talking about giving more money to those who already have plenty.

We are talking about helping hard-working families who are having a tough time paying their bills and supporting their children, while President Bush is talking about giving more to those who already have more.

We are talking about reversing a trend that has stuck middle-income families with the tab, while President Bush is talking about continuing that trend, worsening it, giving a free ride to those who have already skipped out on their fair share of America's bill.

For middle-income families with children, making ends meet is a monthly, or weekly, or even daily ritual that has become far more difficult and more painful over time. The mortgage is due, the doctor's bill is unpaid, the day care center is raising its rates, the grocer will not accept credit, college tuition is going up and the kids need shoes. For too many American families, paychecks—even two paychecks from two full-time jobs—will not stretch far enough in today's economy. Keeping up is hard. Getting ahead, for too many, is out of the question.

These families do not need Washington economists to tell them times are tough—and getting tougher. They are living it every single day. Every time they have to choose between health care or child care. Every time they shuffle the bills, leaving some of them unpaid. Every time they nervously check for that pink slip and worry about losing their job. Every time they reach into their pocketbooks and find there is more disappointment than money.

The numbers tell their story. A recent study by Citizens for Tax Justice provides a stark but not surprising picture. It tells us what we already know: working poor and middle-income families—60 percent of Americans—have less after-tax income today than in 1977. For those with an average income of about \$32,000, since 1977, there has been a nearly 10-percent loss in after-tax income. Meanwhile, those with an average income of more than \$600,000 saw their after-tax income increase by 136 percent.

Those are the ones who President Bush says need relief now. He looks at the group making over \$600,000 a year who have seen their after-tax income

skyrocket 136 percent and he says those are the people who need relief in today's economy. He looks at those who are unemployed and he gets the bill from Congress saying, "Look, they have paid into this unemployment compensation fund; it is waiting there for a rainy day; they need unemployment compensation benefits," and President Bush says "no," and he vetoes the bill even though the money is there.

I do not quite understand where he is coming from, Mr. President. Those who have been doing extremely well, in spite of the recession, are the ones he wants to help. Those who are bearing the heaviest burdens—unemployment, unpaid health bills and all the rest—are the ones he refuses to help.

Rhetoric. It is reality for American families. Where is the leadership?

You know, a lot of people have now begun to think: "We just don't have what it takes to solve our problems in this country." I do not believe that and deep down the American people do not believe that. But if we are going to solve our problems, we need leadership from the President of the United States, not favoritism for the powerful and wealthy wrapped up in a political package that pretends to be responsible policy.

That is what we are getting. The American people are catching on to it. That is why we are getting this panic beginning to build in the White House.

And now with Senator BENTSEN's proposal and with the ideas that have been advanced on middle-income tax relief, we are on the threshold of having a responsible alternative here in the Congress that will do what the President has been unwilling to do. He says "no" to unemployed workers. He says "no" to any effort to control skyrocketing health care costs. He says "no" to real tax cuts for middle-income families who need them.

If President Bush is unwilling to step up to the plate, and go to bat for middle-income families, it is time we did. Let him sit in the skyboxes and relax. We will take the field and we will go to bat for those who need help. The choices are clear. Do we give something back to middle-income families with children or do we let those who already have it get more?

Mr. President, there are differences between Senator BENTSEN's bill and the Gore-Downey proposal. I will elaborate on them for the RECORD. The Gore-Downey proposal would provide an \$800 tax credit for each child, for some taxpayers, more than doubling the value of the existing personal exemption, for all families, offering significant tax cuts. And, for working poor families, the Gore-Downey proposal offers a refundable tax credit and an incentive to keep working through an expansion of the earned income tax credit. These are important provisions.

The refundable nature of the tax credit is one that I want to emphasize. And in the dialog which is now beginning in earnest, I want to urge that feature of the Gore-Downey proposal on my colleagues who now clearly anticipate that there will be a bill on middle-income tax relief. I also want to urge an expansion of the earned income tax credit.

In the course of the debate on these proposals, and others, the differences will be examined and weighed. Each bill offers innovative approaches. But I cannot state strongly enough that it is the similarities of these bills that is most impressive, not the differences. And, it is on these shared goals that we must focus if we are to successfully provide real tax relief for the middle-income families who need it.

These families are the engine driving our Nation's economy, the people who create the wealth and the jobs. They are the ones we ought to be about. They are the ones we ought to be fighting for, America's leaders have to stand up for work and for the people who work for a living.

The economic foundation we provide for American families must be as strong as their values and broad enough to help families protect themselves from the threats they face every day—from illegal drugs to AIDS to random violence and even to illiteracy and unemployment.

It is time these families got a break for a change. They are the ones who need it.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes and 43 seconds remaining.

Mr. GORE. Mr. President, in the time remaining, I would like to turn to another topic.

NEW OZONE DATA

Mr. GORE. Mr. President, later today, in New York, the U.N. International Ozone Trends Scientific Assessment Panel will have a press conference.

Yesterday, late in the day, telefax messages went out from Switzerland to governments of all nations in the world. The governments are now analyzing the message from the scientific panel and they will hear, as I said, later today from the public expression at the United Nations.

I want to alert my colleagues to the news that is coming later today and to underscore its significance. What they have done is carefully measured the latest developments in the stratospheric ozone layer, and once again the results are not good. That is an understatement, Mr. President. The results are extremely troubling.

Some 80 experts, scientists from around the world, have confirmed now,

after a week of closed-door meetings in Switzerland to review the details of what they saw in the rough data and wanted to confirm before they alarmed people, they now confirm that ozone depletion is proceeding at a rate of 200 percent greater than previously measured or predicted.

They reported that earlier, actually. But what they are adding are some new and equally ominous findings.

For the first time, the scientists have found evidence of significant decreases in summertime. Over the United States of America, the entire United States of America, it now appears from the evidence that there is a 2- to 3-percent loss of the stratospheric ozone layer in summertime.

The significance is that in winter, when the Sun angle is low, even a thinner ozone layer still provides significant protection because the Sun's rays slice on an angle through the atmosphere and are significantly blocked out—the ultraviolet rays, especially.

In summertime, of course, when the Sun is high in the sky, the danger posed by a thinner ozone layer is significantly greater.

There is now only a very narrow band of the atmosphere—the equatorial region—that has not been seriously impaired.

What are the implications? Mr. President, I fear they are very wide ranging, and we will all need time to absorb the full significance of what will be reported later today. First and foremost, they signal a serious change in the relationship between humankind and the atmosphere.

The bottom line is that instead of fully and freely enjoying the summer sunshine, for the rest of our lives and the lives of our children, we will have to understand that the relationship between humankind and the sky will have to be redefined. For the rest of our lives and the lives of our children, the attitude we have about our children going out into the Sun during the summer will have to be changed.

We have done this, Mr. President, by putting the chemicals into the atmosphere that have caused the damage. The scientists warned us. We did not listen. We have taken limited measures, belatedly. We now must do much more.

The operating principle has been, well, let us do what we can so long as it does not make anybody uncomfortable. We are going to have to discard that principle. We are going to have to make significant changes, even though the changes make us uncomfortable.

In April, Administrator Reilly said that the ozone data I referred to that was earlier released was startling, and his experts predicted it meant that an extra 12 million Americans would suffer skin cancer, and an extra 200,000 would die because of the levels that had then been detected. These latest

figures, unfortunately, Mr. President, mean that those numbers will have to be revised upward dramatically.

When we first learned of the accelerated depletion in April, I introduced a resolution calling for the accelerated phaseout schedule for ozone-depleting chemicals as called for under the Clean Air Act. The administration put a hold on the bill, saying that it would not take unilateral action.

The administration has been skeptical of all these problems and has resisted action. We are not a leader in phasing out CFC's. In fact, many countries—most recently Switzerland—have decided to eliminate CFC's in 1995—5 years before the London amendments to the Montreal protocol requires it. It is time we do the same.

I am going to reintroduce the resolution that I introduced last April. I am going to circulate it first to my colleagues. I urge Members on both sides of the aisle to cosponsor this resolution. Let us, in a bipartisan way, urge the President to do the responsible thing. We cannot stand by in the face of this extremely troubling new evidence.

This action, incidentally, embodied in the resolution, is clearly supported by the international team of scientists, and they have urged just these limitations. They were not prepared to do that back in April. A few of them were. Now all of them are. So let us act.

They also have important insights with regard to the administration's policies on global warming. Their data indicates that CFC's—in depleting the ozone layer—actually cool the surface. Ozone depletion has therefore been hiding the true magnitude of the greenhouse effect, and the bottom line is that, contrary to the administration's position, we cannot allow our greenhouse strategy to consist solely of eliminating CFC's.

The other important message of this news for global warming policy is that nature will not react to our continued perturbations gracefully and gradually. We are hearing a loud message that we must act now to stop dumping greenhouse gases and other pollutants into the atmosphere.

I will speak again about that another day. But these findings directly bear on the inaction of the administration, where that problem is concerned.

How can we stand here and contemplate dramatic changes for us, our children, and our grandchildren, and not be willing to do something about it?

Mr. President, in closing, let me say I will elaborate on these remarks for the RECORD.

I urge my colleagues to cosponsor the resolution. I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. Under the previous order, the Senator from Vermont [Mr. JEFFORDS] is recognized for up to 10 minutes.

LOW-INCOME ENERGY ASSISTANCE

Mr. JEFFORDS. Mr. President, as my colleagues know, the Appropriations subcommittees are meeting on various issues. One of those conference committees is the one dealing with the Labor-HHS appropriations bill. I have this morning with me two identical letters, one addressed to the chairman of the subcommittee, Senator HARKIN; the other addressed to the ranking member, Senator SPECTER.

The letters ask the Senate conferees to hold the line on appropriations for LIHEAP to the Senate figure.

The Senate provides \$94 million more than the House for the immediate obligation; another \$406 million in delayed obligations. Forty Senators have signed each of these letters.

Mr. President, I ask unanimous consent the letters be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JEFFORDS. Mr. President, I also have for my colleagues a table prepared by the Northeast-Midwest Coalition. The table provides information on LIHEAP expenditures on a State-by-State basis for the years fiscal 1985—when the Federal appropriations at that time were about \$2 billion, that was the peak of the LIHEAP appropriations—and also I have in that table the 1991 and anticipated 1992 appropriations. The 1992 column assumes, just to make it easier for understanding, \$1 billion in funding—the amount approved by the House of Representatives. The table contains estimates for the numbers of households served in fiscal years 1989 and 1992. It documents how many households will lose benefits in each State should the House funding level be adopted.

I ask unanimous consent that that also be printed in the RECORD to appear after my comments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JEFFORDS. Mr. President, I do not intend to speak for all of those who signed the letters. I would like to make, however, some comments of my own, especially with respect to the implications it may have for my State, plus some more general comments.

Thirty years ago, we declared war on poverty in this Nation. Today I fear that if we cut these appropriations, as we may well do, we will be declaring war on the poor. Believe me, there will be casualties if we do that. Even the Senate funding level is inadequate. For the heating season we are about to enter—just to keep pace with inflation—we would have to appropriate \$1.670 billion. Instead, even if just the Senate funding level is provided, we

will appropriate \$1.094 billion. That is a cut of \$576 million, or 34 percent, in real terms.

It is essential that the other \$406 million be appropriated. But I will make it clear that money will not be available until after the winter. It will not be available, with the kind of gimmickry we have to go through with the budget crisis we have, until the very end of the fiscal year. So it might be available, really, for the next winter, and help in regard to this.

According to the National Consumer Law Center, the average annual income of program beneficiaries is below \$6,000. Most of these families have annual residential energy bills over \$900. Consequently, they spend between 13 and 23 percent of their gross income on home energy. An earlier report prepared on behalf of the National Association of State Community Service Programs indicated that a LIHEAP benefit can boost a recipient's discretionary income by 60 percent.

Mr. President, I would submit that we cannot balance the budget on the backs of the poor, of the frail, of the handicapped, of the elderly on fixed incomes. LIHEAP beneficiaries are the poorest of the poor in our society. It is unfair and unconscionable for this program to bear the brunt of deficit reduction.

If the committee appropriates just \$1 billion for LIHEAP this winter, over 2 million households will lose benefits at a time when we have added 2 million households to the eligibility aspect by virtue of the recession.

Last winter, in my State of Vermont, the caseload increased 20 percent over the previous season. The State had to close the program nearly a month earlier than usual. State officials anticipate a 23-percent increase in the caseload for the coming year.

Mr. President, winters can be brutal in my State of Vermont. Vermont is predominantly a rural State. Vermont residents live in homes heated with propane or kerosene. The consequences are severe when people cannot pay their utility bills. People can die of hypothermia. Or they can die because they are using unsafe space heaters, kerosene lanterns, and open stoves to heat their homes. The space heaters overload an electrical circuit and sometimes creates a fire in that home. The kerosene lanterns are subject to being knocked over, and the stoves ignite nearby paper or blankets and engulf homes in flames.

I might add that next summer, in warm weather States, frail elderly people may die from heart attacks and strokes because of overexposure to heat. We heard testimony to this fact last year in the Labor and Education Committee when we held a reauthorization hearing on LIHEAP.

Mr. President, there will be casualties. But I hope the least we can do is

to ask the appropriations committees to hold the line, the Senate line, on expenditures in the LIHEAP Program and that way at least we can attempt as best we can to reduce those casualties.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,

Washington, DC, October 15, 1991.

Hon. TOM HARKIN,

Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to urge you and your fellow Senate Conferees to insist on the Senate funding level for the Low Income Home Energy Assistance Program [LIHEAP] during consideration of H.R. 2707, the fiscal year 1992 appropriations bill for the Departments of Labor, Health and Human Services, Education, and Related Agencies.

The Senate version of H.R. 2707 contains \$1.500 billion in funding for LIHEAP—\$1.094 billion for immediate obligation and \$406 for delayed obligation. This funding level exceeds the House funding level by \$500 million. If the Senate funding level prevails, States will have \$94 million more (relative to the House level) for the heating season we are about to enter and an additional \$406 million next fall.

Since delayed obligation funds will not be available, in effect, until fiscal year 1993, even the Senate funding level represents a significant reduction in Federal support for LIHEAP. Federal funding for the program peaked in fiscal year 1985 at \$2.100 billion. Last year, it was \$1.610 billion. This year—more importantly—this winter, it will be \$1.094 billion. That is a 48 percent reduction in nominal terms.

LIHEAP benefits reached just one in four households eligible to receive them last year. Two million people are newly eligible for LIHEAP as a result of the economic downturn. LIHEAP has borne more than its share of deficit reduction. Please do all that you can to convince your fellow conferees to hold the Senate line on funding for this vital safety-net program.

Sincerely,

Christopher J. Dodd, William S. Cohen, James M. Jeffords, Donald W. Riegle, Jr., Edward M. Kennedy, John C. Danforth, Paul Simon, John H. Chafee, Jeff Bingaman, Robert W. Kasten, Jr., Wyche Fowler, Jr., John F. Kerry, Patrick J. Leahy.

Howard M. Metzenbaum, Claiborne Pell, Paul David Wellstone, Al Gore, Christopher S. Bond, Max Baucus, Alfonso M. D'Amato, Kent Conrad, Larry Pressler, Herb Kohl, Carl Levin, George J. Mitchell, David Pryor.

Wendell H. Ford, Conrad Burns, Thomas A. Daschle, Dan Coats, Bill Bradley, John McCain, John Glenn, Frank R. Lautenberg, Joseph I. Lieberman, Daniel P. Moynihan, Jim Sasser, Charles S. Robb, Dave Durenberger, Harris Wofford.

U.S. SENATE,

Washington, DC, October 15, 1991.

Hon. ARLEN SPECTER,

Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, U.S. Senate, Washington, DC

DEAR SENATOR SPECTER: We write to urge you and your fellow Senate Conferees to in-

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EXHIBIT 2

A COMPARISON OF LIHEAP ALLOCATIONS AND HOUSEHOLDS SERVED: FISCAL 1985—FISCAL 1992

State or region	Fiscal 1985 LIHEAP allocations ¹	Fiscal 1991 LIHEAP allocations ¹	Proposed fiscal 1992 allocations ²	Change fiscal 1991 to fiscal 1992 ³	Households served in fiscal 1989 ⁴	Estimated households served in fiscal 1992 ⁵	Change from fiscal 1989 to fiscal 1992 ⁶
Alabama	18,312,310	15,856,352	8,600,450	-7,255,902	66,991	45,204	-21,786
Alaska	11,689,158	9,594,072	5,489,860	-4,104,212	8,906	6,010	-2,896
Arizona	9,648,195	6,200,052	4,159,280	-2,040,772	34,845	25,313	-11,332
Arkansas	13,973,158	11,068,912	5,562,550	-4,506,362	65,215	44,006	-21,209
California	98,219,787	68,764,442	46,138,910	-22,625,532	492,838	332,559	-160,279
Colorado	33,298,847	23,418,846	16,087,200	-7,331,646	63,025	42,529	-20,497
Connecticut	43,439,520	35,540,698	20,986,320	-14,554,378	75,673	51,063	-24,610
Delaware	5,931,025	4,599,538	2,785,530	-1,814,008	11,509	7,766	-3,743
District of Columbia	6,939,598	6,139,839	3,259,210	-2,880,629	20,767	14,013	-6,754
Florida	28,975,542	21,730,542	13,608,480	-8,122,062	183,909	124,099	-59,810
Georgia	22,909,609	17,438,800	10,759,590	-6,679,210	92,242	62,244	-29,998
Hawaii	2,242,836	1,530,666	1,083,550	-447,116	5,919	3,994	-1,925
Idaho	13,098,768	9,492,966	6,275,080	-3,317,886	34,592	23,342	-11,250
Illinois	123,679,361	85,711,209	58,086,510	-27,624,699	282,172	190,406	-91,766
Indiana	55,371,045	41,068,788	26,299,940	-14,768,848	140,135	94,561	-45,574
Iowa	38,581,057	28,719,086	18,639,120	-10,079,966	93,185	62,879	-30,305
Kansas	18,226,012	12,901,387	8,559,920	-4,341,467	70,783	47,763	-23,020
Kentucky	29,141,451	22,536,557	13,686,400	-8,850,157	76,628	51,708	-24,921
Louisiana	18,721,526	13,202,800	8,792,640	-4,410,160	104,229	70,332	-33,897
Maine	28,141,884	23,549,641	13,595,790	-9,953,841	54,727	36,929	-17,798
Maryland	34,214,462	29,360,614	16,068,960	-13,291,654	83,113	56,084	-27,030
Massachusetts	86,893,426	69,363,990	41,979,590	-27,384,400	125,668	84,799	-40,869
Michigan	114,150,782	86,099,210	55,148,050	-30,951,160	290,099	195,754	-94,345
Minnesota	82,256,230	62,063,452	39,731,050	-22,332,402	112,628	76,000	-36,628
Mississippi	15,682,911	12,390,734	7,373,550	-5,017,184	61,893	41,765	-20,129
Missouri	48,025,791	35,779,317	23,202,020	-12,577,297	123,343	83,230	-40,113
Montana	15,235,000	10,938,261	7,360,270	-3,577,991	21,349	14,406	-6,943
Nebraska	19,079,813	13,851,143	9,217,760	-4,633,383	40,990	27,660	-13,331
Nevada	4,159,423	3,213,962	1,953,491	-1,260,471	17,087	11,530	-5,557
New Hampshire	16,447,153	13,648,094	7,945,880	-5,702,214	22,184	14,969	-7,214
New Jersey	82,979,209	66,929,211	38,971,520	-27,957,691	152,749	103,073	-49,676
New Mexico	10,108,227	8,122,660	5,207,130	-2,915,530	42,032	28,363	-13,669
New York	263,390,085	214,983,027	127,247,910	-87,735,117	788,105	531,801	-256,304
North Carolina	40,378,234	35,611,552	18,963,800	-16,647,752	178,347	120,346	-58,001
North Dakota	16,689,945	12,502,501	7,995,480	-4,507,021	18,152	12,249	-5,903
Ohio	109,412,876	78,364,912	51,386,200	-26,978,712	405,667	273,738	-131,929
Oklahoma	16,832,774	12,249,509	7,905,580	-4,343,929	90,868	61,316	-29,552
Oregon	25,808,013	19,297,758	12,468,260	-6,829,498	62,074	41,887	-20,187
Pennsylvania	141,479,321	107,475,436	68,350,900	-39,124,536	339,740	229,251	-110,489
Rhode Island	14,303,153	11,571,838	6,910,080	-5,661,758	24,819	16,747	-8,072
South Carolina	14,543,705	12,450,694	6,830,510	-5,620,184	87,438	59,002	-28,436
South Dakota	13,301,226	10,890,959	6,493,730	-4,197,229	21,114	14,248	-6,866
Tennessee	29,519,666	21,651,512	13,864,030	-7,787,482	63,120	42,592	-20,527
Texas	48,205,634	36,455,109	22,639,970	-13,815,139	371,631	250,771	-120,860
Utah	15,372,326	11,061,545	7,475,760	-3,585,785	40,672	27,445	-13,227
Vermont	12,327,727	9,813,401	5,955,720	-3,857,681	16,397	11,064	-5,333
Virginia	41,677,041	36,050,642	19,573,790	-16,476,852	117,663	79,397	-38,266
Washington	42,450,627	31,495,007	20,508,570	-10,986,437	73,001	49,260	-23,741
West Virginia	15,285,111	13,675,783	9,057,330	-4,618,453	69,655	47,002	-22,653
Wisconsin	74,027,070	56,987,253	35,763,650	-21,223,603	161,884	109,102	-52,582
Wyoming	6,195,470	4,605,014	2,993,130	-1,611,884	11,275	7,608	-3,667
Total	2,094,973,121	1,607,819,293	1,000,000,000	-607,819,293	6,012,848	4,057,376	-1,955,473

¹ Includes both contingency funds and tribal allocations.

² One billion dollar base funding level assumed; each State's assumed share based on its share of the fiscal 1991 base grant.

³ Difference between fiscal 1991 LIHEAP allocations and proposed fiscal 1992 LIHEAP allocations.

⁴ Sum of households given heating assistance, cooling assistance and one-third of those receiving winter or year-round crisis assistance.

⁵ Determined from the product of the number of people served in fiscal 1989 and the ratio of the assumed \$1 billion base funding to the program mentioned in footnote 4.

⁶ Difference between estimated people served in 1992 and those served in 1989.

SOURCE: Based on U.S. Department of Health and Human Services Annual Report, fiscal 1985-92 (Washington, DC, 1985-91).

Mr. BREAUX addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Louisiana [Mr. BREAUX].

CAPITAL GAINS TAX

Mr. BREAUX. Thank you, Mr. President, it is very encouraging to hear my

colleagues, both those on this and on the other side of the aisle, to talk about efforts to do something about our economy. There are suggestions, and those suggestions are encouraging. I certainly hope to be one Member who is going to work with Members of this body, like the distinguished chairman of the Senate Finance Committee, on

trying to come up with an economic incentive package that will, in fact, encourage growth in this country, because, certainly, it is dramatically and very seriously needed.

I think it is interesting that Members of Congress now are sort of getting on the bandwagon about doing something about the economy. That is a

simple fact that our constituents, I might suggest, have known for a very long time, much longer than we who serve in the Congress or who are not just coming in. They seem to realize that there is a problem out there with all Americans who are seeing a reduction in their standard of living because of the recession that, in fact, is upon us in many parts of the country.

People outside the beltway know that our economy, indeed, is not going anywhere and something needs to be done. It is interesting that while we have debated what I would call Band-Aid approaches to solving the problems, such as the Unemployment Compensation Act, which I supported—it is needed, but it certainly does not solve the problem about a lack of jobs in this country; it only puts on a Band-Aid and temporarily stops the bleeding—it is clear that the ultimate answer to unemployment in this country is not unemployment compensation. The ultimate answer is to increase jobs and growth in this country. So, Mr. President, that is a fact that I think our constituents in America have understood for indeed a very long time.

So many Members have introduced, in effect, economic growth packages. I applaud them for their efforts. It is clear that much more needs to be done. I think it is also clear that, in the last decade in this country, the rich have in fact become richer and the poorest among us are still poor, and equally, a part of the middle class have just about been squeezed to death financially.

Now, we see, of course, signs of recession all around us in all parts of the country. It is no longer just limited to one section; it is throughout America. We really need to jump-start the economy. We need an aggressive package of growth and job creation to try to move out of this recession. We need to do more than just pass unemployment compensation packages. We need to encourage new investment. We need to encourage new growth. We need to allow businesses in this country to take the American technology that we have developed in this country and put it out into the workplace, to start new businesses that employ the new technology that we have in America. In effect, I think, Mr. President, what we need at this point in our country's history is, indeed, an economic revolution. We need an effort by both parties, by the Mr. President, by all of us to try to establish some type of a program that is rational, that is balanced, that is reasonable, and that moves toward an economic growth period that I think we certainly are capable of if we have the right type of structure in order to allow it to be accomplished.

Mr. President, I have said all along that one aspect, one part, of any economic growth package must be a reduction in the capital gains tax. I still support that idea. Today, I will be in-

roducing legislation which, in effect, will result in a reduction in the capital gains tax. It is no wonder, Mr. President, that America's competitors, who are beating us to death economically in the world, countries like Germany and Japan and Taiwan and South Korea, all have very small capital gains tax rates or none at all. That is not just a coincidence. That is part of their economic packages that, in effect, have created jobs, have made them more competitive, and have allowed them to have the type of economic growth that we are seeking in this country. I think it is a critical part of their growth. It is a critical part of their competitive edge that they have over us. Therefore, it is very important, in my opinion, that we do something in order to stimulate growth along the lines of what our competitors have done. There is nothing magic, there is no secret. If we look at the capital gains tax rates they have and compare them to ours, we see one of the main reasons we lag behind economic growth with our competitors around the world.

There are those who have legitimate concerns, and I have heard eloquent speeches on this subject: A capital gains tax just benefits the rich in this country and that is not going to help the average working middle-income person.

I reject that. When rich people start new businesses, when they create new jobs, they hire people basically who are middle-income taxpayers. They hire, in effect, mainstream Americans who work every day. Many of them have wives and husbands both working to pay the mortgage. I assure you, that person who gets a job in a new business that has been started up with new technology as a result of the reduction in the capital gains, that person who finds a job in that plant does not resent anyone having a capital gains tax break because he or she has, in effect, been given a job that would not have been there had it not been for these extra incentives.

Another point. Capital gains is not something that just wealthy people receive. Capital gains is not just paid by the rich, according to the IRS. Nearly three-fourths, 75 percent, of all the tax returns with capital gains had other income of less than \$50,000. I assure you that an income of less than \$50,000 is not a very wealthy person in America in 1991. So, according to the IRS, nearly 75 percent of all tax returns that had any capital gains in them whatsoever were from people who had other income of less than \$50,000 and less than 2 percent had other income of over \$200,000. In fact, Mr. President, nearly one-half of all capital gains in dollar terms are received by people with wage and salary income of less than \$50,000.

I do not know where the concept of the fact that only the rich benefit from capital gains comes from, but I assure

you the facts, according to IRS, are just the opposite. It is something that middle-income working families benefit from, either as people who earn capital gains or certainly by people who, in fact, have jobs created that they work in as a result of these new economic advances and growth in this country.

Mr. President, the only other argument I have heard is that we do not know whether a capital gains tax reduction is going to increase revenues or whether they are going to decrease revenues in this country. If they decrease revenues, we are just going to increase the deficit and that is going to hurt middle-income people in this country. There is a legitimate difference of opinion. Mr. President, we see the Joint Tax Committee that we work with in the Congress estimating an approximately \$11.4 billion loss if we pass a capital gains tax reduction. However, on the other hand, if we ask the Treasury Department, "Mr. Treasurer, what is going to happen if we pass a capital gains tax cut?" the Treasurer of the United States will tell you, no, that is totally wrong; a capital gains tax cut is going to increase revenues by approximately \$12.5 billion.

So, Mr. President, literally the Congress' hands are tied under the budget that we have.

We do not know who to believe. As a result we have paralysis, we have no one doing anything on capital gains because the argument is we do not know whether it is going to increase revenues or whether it is going to decrease revenues.

Mr. President, the legislation that I will be introducing today is a capital gains tax reduction. It is a capital gains tax reduction that says for assets held for 3 years or more the rate will be effectively approximately 20 percent; for assets held at least 2 years but less than 3 years, the effective rate will be approximately 22 percent; for assets held at least 1 year or less than 2 years, the effective rate will be 25 percent.

More importantly my legislation addresses the question of what happens with the revenues. That has been the big stumbling block. That has been the big logjam that has prevented the Congress from moving forward.

My legislation simply says that if there is a revenue gain we will win. More jobs are created, new growth is created, economic advancement is encouraged, competitiveness will increase in this country, and we all win.

But on the other hand, my legislation says, well perhaps the Joint Tax Committee is right and we are going to lose money in the third, fourth, and fifth year. My legislation directly addresses that by establishing a safety net.

My legislation says that if we lose money as a result of this capital gains tax reduction, which I do not think

will occur, but if it does, for the sake of argument my legislation establishes a fourth tax rate to pay for it. My legislation says simply that if the capital gains tax cut loses money there will be a fourth tax rate at 36 percent and the 36-percent rate will generate enough money to offset any loss. This new rate will only apply to taxpayers with net taxable income of over \$500,000 a year. This then would cover only two-tenths of 1 percent of all taxpayers in America.

I think, Mr. President, that is simply the way to go. It is a safety net and it answers the biggest and most serious question of people that oppose a capital gains tax rate by establishing this safety net.

I urge my colleagues to give serious consideration to the legislation.

Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Missouri [Mr. DANFORTH].

Mr. DANFORTH. I thank the Chair.

(The remarks of Mr. DANFORTH pertaining to the submission of Senate Resolution 201 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. CHAFEE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island, Senator CHAFEE.

REAUTHORIZATION OF THE SURFACE TRANSPORTATION PROGRAM

Mr. CHAFEE. Mr. President, authorization for the Surface transportation program—which is also sometimes called the highway bill, expired 2 weeks ago on October 1. In other words, no longer is it authorized for any State to do spending to proceed with the highway construction program.

The Senate passed S. 1204, which is the Surface Transportation Efficiency Act of 1991, on June 19. We passed it here on the floor of this body on June 19, over 4 months ago. Since that time we have been waiting patiently for the House of Representatives and their transportation bill to pass over there so we can go to conference, work out our differences, and send the bill to the President.

It is now October 22. The House has yet to pass a bill, and we are running out of time.

I might say the cry in Congress these days is we have to do something about the economy. Everybody is coming up with a proposal to do something about the economy. I agree with that. But I might say there is no better way we can start than to pass this legislation which involves literally billions of dollars being spent, which provides jobs, but just as importantly it improves the transportation of our Nation.

I would like to now make several observations with regard to the task be-

fore us in reauthorizing the surface transportation program.

First, Congress has known since April 2, 1987, over 4 years ago, that this program had to be reauthorized by October 1 of this year. There is no secret about this. This is not being kept over in the CIA someplace. This was no surprise. Ample notice was served on Congress.

The Senate and the administration took this very seriously. President Bush sent to us, both bodies, his transportation proposal on February 13 of this year.

In the Environment and Public Work Committee I was pleased to join with my distinguished colleagues, Senators BURDICK, MOYNIHAN, SYMMS, and other members of the committee in holding hearings, developing the legislation, passing it out of committee, sending it to the floor of the Senate, and having it approved here. All of that was done by June 19 of this year, 4 months ago.

Congress is frequently charged with not getting its work done on a timely basis. Sometimes these accusations are accurate and sometimes they are not. In this particular case the American people should be able to expect the decisions would be made so that deadlines could be met. The Senate and the President have done their jobs. It was not easy but we did it.

Now it is the responsibility of the House to do its part to make the tough decisions and to prove to the American people that Congress can meet its responsibilities.

Second, a short-term extension of the program might appear to be an easy solution, but it is no way to deal with the future. One short-term extension—meaning just continue the current program on for another month or another couple of months—usually spawns another short-term extension, and another, until the hard decisions are put off indefinitely, and the program sputters along, meeting no one's purpose. For this reason, I am strongly opposed to any kind of short-term fix. It is in the best interest of the States, the cities, the transportation interest groups, and all affected parties to press for immediate action on a long-term transportation bill.

Third, the current budget agreement imposes specific limits on spending only until fiscal year 1995. However, I believe strongly that the discipline of the budget agreement will have to continue long after 1995. Resources are going to continue to be limited, as far as we can see, and we should not fool ourselves. If we adopt proposals today that guarantee high levels of funding for a specific program, such as transportation, we will be deciding now to shortchange other perhaps just as important programs in the future, such as health care and education.

If we lock in a spending program for the highway bill in 1996, in 1997, it

means that other programs are going to have to suffer in those outyears.

Decisions about transportation funding in year 6 may be beyond the scope of the existing budget agreement, but we cannot afford to backload this agreement, load it all up in the out-years. We must resist the temptation to increase the authorization level during later years, after the existing budget agreement does not constrain spending.

The highway program received approximately a 20-percent increase from fiscal year 1990 to 1991. It jumped by 2 percent. That is a tremendous leap. Many programs, at the same time, in our country were suffering reductions.

This country is addressing its transportation needs and will continue to do so, but huge increases in spending and loading up a bill in future years at the expense of other programs is not a responsible approach, and I cannot support it.

Fourth, the House bill includes a provision that allows States to begin work on Federal highway projects prior to the enactment of a reauthorization bill, and to receive reimbursement from the Federal Government after a bill is signed into law. This is wrong. I do not believe that Congress should be signing any blank checks, until we know what the program will be and how much money will be available. I agree that States should not be penalized, and they will not be penalized, if Congress gets going and completes its work quickly on this bill.

Fifth, discipline must also be brought to the practice of what has been come to be known as demonstration projects, or as they are called in the House: congressional projects of national significance. The 1982 bill was done with demonstration projects costing \$386 million, which was about 0.7 percent of total highway authorizations in the bill. That was in 1982. Seven-tenths was spent on these pork barrel projects. In 1987, it crept up to 2.1 percent. The passage of the bill in 1987 was delayed 6 months because of a controversy over these demonstration projects—vetoes, overrides, so forth.

This year, the House bill is not like the 1982 bill with seven-tenths percent on demonstration, nor like the 1987 bill with 2.1 percent. The House bill this year has almost 5 percent spent on these congressional demonstration projects.

The time to end pork barrel politics is long overdue. The Senate passed a bill with no earmarks. We had no pork in our barrel, no special demonstration grants for this State or that State. If the other body is institutionally incapable of passing the National Surface Transportation Act without demonstration projects, they should at least be able to limit them and show some constraint. There is simply no excuse for expanding this practice.

Sixth, and finally, the transportation bill should be a bold and sweeping revision of our national transportation policy. The Senate passed such a bill on June 19 by a vote of 91 to 7, this sweeping review and revision of our national transportation policy.

We are running out of time, and it is important to finish this process quickly. But the Senate and the administration did their work on a timely basis, and we are not going to be coerced into passing a bad bill in haste because time has run out. I completely agree with our distinguished subcommittee chairman, Senator MOYNIHAN, who said, "No bill may be preferable to a bad bill."

The Senate bill makes changes to the transportation program that are long overdue. It puts transportation options, rapid transit, for instance, it is not a highway bill. It is a transportation bill—on equal footing and provides flexibility so that the States and localities can make the best transportation decisions. In the past, most of the incentives have been on the side of highway spending, rather than transit spending, and that must change. Even the name of this program has changed. It used to be the highway bill; now it is the Surface Transportation Act.

A study recently completed by the economist, David Aschauer, which is entitled Transportation Spending and Economic Growth, says the following:

Within the broad category of transportation spending, the evidence indicates that public transit spending carries more of a potential to stimulate long run economic growth than does highway spending.

The best way for long-term economic growth, which we are all talking about in this country, is through transit spending, not more highway spending.

In turn, the benefit to cost ratios for transit spending in any particular year exceed those for highway spending to a considerable degree.

The Senate bill, S. 1204, balances the needs of all regions of the country and all States, so that we have an efficient national transportation system. Everyone wants more, and everyone, in the name of fairness, claims more.

Some States think they should get back exactly what they contribute in revenues to the highway trust fund. If that is the case, why have a Federal program? If what you send to Washington is what you get back, do not bother sending it. Save the postage, and keep it in the State. That means we will have no national program. One of the major purposes of a national program is the transportation system that benefits all of our citizens.

The Senate bill, I might say, is also environmentally responsible. It provides a planning framework that will improve the transportation decisions that States and localities make and that will carry out the requirements of the Clean Air Act. The bill emphasizes the responsibility of maintaining and

using more efficiently the transportation facilities that already exist, before rushing out and building new ones.

Mr. President, I do hope the House will pass, very soon, a good Surface Transportation Act, so that we can go to conference and get on with a measure that is so important to all of the citizens of our country.

I thank the Chair and the distinguished Senator from Illinois for permitting me to finish.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON and Mr. DURENBERGER pertaining to the introduction of S. 1845 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FEDERAL HIGHWAY PROGRAM

Mr. BOND. Mr. President, I rise today to discuss an issue which is of great urgency to my State and the entire Nation. I believe the entire Nation is beginning to lose its patience on this.

As you know, the current Federal highway program expired on October 1, 3 weeks ago. As incredible as it may seem, we now have no Federal highway program and none is in sight in the near future.

The Senate acted well before the October 1 deadline. The environment and Public Works Committee reported its bill on June 4 and this body approved it on June 19. I commend the committee and its leadership for the prompt action.

In contrast, the House has yet to act. While it reported a bill from committee on July, its load of pork and nickel tax hike attached to it mercifully killed it before it could read the floor. The House finally got the message that taxpayers are tired of being nickled and dimed to death.

We have been waiting since August for them to try again. The House will finally consider another bill on the floor tomorrow—22 days after the program's expiration. And, there is a long road ahead. At this rate, we may see the cherry blossoms before we see a highway bill.

I met with Secretary Skinner of the Department of Transportation last week and learned from him the same frustration and concern that the administration has about this problem.

Many Americans are, I think, beginning to question what we are doing up here.

While the House fought over increasing taxes and dividing the spoils, time ran out for road and bridge construction. The situation outside the beltway in the real world is very serious. The Missouri Highway Department has no 1992 Federal funds and, as a result, it

has placed all future road and bridge construction projects throughout the State on hold, costing us thousands of jobs.

There has been a lot of discussion in this body in recent months about unemployment and how bad it is. Here is something that we can and must do or unemployment is going to get worse. In Missouri alone, a 6-month delay could cost up to 3000 jobs lost in construction, manufacturing, the trucking industry, and the service sector. In this tough times, we need the jobs, we need the economic boost which this program continues to provide, but most of all, we need a sound transportation system. The Missouri Department of Highways has already postponed construction projects.

Mr. President, I ask unanimous consent that a list of Missouri Department of Highways Projects canceled for bidding in October and November be printed in the RECORD.

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

MISSOURI HIGHWAY PROJECTS CANCELED FOR OCTOBER AND NOVEMBER 1991; POSSIBLE MHTD PROJECT DELAYS WITHOUT A FEDERAL SURFACE TRANSPORTATION ACT

DISTRICT 1

Route 71—Nodaway County (Oct.)—Additional grading for the relocation of Route 71 at Maryville—\$8.5 million.

Route 6—Buchanan County (Nov.)—Widening and resurfacing and on Frederick Avenue in St. Joseph between Route 169 and I-29 and interchange construction at I-29.

(Also: seven miles of widening and resurfacing on Route 136 east of Tarkio).

DISTRICT 2

Route 65—Livingston County (Oct.)—Replace the railroad bridge south of the Grand River—\$3 million.

(Also: resurfacing of seven miles of Route 36 west of Macon; approximately 10 miles of resurfacing on Route 63 north and south of Moberly).

DISTRICT 3

Route 61—Clark County (Jan.)—Replace pavement on Route 61 near Route 136—\$2.5 million.

DISTRICT 4

Route 210 and 10—Ray County (Nov.)—Continue improvements for the Richmond relocation of Route 210—\$11 million.

(Also: three and one-half miles of resurfacing on Route 50 in Lee's Summit; seven miles of resurfacing on I-29 north of Platte City).

DISTRICT 5

Route 70—Callaway County (Jan.)—19 miles of resurfacing on I-70—\$7.5 million.

(Also: resurfacing on five miles of Route 50 in Syracuse-Tipton area).

DISTRICT 6

Route 340—St. Louis County (Nov.)—Widen Olive Blvd. to five lanes from East Drive to Ladue Road and from Route 100 to Route HH—\$5.5 million.

(Also: resurfacing on 7.5 miles of Route 30 in northern Jefferson County; six miles of resurfacing on Route 61 south of Crystal City; about 11 miles of Route 94 in St. Charles County; about seven miles of resurfacing on Route 47 between Washington and Union;

four miles of resurfacing on Route 61 north of Wentzville; approximately four miles of resurfacing on Route 30 (Gravois Road) in St. Louis County between Route 61-67 (Lindbergh Boulevard) and Route P (Mackenzie Road); and four miles of resurfacing on I-64 in St. Louis City between Kingshighway and 12th Street).

DISTRICT 7

Route 71—Newton County (Nov.)—Widen and resurface Route 71 south from Route 60—\$1.5 million.

Route 60—Newton County (Jan.)—New highway construction and bridge replacements on five miles of Route 60 east of Granby.

DISTRICT 8

Route 32—Polk/Dallas Counties (Nov.)—Widen and resurface 15 miles of Route 32 between Bolivar and Buffalo—\$1.4 million.

(Also: resurfacing on Route 65 for about 22 miles between Route 54 and Buffalo).

DISTRICT 9

Route 60—Carter County (Nov.)—Completion of the approaches to the Current River Bridge—\$7.5 million.

DISTRICT 10

Route 61—New Madrid/Scott Counties (Oct.)—Resurface 25 miles of Route 61 from Route 77 south to Sikeston and then from Sikeston south to I-55 near New Madrid—\$5.5 million.

Route 60—New Madrid (Nov.)—Work on Route 60 bridges between Morehouse and Sikeston.

Mr. BOND. Mr. President, although recent news reports have spotlighted bouncing checks, unpaid bills, and stalled nominations, I think this highway bill holdup is a sleeper candidate for worst congressional failure of the year. It is frustrating when Congress hurts itself as an institution; it is even worse when we hamstring the country, and I am afraid that is what is happening here.

The distinguished chairman of the Transportation Subcommittee, Senator MOYNIHAN, has suggested that maybe we do not need a Federal highway program now that the Interstate System is virtually complete. Maybe, just maybe, he is right. Given the low return that Missouri, as a donor State, receives from the trust fund, given the lapse of the Federal program and given the fact that we must still continue to pay taxes into the trust fund with no end in sight to getting the money back, it is hard to see how the benefits outweigh the costs.

I am tempted to argue that maybe we should forget the Federal role, and just give the money back to the States. We know how to use the money in Missouri. We know how to build the roads and bridges, and improve our transit systems. Donor States, like Missouri, would never have to go begging to the donee States for equity and fair play, only to be turned down time and time again. We would finally achieve our goal of \$1 in and \$1 back—we would keep our money at home.

I hope it does not come to this, Mr. President, because there are good reasons to maintain a Federal highway

program. But the longer we go without a bill, the more persuasive the arguments against it become.

Thank you, Mr. President.

Mr. President, I ask unanimous consent to proceed for 2 more minutes on a different subject, if that is agreeable with my colleague from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed for 2 additional minutes.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the submission of Senate Resolution 201 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BOND. I thank my colleague and yield the floor.

TWO-YEAR ANNIVERSARY OF JACOB WETTERLING'S ABDUCTION

Mr. DURENBERGER. Mr. President, I rise to talk about a young man I have never met but hope to meet sometime very soon. Exactly 2 years ago today, a tragedy struck my home community of St. Joseph, MN, when on a quiet Sunday evening in a community which is fewer than 3,000 people, three little boys, 10 and 11 years of age, were bicycling home from a local convenience store with a rented movie. One of them, 11-year-old Jacob Wetterling traveled this path many times before with his little 10-year-old brother and with a friend. But this time, however, about halfway home, they were stopped by a masked man who was waving a gun in their faces.

The man ordered all the boys to lie in the ditch beside the road. Then he asked them their ages. He did not ask them for their names. After they responded, the gunman ordered Jacob's brother and friend to run into the woods and not to look back or he would shoot them. When they reached the wooded area, they looked back and Jacob and the gunman were gone. No one has heard from Jacob or his abductor since that day.

That masked gunman who invaded St. Joseph 2 years ago took away a precious son and a brother and a friend. He took away the feeling of security that existed in a small town in the heartland of America. But he could not take away the hope that Jacob will return home safely to his family some day.

The darkest moments of our lives are never dark enough to extinguish hope, and the Wetterling family of St. Joseph has proved this. Over these terrible 2 years, Jerry and Patty Wetterling have kept alive their hope of finding Jacob. They have devoted their lives to bringing that same feeling of hope to countless others who are in the dark times of their lives.

Shortly after Jacob's abduction, Jerry and Patty Wetterling worked to set up the Jacob Wetterling Founda-

tion. It is an organization for preventing and responding to stranger abductions, and it has brought national attention to the problem of sexual exploitation of children.

The foundation has a 24-hour hotline for calls that might generate leads in missing children cases. Foundation volunteers and staff conduct community meetings regarding child safety and services. Last year, Jacob's mother Patty spoke to about 300 audiences about child safety.

Last July, when Minnesota was shocked by the abduction and senseless killing of St. Cloud State University student Melissa Johnson, I was not surprised to hear that Patty Wetterling immediately travelled to be with Melissa's family. It is during these dark times that the incredible strength and hope of the Wetterling family is most visible.

The Wetterlings have truly made a difference in the way we feel about protecting our children on a local, State, and national level. Patty Wetterling's involvement in passing a Minnesota law to protect children caused me to introduce similar Federal legislation.

I am pleased that the Senate adopted this legislation as an amendment to the crime bill this summer. This legislation—which I have named the Jacob Wetterling bill—is also part of the crime bill that the House of Representatives is debating today. The Jacob Wetterling bill would require people who are convicted of a sexual offense against a child to register a current address with law enforcement officials, for 10 years after their release from prison.

If local and State police had been aware of the presence of any convicted sex offenders in the area after Jacob's abduction, it would have been of invaluable assistance during those first critical hours of investigation. This legislation, which we have all voted in favor of, would provide law enforcement officials with this tool. The Wetterlings realize that this may not help Jacob, but it will certainly help a lot of other families.

Mr. President, this is just another one of the ways that the Wetterlings are bringing hope into other people's lives.

Jacob Wetterling, this young man for whom we all hope, was born on February 17, 1978. He has a slender build. His hair is brown, he has blue eyes, and there is a mole on his left cheek. The Jacob Wetterling Foundation has offered a \$200,000 reward for information leading to the safe return of Jacob. The foundation hotline number is 1-800-325-HOPE.

We will never give up looking for Jacob, until the day he returns home to his family safely. We hope and we pray that that day will be soon.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

PLAYING POLITICS WITH THE UNEMPLOYED

Mr. GORTON. Mr. President, for the fourth time in 3 months I am on the floor of the Senate to implore our leadership to hear the cries of America's unemployed. I appear to appeal to the leadership of this body: Stop playing politics with America's unemployed.

Mr. President, I will outline briefly my view of the situation with regard to extending unemployment benefits, and will share a special frustration.

First, the Congress has twice passed irresponsible proposals which everyone knew would not result in a dime of benefits being paid to the unemployed. Congress knew the money would never be spent. The leadership of Congress knew that not one unemployed worker's family dinner would be paid for by the benefits from their proposal. They knew that not one worker's mortgage payment would be made because of their unemployment benefit extension packages.

Second, the economy of this country, while perhaps no longer in a recession, is not providing the kind of growth which expands job opportunities for the unemployed. Unarguably, the economy remains sluggish, and unemployment remains at around 7 percent.

At best, economic signals are mixed. For example, the housing industry, often considered a bellwether for the rest of the economy, seems to be going in two directions at once. Last month housing starts, considered a sign of health in the construction industry, dropped dramatically. At the same time, however, housing permits, which indicate future building activity, rose several percentage points.

In fact, Mr. President, the recession has now come to the economy of Washington State. For the first time during this recession, Washington State's economy registered negative economic growth in August. While the decline was small, other measures of economic activity in Washington such as retail sales and bank lending are either growing at significantly reduced rates or are in absolute decline.

Mr. President, I believe that I am more frustrated than most of my Republican colleagues by this Congress' refusal to consider the Republican proposals. In addition to providing all of Washington State's unemployed with extended benefits, both Republican proposals provide much needed extra retraining assistance to timber workers in Washington State.

These parts of Washington have double digit unemployment rates which will not be coming down even if the economy gets going again—because of the impact of Federal environmental

laws and litigation. Because of congressional leaders' obstinacy, workers in Darrington, Forks, and Hoquiam and many other Washington timber towns are denied extra training benefits. In effect, Mr. President, my constituents are being denied much needed retraining benefits because the leadership of Congress is more interested in scoring points in a game called Beltway politics.

In this Senator's view, the mixed signals we are getting from the country's economic indicators do provide sufficient evidence to support congressional action to bridge the gap for the unemployed through lean economic times.

Mr. President, this country can afford to assist those in need during these difficult economic times, but it cannot afford to bill these benefits to future generations. The congressional leadership agreed in last year's budget act to provide new revenues or spending offsets to pay for increasing existing programs or starting new initiatives.

No one argues against expanding the existing program of unemployment benefits. The only question remains is whether congressional leadership can muster the political will to pay for this extension of unemployment benefits or whether the country's unemployed will continue to be a political football.

Mr. President, I hope that our congressional leadership will at least consider Senator DOLE's or Senator DURENBERGER's proposal so that we can all respond to our constituents in need. People are hurting, Mr. President, so let us get past the politics and send the President a package which pays for, as well as extends, unemployment benefits. The President can and will sign that kind of unemployment benefits extension package.

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

The PRESIDING OFFICER. The Senator from Washington suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Michigan is recognized for 10 minutes.

VIOLENCE ON TELEVISION PROGRAMMING

Mr. LEVIN. Mr. President, we all know about the increasing level and amount of violence on our streets. We wrestle every day with various ways to try to stop it. But another place where our lives have become increasingly violent is in family programming that appears on television in the sanctity of our own homes. This is particularly

troubling because of its impact on small children. Parents who wish to avoid exposing their small children to violence are unable to screen it out for reasons that I will allude to in a moment.

Last year we passed the Television Violence Act, which permits the television networks to work together to establish guidelines on TV violence. I am particularly concerned about the level of violence that is being permitted in commercials shown during family shows where, despite a parent's best efforts to restrict a child to so-called family type programs, that child can still be exposed to violence through the commercials that may appear during that program.

Here are some examples. On July 25, 1991, a commercial for the movie "The Mobsters" was aired during "The Cosby Show." The commercial depicted a man who was begging for his life from a man pointing a gun at him. He was being killed in cold blood.

All the young children who were watching "The Cosby Show" were exposed to it.

On two different occasions during "The Simpsons," commercials were aired for a subsequent television program called "America's Most Wanted." These commercials graphically depicted and orally described gruesome crimes which were going to be reviewed in the upcoming show. All the young children who were watching "The Simpsons" saw it.

A commercial for the movie "Child's Play Two" was aired repeatedly during family programming hours. It shows a person who looks like a news broadcaster describing the movie and then shows an excerpt of the demented doll in that movie, with blood dripping from its mouth, striking out at a child.

During a recent Sunday afternoon NFL football game, a promo aired for an upcoming made-for-TV movie, "Death in New Hampshire." It showed and described a young teacher seducing her pupil and getting him to kill her husband. One scene showed a terror-stricken man with a large knife at his throat, begging for his life.

I cite these instances not because they are unique or solely the problem of the networks on which they appeared, but because they are examples of a trend.

These acts of violence are particularly offensive because they are presented in a way—through 30-second commercials—that seriously limit a parent's ability to prevent young children from being exposed to them. Even the most attentive parents can find themselves suddenly confronted with a horribly violent act—the cold-blooded murder of a human being—on television during television programs otherwise acceptable to them and be unable to keep their children from seeing it. The commercial may be over before

the parent realizes what he or she has just witnessed. The damage in that situation is done, despite the parents' intentions.

I am not suggesting that we should legislate in this area, given the legal complexities involved in our constitutional protections of free speech. But it does not strike me as too difficult or inappropriate for the television networks themselves to establish guidelines by which commercials are screened for very violent acts so they can be aired during nonfamily-type programming. That is only common sense, and I hope that the television networks will consider embracing such a principle.

To further that result, today I have written to the heads of the major networks, including cable, urging them to promptly address this issue, and to establish guidelines that will protect our children from these violent commercials when parents want them protected. Some parents do not object to their young children being exposed to raw violence on TV, but others care very much. There can be standards for programming that do not unduly restrict commercial speech but allow parents, if they choose, to protect the most impressionable segment of our society—our small children—from that kind of raw violence.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from Hawaii, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

SENATOR BEN SMITH OF MASSACHUSETTS

Mr. KENNEDY. Mr. President, it is with great sadness that I mourn the death last month of my friend and my predecessor in the U.S. Senate, former Senator BENJAMIN A. SMITH of Massachusetts.

Ben Smith served in the Senate with great distinction in the early 1960's. As a member of what was then called the Senate Committee on Labor and Public Welfare, he played an important role in the economic recovery legislation of the Kennedy administration, especially with respect to the increase in the minimum wage and the Area Redevelopment Act. He also cast a key vote in support of the early legislation that led to the enactment of Medicare. As a Senator, he also devoted a great deal of effort to assisting the local communities of Massachusetts, which were struggling then, as they are now, to lift themselves from a national recession.

Another of Ben Smith's impressive achievements as a Senator was his suc-

cessful sponsorship of the Cape Cod National Seashore Act. That historic legislation has preserved and protected the majestic beauty of Cape Cod for succeeding generations. For them, and for the 70 million people today who live within a day's drive of the Cape, the national seashore is an enduring legacy of Senator SMITH's service in this Chamber.

Ben Smith was Massachusetts down to his roots. He lived all of his life in Gloucester. His family business made the boxes that held the catch of Gloucester fishermen. He was mayor of his hometown, and an active participant in countless civic activities. He was also one of the finest sailors on the North Shore, and consistently won the races out of Marblehead in his Lightning Class.

Most of all, Ben Smith was a dear friend of all the members of the Kennedy family. He roomed with my brother Jack in Winthrop House at Harvard in the 1930's, where they developed a lifelong friendship. In all of my brother's political campaigns, Ben Smith was at his side. In 1960, he took many months out of his life to campaign in Wisconsin, West Virginia, and New York State. He was the best kind of friend—always concerned, always supportive, always giving you the straight story.

Because of his vast knowledge of Massachusetts, he was a fitting successor to be appointed to the Senate when my brother was elected President. In addition, as a Senator, Ben enjoyed a unique status among his colleagues here in the days of the New Frontier, because they knew Ben Smith always had a respectful and attentive ear in the Oval Office.

On behalf of my entire family, I express my deepest sympathy to Ben's wife Sis, and to his children and their families. As a Member of this body and throughout his entire career, he served the people of Massachusetts and the Nation well, and I shall miss his leadership and his friendship.

Mr. President, I ask unanimous consent that the eulogies for Senator BEN SMITH at the funeral service at Sacred Heart Church in Lanesville, MA, on September 30, 1991, and other articles on Senator SMITH may be printed in the RECORD.

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

EULOGIES FOR SENATOR BEN SMITH, SACRED HEART CHURCH, LANESVILLE, MA, SEPTEMBER 30, 1991.

BENJAMIN A. SMITH II—A MEMORY

(By Rev. Myron F. Bullock)

In Kipling's poem, "If", these lines occur:
If you can talk with crowds and keep your virtue
Or walk with kings nor lose the common touch,
If neither foes nor loving friends can hurt you,

If all men count with you but none too much,

If you can fill the unforgiving moment
With sixty seconds worth of distance run.

In Ben Smith's life there were no "ifs", just accomplishments. Whether in Norwood Heights, on Dale Avenue, or at Pennsylvania Avenue, there was only one Ben Smith. He would be in contact with the famous and the near famous, the unknown and the neighbor, and all would have the same reaction. They would be proud to acknowledge that they knew Ben Smith, for they would sense that to know Ben was to be touched, enriched, and to be somehow better for that knowing.

He was a man of great faith—a simple faith in the best sense of the word, because, as the philosophers remind us, to be simple, without parts, is to approach perfection. It was an uncluttered, agenda-less faith, never flaunted outwardly, but unmistakable. One would have to be naive not to know where Ben stood, and where that faith was leading him. He never had to talk it; he lived it far too effectively.

Politics will miss him—his loyalty and integrity. By his very presence he was a conscience-raiser. I was going to say that Ben was a life-long Democrat, but I suspect that there was one place where Ben did not believe in democracy: on the deck of a sailing ship. There he might feel that a benevolent (or not so benevolent) despotism would be in order—that is, if you wanted to win!

His parish will miss him. In a time of stress and tension some years ago, he was a strong and sure guide. He was always a presence. He may not have owned his pew—but he certainly had a lien upon it. I will miss particularly his delightful informality—the invisible socks, the sweaters—especially that green sweater on St. Patrick's Day. Ben was on far too good terms with God to worry about little things like that!

His neighbors will miss him. Any trouble or sorrow was sure to find Ben at the door, asking, "What can I do?"

His family will miss him—his wife, Sis; their love and devotion was so strong and, over the years, gave a lesson to all in the true meaning of married commitment; Russell and Barb, Susan, Punky and Cathy—5 children, each unique but united in their love for him; may they always remember that each, in their own way, was a source of great pride and love for Ben; their families—Roz and Bruce and Frank, Russell, Nate and Shelley; Corey, Luke and Benjamin; Cassy; Gerry and Julie. Their loss is the greatest—but their shared and individual memories the most wonderful.

It is only when a mighty tree topples that one realizes how much space it occupied. We are all the losers because a great space is vacant; we are all winners because the fruit and accomplishments of that tree have enriched us all—family, friends, associates, admirers, in so many and varied ways.

TRIBUTE TO BEN SMITH

(By David E. Harrison)

I wonder, fifty or so years ago when "Sis" Mechem married Ben Smith, whether she realized that she was marrying a "Gloucester boy." Not every Gloucester male qualifies as a "Gloucester boy"—only those who leave, but keep coming back. Ben left. He went to Governor Dummer, to Harvard, to Washington, but he always came back to Gloucester. Ben has left us now, but he will always be a part of Gloucester.

The first Smith arrived in Gloucester in the late 1600's, making the Smith's one of the city's oldest families. The first Smith in

the City was a merchant seaman who jumped ship in Gloucester and married the Fort lighthouse-keeper's daughter. Three hundred years later, a lighthouse is a part of our memory of Ben. We remember Ben's sailing off Lighthouse Beach and at the family home next to the Annisquam Lighthouse, surrounded by his children and grandchildren.

Gloucester may never recognize the great accomplishments of Ben Smith, because everyone here knew him as Ben, the former football player, Mayor and owner of the box company. I was fortunate to travel with him on the political trail and was amazed at his political acumen. Whether we were in a meeting in Columbus, Ohio, Washington, DC or Atlanta, Georgia, Ben seemed larger than himself when he mingled with Senators, Governors and Congressmen, whether in a national political meeting or here on Cape Ann.

Ben could bring people together and always made you feel that you were the only person in his thoughts while you were with him. He did so much for so many in Gloucester. People couldn't understand how he and his late friend "Simmy" Steele could have coffee together every day. Little did people realize that Ben and Simmy were figuring ways to get a job for someone, get someone into the military academy, or solve an immigration problem.

It was so typical of Ben to call and say, "Let's go to a hockey game," and fifteen minutes later he'd be at your home with a load of sandwiches made by Sis. It didn't matter whether the game was in Lake Placid, New Haven or Boston; one just jumped in and went along with Ben.

Russell O'Maley tells the story about how he was with Ben at a game in Lake Placid one night when Ben got a bit agitated at a referee about a call. When the cop came over to restore peace, Ben told the cop that Russell was the troublemaker, and Russell was thrown out of the arena. I'm not sure Russell's been to a hockey game since.

Ben was significant to all of us here today. We saw his loving relationship with Sis, his pride in his children and grandchildren, and we all remember and cherish our unique, special friendship with Ben.

Ben served his city as Mayor and our state as its Senator. In the Massachusetts House of Representatives, there is a plaque with a speech made by President John F. Kennedy shortly after Ben was sworn in as our Senator. An excerpt from that speech reads as follows: "For those to whom much is given, much is required, and when at some future date the high court of history sits in judgment on each of us, recording whether in our brief span of service we fulfilled our responsibilities to the state, our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage. Second, were we truly men of judgment. Third, were we truly men of integrity. Finally, were we truly men of dedication?"

Ben Smith had courage, judgment, integrity, and dedication, not only as a statesman, but as a husband, father, grandfather and friend.

Quiet sleep Ben and a sweet dream. We'll miss you.

SENATOR BEN SMITH—"TRULY OUT OF GLOUCESTER"

(By Senator Edward M. Kennedy)

It is always difficult to say goodbye to someone whose life was so full and whose friendship meant so much. Most of you were Ben's friends and neighbors of a lifetime. You know the love he gave to his family, and

the leadership he gave to this community as First Citizen of the City of Gloucester.

Many of you also know how much his friendship meant to my brothers and to me, and how much his public service accomplished for this Commonwealth and our country.

My oldest brother Joe discovered Ben at Harvard in the 1930's. Joe introduced Ben to Jack, and the two of them hit it off so well that they roomed together in Winthrop House. And for half a century after that, Ben Smith was one of the best friends that any Kennedy brother ever had.

My brother Bob came here to Gloucester in 1962, to speak at a testimonial dinner for Senator Ben Smith. He began by saying that, for the young Kennedys growing up in our family, Ben was a legendary figure. He was a Harvard football fullback—and also an able student who, according to Jack, could do well in his studies and graduate from college without really ever going to class. He was one of the big guys we little guys looked up to, hoping he would choose us on his team or take us for a sail, so that we could learn a few pointers about winning a game or a race.

Ben Smith had the greatest of dreams—to be a good family man, to serve his fellow citizens—and, just incidentally, to be the best Lightning skipper on the North Shore.

He did all those things well. He served Gloucester on the City Council, on the School Board, and as Mayor. He won some of the most coveted cups in racing. He had a magical relationship with Barbara, who shared everything he did. And his children grew up straight and strong, blessed with a wonderful father and a wonderful mother.

And then, as we all know, Ben's own life was caught up inseparably in Jack's career. In all my brother's political campaigns, Ben Smith was at his side. He was the best kind of friend you can have—always concerned, always supportive, always giving you the straight story.

He took many months out of his life to campaign, especially in Wisconsin, West Virginia, and New York. People in other states may have had trouble with his accent, but they could tell he was a straight shooter. And they were willing to take his word that his friend, the young Senator from a different region, with a different religion, was what our country needed to get moving again.

I remember one night, campaigning together in West Virginia. We talked about all the coal buried in the mountains, and how hard life was in the deep mines. And Ben said, "I'd go down every mine in every mountain, and dig out every chunk of coal with my bare hands, if I could elect your brother President." And he did.

When the opportunity came for Ben to serve on the national stage, he brought with him to Washington the lifelong knowledge and values he had learned here in Gloucester, and he used them to make America a better place.

As a member of the Senate Labor Committee, he played an important part in the economic recovery legislation of the New Frontier, especially the minimum wage and the Area Redevelopment Act. He cast a key vote in support of the initial Medicare law. He traveled to the cities and towns of Massachusetts, and urged the Mayors and Selectmen to participate in the federal programs being developed to help their industries and communities.

He literally single-handedly saved small firms—like the Waltham Watch Company, where workers with forty years of experience

were in danger of losing their jobs, until Ben Smith found them contracts making clocks for the Air Force.

He came to the rescue of the state's cranberry industry, which had been reeling for more than a year after Eisenhower officials had created a false cancer scare and warned the country not to use cranberry sauce in Thanksgiving dinners. It was Senator Ben Smith who persuaded the Department of Agriculture to start buying cranberries for the school lunch program—and for 30 years, school children across America have been enjoying cranberry sauce because of Ben Smith.

In the Senate, Ben played a unique and special personal role. The 99 other Senators knew that when Ben left at the end of the day, he was probably going to the White House for a swim with the President. So other Senators would ask Ben to put in a good word for a piece of legislation or a project they were interested in. Most Senators' influence is measured by seniority. Ben's was measured by the number of laps he swam with Jack.

They had a wonderful personal relationship. On one occasion, the President was signing the Cape Cod National Seashore Act, which Ben had sponsored in the Senate. A President has a large array of pens at bill signings. He uses a different pen for each letter of his name, and sometimes for each stroke, so he can give the pens out later to the dignitaries attending the ceremony. Often, it can take five or ten minutes for a President to sign his name on a bill.

Well, as Jack was going through this ritual, the only conversation he had was with Senator Ben Smith, who was standing beside him.

"I heard you lost last weekend," the President said.

"Yes," said Ben. "The wind died in the last three minutes."

"Same old Smith excuse," the President said.

When Ben left the Senate, he could have had almost any other job he wanted in the Administration. But he didn't want to leave Gloucester, the place he loved most. So you kept him and loved him for the rest of his life.

This is a unique city, steeped in history, open to the sea. In the glory days of the New England fishing fleet, there was always a special respect for the men and the ships that put to sea "Out of Gloucester." It meant their crews were unusually strong and highly skilled. Their captains were especially wise in the ways of the sea, and could always be trusted to get the job done.

It is in that sense, and with a feeling of fond remembrance for his leadership and his friendship, that we say today, Ben Smith was truly "Out of Gloucester."

When I think of Ben, I see him at the helm of his beloved sailboat "Teaser," heading out into the swells, the salt spray kicking up, the wind rising, the race under way, a man of the sea at peace with himself on the great voyage of life.

As the poet John Masefield wrote in "Sea Fever":

I must go down to the seas again, to the lonely seas and the sky.

And all I ask is a tall ship and a star to steer her by,

And the wheel's kick and the wind's song and the white sail's shaking,

And a gray mist on the sea's face, and a gray dawn breaking.

I must go down to the seas again, for the call of the running tide

Is a wild call and a clear call that may not be denied.
 And all I ask is a windy day with the white clouds flying,
 And the flung spray and the blown spume and the sea-gulls crying.
 I must go down to the seas again, to the vagrant gypsy life,
 To the gull's way and the whale's way, where the wind's like a whetted knife;
 And all I ask is a merry yarn from a laughing fellow rover,
 And quiet sleep and a sweet dream when the long trick's over.

FROM "THE BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS" (1989)

Smith, Benjamin A., II, a Senator from Massachusetts; born in Gloucester, Essex County, Mass., March 26, 1916; attended Gloucester public schools and graduated from Governor Dummer Academy; graduated from Harvard University in 1939; during the Second World War served as a lieutenant in the United States Navy with service in the Pacific Theater 1941-1945; president of Merchants Box Factory, Cape Ann Fisheries, Inc., United Fisheries Co., Gloucester By-Products, Inc., and Gloucester Community Pier Association, Inc.; mayor of Gloucester, Mass., 1954-1955; appointed as a Democrat to the United States Senate on December 27, 1960, to fill the vacancy caused by the resignation of John F. Kennedy and served until November 6, 1962; was not a candidate for election to fill the vacancy in 1962; is a resident of Gloucester, Mass.

[From the Gloucester Times, Sept. 26, 1991]

BENJAMIN A. SMITH II DIES; WAS U.S. SENATOR, MAYOR

Former U.S. Sen. Benjamin A. Smith II—"a man who could walk with kings without losing the common touch," according to a friend—died early this morning at the Addison Gilbert Hospital after a long illness. Sen. Smith, a Gloucester native and former mayor of the city, stepped into the Senate seat and served for two years after John F. Kennedy was elected president in 1960.

Sen. Smith, 75, was the husband of Barbara A. (Mechem) Smith of 47 Norwood Heights.

Those who knew Sen. Smith attested this morning to his infectious personality and pivotal role in both local and national politics.

"You could say that Sen. Smith was a friend of everyone, a man with no enemies, and people only had the highest regard for him," said District Court Judge and former state representative David Harrison. "He was loved by everyone in the city."

Former Gloucester Mayor Richard Silva agreed, saying that "Everyone who came in contact with him liked him."

Silva, who knew Sen. Smith for close to 40 years, recalled Sen. Smith as an avid sailor and an exceptional football player. Sen. Smith was captain of the high school football team in 1933 and played football in college for Harvard.

City Clerk Fred Kyrouz, who first met Sen. Smith during those football days, said it would be impossible to point out one crowning achievement in Sen. Smith's life because he did so much for the people of Gloucester and Massachusetts.

Sen. Smith never flaunted his numerous accomplishments, Kyrouz said, because personal recognition was not important to him.

"He was the type of guy who wouldn't advertise," Kyrouz said.

And once Sen. Smith moved on to the national scene, he never forgot his ties to his hometown, Kyrouz said.

When Kyrouz would call Sen. Smith in Washington regarding local concerns and ideas, Sen. Smith always listened and did everything he could. "Ben liked to talk politics," Kyrouz said.

Kyrouz also pointed out that fellow congressmen held Sen. Smith in high regard because of his hard-working, decent air.

"He had a great reputation in Washington," Kyrouz said.

Sen. Smith also helped to put Gloucester on the map, Kyrouz said.

Norman Ross, whose father, the late Norman "Nate" Ross, was best friends with Sen. Smith, also recalls a wonderful man who cared for everyone. Ross remembered how Sen. Smith taught him to ice skate.

"He was truly a man who could walk with kings without losing the common touch," Ross said.

Jack Cunningham of Annisquam knew Sen. Smith his entire life.

"He was a very warm person and a very close friend," Cunningham said.

Smith also attended Governor Dummer Academy and graduated from Harvard in 1939.

At Harvard, Sen. Smith was a member of the football team for three years as a fullback, and was a roommate of the late President Kennedy.

During World War II, Sen. Smith served in the Navy as commanding officer of an anti-submarine ship. He was separated from the service as a lieutenant commander.

Sen. Smith was active in John Kennedy's two campaigns for the United States Senate in 1952 and 1958.

In local politics, Sen. Smith was elected in Gloucester as a member of the School Board and the City Council. He was mayor of the city in 1954-55, the first mayor under Gloucester's Plan E charter, in which the council elected the mayor.

He also played a key role in John Kennedy's campaign for the presidency, participating in many of the primary battles across the nation.

In December 1960, when President-elect Kennedy resigned his Senate seat, Benjamin Smith was named to succeed him. The senator served for two years as a member of the Senate's Labor, Public Works, and District of Columbia committees. Sen. Edward Kennedy succeeded Sen. Smith, winning an election in 1962.

A resolution signed in 1952 by the mayor and councilman declared April 8, 1962 as Senator Ben Smith Day. The recognition was given to Sen. Smith because of his constant attention to the community and its needs. The resolution wished Sen. Smith continued good fortune in his service and career.

In addition to all of his political accomplishments, Sen. Smith was an accomplished fisherman and sailor.

Sen. Smith won first prize in the tuna class of the George Ruppert fishing contest for 1948 with his catch of a 718-pound tuna in Ipswich Bay.

Cunningham said that Sen. Smith loved sailing his entire life, and did much to promote the sport. Cunningham said that Sen. Smith has been recognized for his devotion to the sport and involvement in race week in the Sailing Hall of Fame in Marblehead.

Funeral arrangements are incomplete and will be published in Friday's edition of the Gloucester Daily Times.

Arrangements are being conducted by the James C. Greely Funeral Home, 212 Washington Street.

[From the Boston Globe, Sept. 27, 1991]

BENJAMIN ATWOOD SMITH 2D, AT 75; FORMER SENATOR, KENNEDY'S ADVISER

Benjamin Atwood Smith 2d, who was appointed to the US Senate from Massachusetts when John F. Kennedy became president in 1961, died yesterday at the Addison Gilbert Hospital in Gloucester after a long illness. Mr. Smith was 75.

Long prominent in the Democratic Party on a state and national level, Mr. Smith was a roommate of President Kennedy's at Harvard in the late 1930s and long one of his political confidants and campaign planners.

Mr. Smith served in the Senate for two years, giving way to Edward M. Kennedy, who was elected to the seat in November 1962. During his tenure in Washington, Mr. Smith was a member of the Labor, Public Works and District of Columbia committees.

In 1964, Mr. Smith served on the US Senate campaign committee in New York for the late Robert F. Kennedy and in 1968 he was with the Kennedy for President organization. He also was a longtime member of Edward Kennedy's political family.

For most of his life, Mr. Smith was involved in civic activities in his native city of Gloucester, serving in 1954 and 1955 as mayor of that city. He sat on the School Committee and the City Council and served as a trustee of the Addison Gilbert Hospital.

Mr. Smith was a member of the Annisquam Yacht Club in Gloucester and the Corinthian Yacht Club in Marblehead. Early in his sailing career, he won an international competition and received the Prince of Wales trophy. This past year he was inducted into the Marblehead Sailing Hall of Fame. A member of Gloucester's tuna fishing fleet, he was a United States sports tuna champion for three years, 1946-48.

During World War II, Mr. Smith served in the Navy for four years as a commander on an antisubmarine, antitorpedo vessel.

Born in Gloucester on March 26, 1916, Mr. Smith was the son of R. Russell and Grace Smith. His grandfather, Benjamin A. Smith, was for years president of Gorton-Pew Fisheries Co., an internationally-known fishing company in Gloucester. In 1963, Mr. Smith was named by President Kennedy as U.S. ambassador to an international fisheries conference involving the United States, the Soviet Union, Canada and Japan.

For many years, Mr. Smith was chief executive of the Merchants Box Company, a family business in Gloucester.

Before entering Harvard College, from which he was graduated in 1939, Mr. Smith attended the public schools in Gloucester, played football at Gloucester High, where he was captain of the 1933 team under coach Nate Ross, and later attended Governor Dummer Academy. At Harvard, he was a fullback under coach Dick Harlow.

Mr. Smith leaves his wife, Barbara M. (Mechem); two sons, R. Russell Smith 2d and Benjamin A. Smith 3d of Gloucester; three daughters, Barbara S. Ramsey of Hamilton, Susan S. Crotty of Kittery Point, Maine, and Cathleen Smith of Gloucester; two sisters, Geraldine Ryan of San Mateo, Calif., and Julianna S. Hedblom of Gloucester.

A funeral Mass will be said at 10 a.m. Monday in Sacred Heart Church in Gloucester. Burial will be in Calvary Cemetery in Gloucester.

[From the Gloucester Times, Oct. 1, 1991]

BENJAMIN A. SMITH II

The funeral of former Senator and Mayor Benjamin A. Smith II, 75, husband of Bar-

bara M. (Mechem) Smith of 47 Norwood Heights was held yesterday morning from the James C. Greely Funeral Home, 212 Washington Street.

He was the son of the late R. Russell and Grace (O'Brien) Smith.

Funeral Mass was celebrated at 10 a.m. in Sacred Heart Church, Lanesville, by the Rev. Myron Bullock, pastor.

The organist was Janette H. Coull and the soloist was Patricia A. Natti, who led the congregation in singing "Eternal Father," "Holy God We Praise Thy Name," "On Eagles Wing," "Be Not Afraid" and "The Battle Hymn of the Republic."

The church was filled to overflowing capacity with an additional 50 persons standing outside.

An honor guard was formed by members of the Corinthian Yacht Club, Marblehead.

Ushers were Dwight A. Ware and Michael A. Wheeler, both of Gloucester, Thomas J. Somers Jr. of Manchester and Jon W. Pear of Newburyport.

The scripture reading and responsorial psalm were read by a granddaughter, Cornelia S. Ramsey of Hamilton.

The offertory gifts were brought to the altar by grandchildren Benjamin A. Ramsey of Hamilton and Shelley M. Smith of Gloucester.

The pallbearers were a nephew, Benjamin S. Hedblom of Gloucester and close friends Colin P.C. Smith of Manchester, Dr. George Peter of Barrington, R.I., Joseph B. Kittredge of New Haven, Conn., Donald K. Usher of Gloucester and John J. Parker of Melrose.

Poems were read by two of his children, Cathleen Smith and R. Russell Smith II, both of Gloucester.

Words of remembrance and personal tribute were spoken by U.S. Sen. Edward "Ted" Kennedy.

A eulogy was written and delivered by District Court Judge David E. Harrison.

Burial was held in Calvary Cemetery with prayers read at the grave by the Rev. Bullock. The flag covering the casket of the World War II U.S. Navy veteran was folded and presented to his wife, Barbara M. Smith.

An honor escort from the Gloucester Police Department, under the command of Sgt. Michael MacLeod, led the funeral procession from the funeral home to the church and cemetery. Other members of the honor escort were Patrolmen Howard Costa, Michael Crippen, Sanford Amero and Marjorie Erkkila.

[From the Boston Globe, Oct. 6, 1991]

"A FAREWELL TO BEN SMITH"

(By Jeremiah V. Murphy)¹

GLoucester.—The crowd started arriving early the other morning at Sacred Heart Church in Lanesville for the funeral Mass for former U.S. Senator Ben Smith of Annisquam.

Father Myron Bullock knew the white wooden church perched on a steep hill would not be big enough. There was only room inside for 215 people, but almost 350 showed up and scores stood in the aisle and others waited outside on the steep granite steps.

It was a quiet crowd. Smith was 75 and had lived the good life through the years. He had made many friends.

I have never once heard anybody put the knock on Ben Smith or the late football coach Nate Ross or Russ O'Maley in Gloucester. Not once.

¹Jeremiah V. Murphy is a retired Globe reporter and columnist who lives in Rockport.

Now it was 10 a.m. and the church was jam-packed and the Annisquam crowd was seated mostly on the right and the townspeople and the politicians were seated on the left. Smith's wife, Barbara, two sons, three daughters, and other relatives sat in the middle section.

Organ music filled the church a few minutes before the ancient ritual began when U.S. Senator Edward M. Kennedy slowly walked alone down the left aisle. He looked older and thinner than the last time I saw him. Kennedy's hair has turned white gray, and his face has taken on a deep pink, almost purple color.

Kennedy later delivered a eulogy and three times he had to stop speaking until he regained his composure. He spoke from a prepared speech but sometimes deviated with a bit of humor.

It was appropriate under the circumstances. Kennedy said, now serious, Ben "always stood with my brothers and myself." When his speech was over, Kennedy looked at Smith's casket and softly said, "Good bye, Ben."

Ben Smith's life changed dramatically one day in 1936 when he walked across Harvard Yard with Joe Kennedy. The Harvard students bumped into Joe's younger brother and Joe Kennedy said, "Ben, I want you to meet my brother—Jack."

They hit it off from that day on. Torby MacDonald, later a Massachusetts congressman, was also part of the trio who lived together in the same suite at Winthrop Hall at Harvard and became fast friends. All three are now dead.

Several years ago, a young man I know quite well was writing a college paper on John F. Kennedy's college years. The student phoned Smith in Annisquam and outlined what he sought. "Sure, no problem. I'll help you as much as I can," said Smith.

An appointment was set up and the student spent more than two hours talking to Smith about Jack Kennedy and Torby MacDonald.

The young man was my son, Paul. I remember later reading the college paper. One question stayed with me. Smith was asked what he liked most about Jack Kennedy. He replied: "Without a doubt his sense of humor. He had a way of walking into a room and lighting it up with his presence."

That quality of laughter must have been contagious with Smith and MacDonald. I have heard often that was the case. It is ironic that the two men who knew Jack Kennedy best never wrote a line about him. They never did cash in on their friendship with the Kennedys.

Now back to Sacred Heart Church. Father Bullock, a tall, thin man with grey hair, delivered the first of three eulogies. "Ben Smith was a man in life who was at peace with himself," he said. Somehow that seemed to fit.

District Court Judge David Harrison recalled that Smith had a wonderful sense of humor. He loved hockey and would go almost anywhere to see a hockey game. Russ O'Maley, a longtime gentle Gloucester personality, accompanied Smith to a game in Lake Placid, N.Y.

The refereeing was bad, at least in Smith's eyes, and he was yelling loudly at an official. One thing led to another and a police officer was called to their seats. Harrison recalled that Smith pointed to O'Maley, who had not said a word, and said, "That's the man, officer! He started the ruckus!" They all had a great laugh, which came easily to both Smith and O'Maley. Those in attendance appeared to enjoy Harrison's vignette.

Now the Mass was over, and the congregation sang, "The Battle Hymn of the Republic," and filed out of the church and into the sunshine. Father Bullock stood by the door and nodded and shook hands with the people.

Kennedy filed out with the crowd. He seemed deeply touched by the occasion. Perhaps it was because Ben Smith was one of the last of Jack Kennedy's close friends.

Maybe it was because Smith had held Jack Kennedy's old Senate seat until Ted Kennedy had reached age 30 in 1962 and then was eligible by law to run.

But in any case, Kennedy appeared very moved and used both hands to shake hands with Father Bullock after the Mass.

Ben had known just about everyone and everything about Gloucester. He was "Ben," and not Mr. Smith. Smith moved comfortably through the city where he had been mayor and city councilor and high school football captain. Gloucester was truly home.

Ricky Schrafft, 25 of Rockport, is Ben Smith's grandnephew. He visited his uncle a few months ago and found Smith sitting and reading. Smith was affable and in good spirits, as he always was. Schrafft said the other day, "He was a good man who lived a good life."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise today to inform my colleagues that today marks the 2,411th day that Terry Anderson has been held captive in Lebanon.

But today we share in the great joy of the Turner family. As you know, Mr. President, Jesse Turner was released yesterday after 57 months as a hostage in Beirut. The world still waits for Terry Anderson, Thomas Sutherland, Joseph Cicippio, Alann Steen, Terry Waite, Alberto Molinari, Heinrich Strubig, and Thomas Kemptner. I ask unanimous consent that the New York Times article announcing his release be printed in the RECORD at this time.

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

[From the New York Times, Oct. 22, 1991]

AMERICAN HOSTAGE FREED IN LEBANON, U.N.

OFFICIAL SAY

(By Paul Lewis)

UNITED NATIONS, October 21.—The United Nations tonight announced the release in Beirut of Jesse Turner, a 44-year-old American professor who has been held hostage in Lebanon for almost five years. His release was apparently linked to Israel's freeing of 15 Arab detainees earlier today.

A brief statement issued here said that Secretary General Javier Pérez de Cuéllar had been informed of the release by his assistant in the area, Giandomenico Picco. Mr. Pérez de Cuéllar "understands" that Mr. Turner is now "on his way to Damascus," the announcement said.

The confirmation of Mr. Turner's release followed hours of confusion about his whereabouts. Although earlier reports from Beirut said that Mr. Turner had been freed, United States and Syrian officials had said they had not seen him.

THANKS TO "GROUPS IN LEBANON"

The Secretary General expressed satisfaction over the release of both Mr. Turner and the 15 Arab prisoners, who had been held at

a jail inside the security zone that Israel maintains in southern Lebanon.

Mr. Pérez de Cuéllar thanked "the groups in Lebanon" for their cooperation in bringing about the release of Mr. Turner. He also thanked the Governments that had assisted him, "notably the governments of Iran, Libya and Syria." He said he was "grateful to the Government of Israel for the release of 15 Lebanese detainees".

Finally, the Secretary General seemed to hold out a new ray of hope for the eight other Western hostages that are believed to be detained by extremist groups in Lebanon. He said he hoped "this process will continue and that, in the near future, hostages of all nationalities detained in this part of the world will be freed."

PROFESSOR FROM IDAHO

Mr. Pérez de Cuéllar said he was "prepared to pursue his efforts with all concerned for a comprehensive solution of this humanitarian problem."

A computer science and mathematics professor from Boise, Idaho, Mr. Turner was kidnapped by a pro-Iranian group called Islamic Holy War for the Liberation of Palestine on Jan. 24, 1987 from Beirut University College along with another American professor, Alann Steen. Up to eight other Westerners are being detained after disappearing in Lebanon: five Americans, two Germans, a Briton and an Italian businessman who some reports say may be dead.

Mr. Turner was the fourth longest-held Western hostage to be released since mid-August, when complex negotiations began under the aegis of the United Nations Secretary General to bring about freedom for all Middle East captives. The focus of the talks are the Westerners, some 300 Arabs held prisoner by Israel and its surrogate militia in Lebanon, and four Israeli servicemen who were part of an original group of seven missing in Lebanon for years.

STEP-BY-STEP PROCESS

It has been a painstaking, step-by-step process, with an understanding that a move by one side will lead to reciprocal actions from others.

In Mr. Turner's case, the path for his release was smoothed this morning when Israel freed 15 of its Lebanese captives, bringing to 66 the number of Arabs that it has let go since August. A release had been expected after the Israelis received definitive word over the weekend that one of their missing men, Pvt. Yossi Fink, had been killed.

Danny Naveh, an Israeli Defense Ministry spokesman, described the Israeli action as "a gesture" intended to advance the hostage negotiations undertaken by Secretary General Javier Pérez de Cuéllar. But Mr. Naveh said, "I can't tell you that it's part of a deal where we did this and then we expect something tomorrow morning."

Even so, Israeli officials have repeatedly made clear that if Israel is to free the Arabs still in its hands, it will expect the return of its servicemen—or at least reliable information about them, especially if they may be dead. By the same token, hostage holders in Lebanon insist that the freedom for the Westerners hinges on Israeli action.

The negotiations have been accompanied by finger-pointing, with Arabs and Israelis accusing each other of deliberately blocking a comprehensive deal for political gain. Further complicating matters are the internal rivalries reported among various groups of hostage-taking groups and their patrons in Iran and Syria.

Earlier today it was thought that Mr. Turner's release might have been delayed or

scuttled when Islamic Holy War denounced Israel for staging an air strike this morning on a Lebanese camp of the Party of God, a pro-Iranian Shiite group.

The raid, which produced no reported casualties, was carried out in apparent retaliation for a bombing on Sunday that killed three Israeli soldiers who were on patrol in southern Lebanon.

Israeli officials said their forces staged the air attack on a Party of God headquarters in Jibsheet, which is nine miles north of the Lebanon border and close to the ambush site where the three Israeli soldiers were killed on Sunday. Jibsheet is also the home of Sheik Abdel Karim Obeid, a Shiite clergyman who was kidnapped by Israel two years ago.

His release has specifically been demanded by hostage-holding groups. But Israeli officials say that Sheik Obeid is an essential bargaining chip in the hostage negotiations, and that he would be among the last to be set free.

There had been little doubt that the Israeli military would retaliate after the bombing on Sunday, and thousands of Lebanese villagers in the area were reported today to have fled their homes.

In a statement issued tonight, hours before Mr. Turner's release was confirmed by the United Nations, Islamic Holy War denounced "the hypocritical intentions of the invading Zionist enemy and its continuation in the policy of killing, displacement and planting fear and terror in the souls of Muslims in Lebanon and Palestine."

PHOTO OF ANDERSON

The statement was accompanied by what was apparently an old photograph of Terry A. Anderson, an American who has been held longer than any other Western hostage, since March 1985.

But while retaliating for its soldiers' deaths, Israel kept its side of an apparent bargain by letting more Lebanese prisoners go home.

Twelve men and two women were released from Al Khyam prison, which is run by a client militia in Israel's declared security zone in southern Lebanon. A 15th prisoner, Ali Fawaz of the Party of God, removed from a prison in Israel and sent back across the border to the Lebanese port of Tyre.

THE NOMINATION OF JUDGE CLARENCE THOMAS

Mr. DECONCINI. Mr. President, the following is a compilation of my statements regarding the nomination of Judge Clarence Thomas throughout the confirmation process.

As a result of the allegations of Professor Hill, the Senate, by unanimous consent, postponed the vote on the confirmation of Judge Thomas last week and directed the Senate Judiciary Committee to investigate and conduct hearings on the allegations.

The Judiciary Committee has been highly criticized for its action on these allegations before the Judiciary Committee vote on September 27. Let me just say that many have lost sight of the condition of confidentiality that Professor Hill demanded of Chairman BIDEN. Ultimately, the decision of her confidentiality was taken from Professor Hill when her confidential state-

ment to the chairman was leaked to the press. Unfortunately, the process that ensued has, I fear, scarred Judge Thomas and Professor Hill for life—they have both been through a dreadful ordeal.

The allegations of Professor Hill are extremely serious: That Judge Thomas sexually harassed her—that he used vile, demeaning, and disgusting language with her in conjunction with his quest to date her while she was employed by him.

Unfortunately, despite the extensive investigation and exhaustive hearings—amounting to 32 hours and 23 witnesses, the results are inconclusive.

Claims of sexual harassment are difficult to prove because there are often no witnesses. However, by the same token, those accused of sexual harassment have virtually no defense because they cannot prove a negative. The claims of Professor Hill are egregious but so too is the injustice perpetrated when we attempt to adjudicate a 10-year-old claim through a political process that deprives an accused of the most basic safeguards of due process and fairness.

For this Senator, the burden of proof was on the accuser, Professor Hill. In this country, it is a basic right of our legal system that the benefit for the doubt rests with the accused. These are very serious allegations of personal conduct. This is not a question of ideology or judicial philosophy. It is for that reason that these charges must meet the burden of proof that we afford every defendant in our legal system.

Granted, this was not a court of law with the rules of evidence and the usual protection for a defendant. But that does not lessen the need to require these allegations to overcome the presumption that Judge Thomas is not guilty of these allegations. And those who suggest that the burden of proof is not on Professor Hill would have to deny that Judge Thomas was on trial this past week. Clearly Judge Thomas' integrity and reputation were on trial.

The evidence supporting the allegations of Professor Hill do not meet any reasonable burden of proof that they must overcome. The allegations cannot stand by themselves and what little supporting evidence that has been provided is inadequate.

The conclusion does not have to be made that one of the two is right and the other is wrong. The decision is whether the evidence that was presented over the last few days is conclusive. And here it is not.

I have not been convinced that Professor Hill's allegations occurred. And for that reason I cannot withdraw my support for the nomination of Judge Thomas to the U.S. Supreme Court. To do otherwise would open up the nominations process to all sorts of unsubstantiated allegations.

Professor Hill alleges that Clarence Thomas' sexual harassment com-

menced at the Office of Civil Rights for the Department of Education during the winter of 1981. In 1983, Clarence Thomas became the Chairman of the Equal Employment Opportunity Commission [EEOC]. Shortly thereafter, Anita Hill followed him to the EEOC. Professor Hill testified that after being subjected to his verbal assaults at the Office of Civil Rights she never sought alternative employment. Moreover, she asserted that when he left the Department of Education to become the Chairman of the EEOC that she would not have a job. Therefore, she had no recourse but to follow him to his new place of employment.

However, Ms. Berry, a personnel specialist at the Office of Civil Rights testified that as a "schedule A" employee Anita Hill had job security and was informed of her employment rights when she assumed the position. In addition, Mr. Singleton, Clarence Thomas' successor as the Assistant Secretary for the Office of Civil Rights, submitted an affidavit that stated that not only would Anita Hill continue to have a position she would have been able to maintain the same position that she occupied at the time of Clarence Thomas' departure. I wondered if perhaps she didn't realize that she had job security. However, Ms. Berry said that she was informed of her employment rights. Even if she didn't know wouldn't someone, who has been victimized by verbal assaults, ask?

Professor Hill testified that she feared that the Department of Education would be abolished. Yet, that threat was looming over the Department of Education when she left her law firm to go to the Department. Hence, the threat of the Department's elimination did not deter her then.

Professor Hill indicated that the harassment at the Office of Civil Rights had stopped, therefore, she assumed it would be safe to follow Clarence Thomas to the EEOC. However, would a victim of such atrocious behavior willingly run the risk of being abused again?

Diane Holt, Clarence Thomas' former secretary, testified that Anita Hill called Clarence Thomas, on numerous occasions, after she left the EEOC, sounding cheerful and anxious to speak with him.

Charles Kothe, former dean of the Oral Roberts University Law School, testified that Judge Thomas recommended Anita Hill for the teaching position that she assumed at Oral Roberts Law School. Moreover, he testified that in 1987 he dined together with Professor Hill and Judge Thomas in addition to having breakfast together the next morning and this breakfast, Mr. Kothe stated, was "one of joviality and just one of joy. After that, * * * she volunteered to take him to the airport * * *." Moreover, Mr. Kothe said of this conversations with Professor Hill

"in our discussions about [Clarence Thomas] she was always very complimentary and I felt that she was fascinated by him."

These statements represent only a few of the indications of an ongoing and pleasant relationship that Professor Hill maintained with Clarence Thomas. While I found Professor Hill's testimony compelling, I cannot dismiss the continued indication of a favorable attitude that she demonstrated toward Judge Thomas subsequent to his alleged abuses.

One victim of sexual harassment testified that it is not unusual for a victim of sexual harassment to follow her harasser. However, another victim of sexual harassment, Ms. Brown, moved me very deeply when she testified most passionately:

Let me assure you that the last thing I would ever have done is follow the man who did this to a new job, call him on the phone or voluntarily share the same air space ever again.

The claims of Professor Hill portrayed a very dark side of Clarence Thomas, a side that had not previously surfaced through five FBI background investigations and heated confirmation hearings for Government positions. If this dark side of Clarence Thomas existed, surely someone other than Anita Hill would have seen it. Surely someone, including Anita Hill who witnessed this dark side would have found him unsuitable to head the EEOC, the agency that is responsible for enforcing sexual harassment laws, or unsuitable for the Federal Court of Appeals of the D.C. Circuit that is responsible for adjudicating the rights of victims.

Due to Clarence Thomas' conservative ideology, his previous confirmations have been highly contested—this is not a man who has eluded scrutiny but rather has been in the public eye for quite some time. Why is Professor Hill the only one who witnessed his cruelty and abuse? Opponents of Clarence Thomas would say that Professor Hill is not alone; Angela Wright has also come forward, within the last week, and made allegations of sexual behavior in the office.

However, Angela Wright was fired by Clarence Thomas. By her own admission she was fired because she didn't accomplish the job that Clarence Thomas directed. Regarding her dismissal, Judge Thomas testified that he was dissatisfied with her job performance and he finally decided to fire her when she called someone a faggot, a slur that was unacceptable in the workplace. Moreover, after she came forward and requested to testify against Clarence Thomas she withdrew this request at the last minute. In my judgment, this places her credibility in serious doubt.

Many have attempted to reconcile these inconsistencies by second guessing Professor Hill's motivation to

make a claim that is anything other than truthful. I leave such analysis to the experts. However, her behavior has placed, in this Senator, at least a shadow of a doubt regarding the weight of the evidence to substantiate her allegations.

I know that many women believe that we in the Senate, and men in general just don't get it—we don't understand. I for one agree that few men can truly understand the quiet desperation experienced by victims of sexual harassment. However, I believe that we do get it. My mother was a victim of sexual harassment and was fired for rejecting her boss' sexual overtures. Believe me, as a son knowing what happened to his mother, I get it. The use of power in the workplace over women in order to extract sexual gratification is despicable and must not be tolerated. The victimization of women at work, at home, and in the streets, is something that must be stopped.

I have supported legislation that promotes and protects the rights of women against physical assaults as well as verbal assaults in the Civil Rights Act and the Violence Against Women Act. I set up an award-winning program in Arizona, when I was county prosecutor, to provide counseling for sexual assault victims during and after rape trials. My current office policy insures that it sexual harassment should occur within my office, the offender will be dealt with severely.

However, the legislation and programs that I have supported protect women within the framework of American jurisprudence—they provide forums for proper adjudications of claims of assault against women—extending the appropriate safeguards to the accused as well as the accuser. Sexual harassment cannot be adjudicated through a political process. These charges must be resolved in a forum that restricts: hearsay; those that exceed the statute of limitation; wild speculation as to motive and unsubstantiated, inflammatory material that is calculated to incite the public and ultimately prejudice the parties involved.

Perhaps the hidden benefit of these allegations have been the heightened awareness of the prevalence of sexual harassment of women in the workplace and the injury that results. While the damage done to Professor Hill and Judge Thomas is irreversible, so too, will be the face of the American workplace.

No time in our Nation has the issue of sexual harassment been so dramatically portrayed in living rooms across the country. The number of women who have come forward and told of the abuse and degradation of sexual pressures from their bosses is staggering. Decent men have been shocked by the pervasiveness of sexual harassment. They now will be more vigilant regard-

ing day-to-day office occurrences that in the past have gone unnoticed. Sensitive men and women should offer their support for women who they suspect are victims of harassment. Men who have been committing these abuses know now that they will be policed by this heightened awareness. Men who, in the past, were confused as to what constitutes acceptable behavior know now what is unacceptable.

I believe that Judge Thomas and Professor Hill have been pawns in a calculated game staged by interest groups that believe that the ends justify the means. If these groups are successful in their objective of defeating Judge Thomas, then these groups are the only winners—and the price for them was cheap because Professor Hill, Judge Thomas, and the American public are picking up the tab.

Mr. President, at this point, I ask unanimous consent to include the statement in support of the confirmation of Judge Thomas that I made before the Senate Judiciary Committee on September 27, 1991.

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

I would like to first commend the chairman for his stewardship in these hearings. Once again, he has conducted the hearings in a fair manner with respect to both parties, the nominee and the witnesses.

The hearings are an exhausting process, but essential. During the hearings we have heard detractors of the process harken back for the days when nominees were not questioned by the Senate. I disagree with that notion. Five days of insight into a nominee is a small price to pay for someone who will spend the next 40 years interpreting the Constitution. The Senate and the American public have a right to know a nominee's judicial philosophy, and quite frankly, many of my concerns regarding Judge Thomas were only alleviated through his hearing testimony and his answers to our questions.

Many of my colleagues believe that Judge Thomas was less than candid to several direct questions. I do not quarrel with their right to ask those questions, and I recognize their frustration with the process, but I found Judge Thomas forthcoming on several issues. And I believe that his testimony revealed his judicial philosophy.

No doubt, there are improvements to be made in the process. But we must remember that we have made considerable advancements from prior nomination hearings. It was not too long ago when Senator SPECTER and I were in the process of drafting a resolution concerning the issue of nonresponsive judicial nominees before this committee.

As we all know, voting upon a nominee to the Supreme Court entails a difficult, personal decision. For this particular nomination, I must admit, I struggled in making my decision.

I began my consideration of Judge Thomas' nomination with the presumption that the President's nominee to office should be confirmed. During the August recess, I read extensively from Judge Thomas' writings, speeches, and judicial decisions. I reviewed his record at the Equal Employment Opportunity Commission [EEOC] and at the Department of Education. I read analyses of his

record prepared by opponents and proponents. I talked to my constituents in Arizona.

And after this preparation, I was left with a number of concerns about Judge Thomas. I knew these concerns could only be resolved through the hearings. After 5 days of testimony by Judge Thomas and hearing from over 90 witnesses, I came to the conclusion that I could support Judge Thomas.

Over the past few weeks, we have heard from various reputable groups and individuals who oppose the nomination of Judge Thomas, including national groups representing the interest of women, African-Americans, Hispanics, and the elderly. I do believe that the opponents of Judge Thomas had a right to be concerned about his nomination. Over the years Judge Thomas has written articles and delivered numerous speeches criticizing landmark decisions of the court, rebuking Congress, and ridiculing the civil rights community.

His positions on natural law and the right to privacy as well as his praise of the views of Thomas Sowell raised serious questions in this Senator's mind.

I have not discounted the controversy of Judge Thomas' tenure at EEOC. He and I have had our differences regarding EEOC's treatment of the claims of Hispanics and the elderly during his tenure. I made this clear to him both at his court of appeals hearing and these hearings. I was not happy with the results at EEOC during his tenure. But I do believe that Judge Thomas acted within his official capacity and was earnest in his efforts.

In making my decision to support Judge Thomas, I balanced several important factors against Judge Thomas' prior record, statements, and writings. Judge Thomas has shown a capacity for growth, an understanding of the role of the judiciary, and an ability to divorce his prior duties with that role. I also believe that his controversial writings and his tenure at EEOC must be weighed against his commendable work on the court of appeals. Most importantly, Judge Thomas has shown that he will be a jurist who will not impose his agenda on the court.

More so than even Justice Souter, Judge Thomas supported heightened scrutiny for discrimination against women. I was very encouraged to hear him say that he believed that the court should be willing to apply even greater scrutiny to gender discrimination.

Unlike Judge Bork, he assured the committee that he did recognize an unenumerated right to privacy in the Constitution; some of my colleagues would have liked to have heard a more direct application of this right. Considerable emphasis has been placed upon Judge Thomas' position regarding abortion. Members of this committee have strong views on this issue. I, too, have strong views on this issue. The right of a woman to choose an abortion is one of the most passionate and divisive issues facing our Nation, today. However, whoever ascends to the court will also confront the fundamental issues of tomorrow. Therefore, my vote on a judicial nominee will never turn on one issue.

Drawing from a remarkable life story, Judge Thomas will bring a perspective to the court that it is surely lacking. His story is one of courage—a story of an individual who has risen from the indignity and pain of segregation and poverty to be considered for the highest court in the land. If confirmed, I hope that Judge Thomas will continue to recall his humble background and draw upon it.

But Judge Thomas' personal success story does not alone qualify him for the Supreme Court. Instead, I believe that he has the strength of character, diverse experience, intellectual ability, integrity, and judicial temperament to succeed on the court. I believe that he is an independent thinker beholding to no particular cause.

Judge Thomas would not have been my choice to be on the Supreme Court. I do not agree with President Bush that he is the most qualified candidate for the position. But the Senate should not superimpose its choice in the role of advice and consent.

If confirmed, Judge Thomas will be making some of the most important decisions for this country for decades into the future. I will not agree with all of his conclusions. But it is my belief that, in reaching those conclusions, Judge Thomas will exercise judicial restraint. By voting in favor of a nominee to the Supreme Court, we express our trust that the nominee will exercise the immense powers of that position, judiciously. I believe that Clarence Thomas will not compromise that trust.

TRIBUTE TO MAXWELL N. "JUG" BROWN

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Maxwell N. "Jug" Brown, a man who epitomizes every characteristic of the term "public service." Throughout his entire life and career, Jug Brown has been there for his community, State, and country.

It is indeed rare, Mr. President, when a person's accomplishments and record of service to his or her fellow citizens truly captures the imagination and inspires others to action. Jug Brown is one of those rare individuals who has made a tremendous difference, and has an extraordinary degree of respect and exemplary record to prove it.

Jug Brown served as mayor of the city of Enterprise for 18 years, from 1954-72, an era of unprecedented revitalization and growth. The mayor's other political and governmental leadership roles included, most notably, president of the Alabama League of Municipalities; chairman of his region's Law Enforcement Planning Agency; president of the Southeast Alabama Gas District; and member of both the Alabama Armory Commission and Enterprise State Junior College's Advisory Committee.

Jug's keen business interests and acumen were evidenced by his work with the Dale Carnegie Foundation, through which he organized, promoted, and taught motivational seminars throughout the Southeastern United States. He later served as president of Garwood Enterprise Truck Equipment Co., and Enterprise Motor Lines, and was a governmental affairs consultant to the Alabama Power Co.

The true mark of an outstanding public servant is the ability to not only carry out the duties of important leadership positions successfully, but to also dedicate himself to improving the lives of others. Perhaps the best testament to Jug Brown's fulfillment of the

latter is his service to the Association of the U.S. Army, which exists specifically to address the personal needs of its members and their families.

Jug served his country as an Army staff sergeant during World War II. In 1957, he organized and became the first president of the Association of the U.S. chapter at Fort Rucker, AL, known as the Bogardus S. Chairns Chapter. Under his leadership, the group earned recognition as one of the top six throughout the world. He also organized the Army association chapters in Huntsville, one of the largest in the country, and Birmingham.

In 1959, Jug was the recipient of the President's Gold Medal for outstanding service to the association, only the third such award ever made. Later, he was elected president of the Association's Third Region, covering the States of Alabama, Georgia, Florida, Mississippi, Tennessee, and the Carolinas.

Incredibly, Jug Brown somehow found the time to accomplish even more. He served as Rotary Club president, director of civil defense for the Enterprise area, and district chairman of the South Alabama Council of Boy Scouts of America. He was also a member of the American Legion, board of stewards of the First United Methodist Church, the Military Advisory Committee at Fort Rucker, and the Enterprise Hospital-Nursing Home Board of Trustees. In 1961, Jug was named Enterprise "Man of the Year."

Jug Brown is married to Helen Adcock Brown, herself a former Enterprise "Woman of the Year." Their three sons, each an Auburn University graduate, all attained the rank of Eagle Scout.

Mr. President, as his city honors its former mayor and foremost civic leader on "Jug Brown Day" October 24, 1991, and as we marvel at Jug's impeccable character and record of public service, we cannot help but find it fitting that he hails from a place known as Enterprise, a synonym for which is adventure. Jug Brown's life has been an adventure—in every sense, he has left a mark and made a difference, all the while finding happiness by serving others.

In reviewing his long list of endeavors, honors, and accomplishments, the theme of the beloved Frank Capra film "It's a Wonderful Life" comes to mind. Just like the character George Bailey, Jug Brown vastly enriched the lives of those around him, as well as impacted positively upon the general welfare of his community. How different it might have been in his absence.

Mr. President, we commend and salute Maxwell "Jug" Brown on a wonderful life and wish him continued health and prosperity, as well as a splendid Jug Brown Day."

TRIBUTE TO JUDGE JOHN CAIUS TYSON III

Mr. HEFLIN. Mr. President, I rise today to pay tribute to my good friend and colleague, Judge John Caius Tyson III, upon the occasion of his retirement from the Alabama Court of Criminal Appeals, effective October 1. Judge Tyson steps down after almost 20 years of distinguished and honorable service to the people of Alabama, who elected him to four consecutive terms on the court.

I have often characterized Judge Tyson as a "workhorse judge." Indeed, for the past several years, he has written over 100 separate opinions annually. He has demonstrated a total and unyielding commitment to his work throughout his legal career, consistently and untrillingly exercising the duties and responsibilities of his important office with an uncommon degree of professionalism, responsibility, and fair-mindedness which serves as an inspiration and model for other public officials.

John Caius Tyson III, a native of Montgomery, AL, was educated at the University of Alabama, where he earned both his bachelor of science and law degrees. He married Mae Martin Bryant, daughter of legendary Alabama football coach Paul "Bear" Bryant, in 1957, and served as the State's Assistant Attorney General from 1959 to 1971. In January 1972, Gov. George Wallace nominated him for a vacant seat on the Court of Criminal Appeals, the Governor's first appellate judicial appointment.

A prolific writer and lecturer, Judge Tyson has served as a member of several governing boards, as well as numerous civic and legal organizations, including his present position as chairman of the advisory committee on judicial ethics. His biography was listed in "Who's Who in the South and Southwest," and he was a member of the U.S. Naval and Coast Guard Reserves for 7 years.

Mr. President, I commend Judge John Tyson III on his esteemed career and contributions to the legal profession, and offer my sincere congratulations and best wishes on his well-deserved retirement. In addition, I ask unanimous consent that an article describing the judge's career be included in the CONGRESSIONAL RECORD. Although his energy, fortitude, and dedication will be sorely missed, I am quite confident that the citizens of Alabama, who vested so much public trust in this very public man, have not seen nor heard the last from this "workhorse judge."

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

TYSON TO RETIRE OCTOBER 1

(By Stan Bailey)

MONTGOMERY.—After nearly 20 years on the Alabama Court of Criminal Appeals,

Judge John C. Tyson III will retire at the end of this month.

Tyson, who turns 65 on Oct. 7, was appointed by former Gov. George Wallace in January 1972, and later was elected to a six-year term.

He was elected to his fourth consecutive six-year term last year. His retirement, which becomes effective Oct. 1, will allow Gov. Guy Hunt to appoint a replacement.

Tyson said the people of Alabama have honored him by electing him four times.

"This service has been the highlight of my legal career. It is now time for me to pursue other interests and allow another the opportunity to serve on this court," Tyson said.

He said he plans to teach part-time at Auburn University at Montgomery after he leaves office.

Alabama Chief Justice Sonny Hornsby said Tyson "has an excellent grasp of the criminal law, is an excellent writer and a prodigious worker."

When Wallace named Tyson as his first appellate appointment in 1972, he called him "an outstanding lawyer." Former Alabama chief justice and now U.S. Sen. Howell Heflin, D-Alabama, called Tyson a "workhorse judge."

A native of Montgomery, Tyson earned his law degree from the University of Alabama. He was in private practice in Montgomery from 1951-1959. MacDonald Gallion, a former attorney general, appointed him as an assistant attorney general in 1959—a job he held until 1971.

TRIBUTE TO JAMES HATCHER

Mr. HEFLIN. Mr. President, I rise today to pay tribute to one of my longtime friends, Mr. James Hatcher, as he steps down as the director and producer of the UAB Town and Gown Theater.

Hatch and I went to Birmingham-Southern College together. It was here that he first developed his enduring love for the theater. In fact, he and I were in a play together while we were in college.

James Hatcher has been the director and producer of the Town and Gown Theater for 41 years. He has been an outstanding asset for the community and the theater. Few people have the type of love and dedication for their job that Hatch has shown over the past decades. He has produced thousands of shows and launched the careers of many actors and actresses, as well as several Miss Americas.

James Hatcher has also used his talents to successfully run 13 seasons of Birmingham's Summerfest. He has been asked by the president of the University of Alabama in Birmingham to remain on as the assistant to the president of UAB for performing arts. This position should enable him to continue influencing the performing arts throughout Alabama.

I wish him the best of luck in his future endeavors and look forward to his continued success. I ask unanimous consent that an article from the Birmingham Post-Herald be included in the RECORD.

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

[From the Birmingham Post-Herald, July 15, 1991]

HATCHER TO BOW OUT OF UAB THEATER (By Kathy Kemp)

For a man about to give up the thing he loves most, James Hatcher seems remarkably chipper.

"How do you like my hat?" he says, modeling an exotic-looking pith helmet he acquired during his frequent travels.

"I just love hats. I need them to cover up my bald head."

Hatcher, who turns 70 next month, is poised to retire from the job he has cherished for 41 years—that of director and producer of UAB Town and Gown Theater.

An intense, emotional man who approaches every task with a passion, he appears to be approaching this new phase in his life with a decidedly upbeat attitude.

"I just know that things have to keep moving, that life continues, new generations come, and that's the reason I'm able to accept this so peacefully," he explains.

What will he do, this never-married, round-topped bachelor, who has devoted the best years of his life to the stage?

"Hatch," as he's known to the legion of friends and acquaintances he's acquired through the years, ticks off a list of possibilities.

He plans to write at least three books, including the one he's currently working on—a collection of anecdotes from his life in the spotlight. He's got an idea for a screenplay, which an agent friend has assured him she can sell to a producer. He plans to travel and likely will vacation with Fannie Flagg, the actress-novelist-screenwriter who got her start about 30 years ago as a spotlight operator at Town and Gown.

"And I want to spend more time with my family—my cousins and my two aunts," he says.

Sitting in an Officer at Boutwell Auditorium, where he's putting together the 13th season of Birmingham Summerfest, Hatcher reflects on his colorful career, acknowledging there might be a few things he'd have done differently, if he had a choice.

"I only have two regrets. One was that I never had the funds to do any show the way I would have liked, as far as sets and costumes. It's always been accomplished with the sweat of other people's brows. Our staff has been tremendously underpaid. I would have liked to have been able to bring in a key dancer, for instance, to give leadership to my own corps of dancers.

"The other thing is, we've never really had state-of-the-art electrical equipment, and sometimes we've had trouble with the sound system, as (the critics) have written, because we didn't have a state-of-the-art sound system. Things like that."

Even with its flaws, Town and Gown Theater—under Hatcher's direction—has clearly been something special. For one thing, it has turned many an unpaid community actor into professional talent.

Hatcher says he's lost count of the shows he's put on at Town and Gown. There's no doubt, though, that musical comedies have been his specialty—probably because they, like Hatcher himself, are most often charming, colorful and sentimental.

He loves celebrities, and drops their names with unabashed abandon. He's met at least four presidents—Harry S. Truman, John F. Kennedy, Lyndon B. Johnson and Jimmy Carter. He counted among his friends Tallulah Bankhead and Mary Pickford. When he visits California, he lunches with Wayne Rogers or one of his many other show-business acquaintances.

Growing up in Enterprise, Hatcher claims, he didn't plan on a career in entertainment. When he enrolled at Birmingham-Southern College, he was bent on becoming a minister. That career was side-tracked, though, when he saw a notice for theater auditions on a campus bulletin board.

At Birmingham-Southern, he performed in a dozen productions, though he has long admitted he's a terrible actor. After a three-year stint in the Navy, he was hired by the University of Alabama to start a community theater at UAB, then known as the university's Birmingham extension center. Town and Gown Theater's first production, "Born Yesterday," opened in 1949 in the old Temple Theater.

Eventually, the theater company moved to its permanent location on Southside, in Clark Memorial Theater.

As Hatcher's reputation grew, he was sought out for an ever growing number of projects. For years he helped stage the city's annual Sacred Music Festival, its Miss Alabama pageants and the Razzberry Awards. He was the founding director of the Alabama State Council on the Arts and Humanities. Thirteen years ago, he helped launch Birmingham Summerfest, a city-sponsored non-profit summer stock theater, with which he will continue to work after he retires.

Also in post-retirement, Hatcher will become "assistant to the president of UAB for performing arts," a part-time position created for him by UAB President Charles McCallum. Among his duties, Hatcher says, will be to create an exchange program in the arts with other universities around the world.

Had he not been forced to step down next month when he turns 70, the state's mandatory retirement age, would he want to stay on as head of Town and Gown?

Hatcher smiles, and for the first time since he took off that pith helmet, Hatcher looks sad.

"Probably," he finally says. "It's all I've ever known."

[From the Birmingham Post-Herald, July 15, 1991]

UAB TAPS SUCCESSOR, INSIDERS SAY (By Kathy Kemp)

Although there has been no official announcement, James Hatcher's successor at UAB Town and Gown Theater has already been hired.

Gary Robertson of New York, who has directed on both the professional and university levels, will take over the 41-year-old community theater next month, according to sources at the University of Alabama at Birmingham.

UAB Town and Gown Theater spokeswoman Barbara Perley yesterday would say only that no announcement on Hatcher's replacement is planned for later this month. But several people in the local theater and entertainment community have confirmed that Robertson will replace Hatcher, who is retiring from his job as producer and director of Birmingham's oldest community theater, which he founded.

Hatcher acknowledged that a new director has been hired, and said he was pleased with the choice. "I like him. I was on the committee that selected him, and the university was very respectful of my concerns."

Few, if any, of those connected with Town and Gown knew Robertson before he applied for the job, the sources said. But one old acquaintance of Robertson's—New York director and writer Russell Trezz—had good things to say about him.

"If it's the Gary Robertson I worked with years ago, they've hired a good person," said Trezz, who co-wrote "The Cotton Patch Gospel" with Tom Key and Harry Chapin.

"Gary was a wonderful actor, and I think he's even done some writing. He is warm, bright and positive. And he went out of his way to do a good job."

Trezz met Robertson in California in the 1970s, when Trezz was a guest director at the Pacific Conservancy of the Performing Arts. Robertson—as well as another young, unknown actor named Robin Williams—was a cast member in "The Music Man," one of the shows Trezz directed.

When Robertson takes over, Town and Gown Theater will undergo some changes. From its beginning, it has functioned as a community theater, with mostly non-student actors, independent of UAB's theater and dance program. And as director, Hatcher answered to the dean of the department of humanities, rather than to the head of the theater department.

Under Robertson's leadership, Town and Gown is expected to be more closely associated with the college's theater program, with Robertson reporting to Karma Ibsen, chairwoman of the UAB theater department.

TRIBUTE TO DR. JOHN CAULFIELD

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Dr. John Caulfield as he steps down as director of the university of Alabama in Huntsville's Center for Applied Optics. He has been an integral part of the development of a first-class optics department at UAH and the evolution of the optics industry in Huntsville.

For the past 6 years, John Caulfield has nurtured the optics facility and the Government contracts it has brought UAH. Under his leadership, over \$10 million in optics research has flowed through Huntsville. He has encouraged the type of public-private cooperation which has emerged from UAH's work with numerous local companies.

John has been a continuous and vigorous contributor to the field of optics. Projects with which Caulfield has been involved in include holography, electrooptically modulated infrared nonlaser sources, clinical medicine applications of fluorescence, optical microphones, real-time fingerprint recognition, optical computing, and active and passive night vision devices.

During his distinguished career, John has contributed a number of books and other writings to the world of optics. Contributions to periodicals such as the Journal of Applied Physics, Applied Optics, International World Tribune, Newsweek, Popular Science, Omni, and National Geographic include approximately 130 articles. In addition, he served as editor of Optical Engineering and Optical Memory Neural Networks, and on the editorial board of Fiber and Integrated Optics. During his stay at UAH, John acted as a consultant for Understanding Computers-Alternative Computers, published by Time-Life Books.

The university and the business communities brought John to Huntsville in

1985 and he has meant much to those communities. Through his leadership, the university's new optics facility should be completed this fall. Dr. Caulfield was instrumental in acquiring the \$8.7 million Department of Energy grant which made the center possible.

Since his affiliation with the Center for Applied Optics, John has been invited to speak around the world to audiences such as the International Symposium on Optical and Electro-Optical Science and Engineering in France, Automatic Optical Inspection in Austria, the International Conference on Holography Applications in China, the International Optical Computing Conference in Israel, the Technical University of Warsaw, the Institute of Electronics Fundamentals in Poland, and the Cetraro Conference in Italy.

John has also attained over 20 optical computer patents, including those for the Fiber Stellar Interferometer, Hologram Writer and Method, Fiber Fourier Spectrometer, Fiber Optic Cable Connector, and a Neural Processor with Holographic Optical Paths and Nonlinear Operating Means, all developed during his tenure at UAH.

John served as United States Coordinator for the Korea-USA Joint Workshop on Optical Neural Networks, and served on boards ranging from the Patent Board for Applied Optics to the Helen Keller Research Institute. He was an advisory committee member for the Museum of Holography in New York as well.

Thankfully, Dr. Caulfield plans to remain at the University of Alabama in Huntsville, continuing his research in optical computing and neural networks. He has expressed interest in further serving the university as a professor of physics, continuing to lend a helping hand to students with their own research. Aside from his university-related activities, he is affiliated with a new optical computing company that is presently undergoing major capitalization. According to a co-worker, John believes Nodal Systems will establish Huntsville as a major center in the field of applied optics and bring a number of jobs to the area.

In addition to his many contributions, awards, and achievements in the field of optics, John has incredibly found time to help his wife realize her life-long dream of becoming a sheep farmer. With much after-hours hay tossing and other sheep-related chores, John's helping hand has aided Mrs. Caulfield in producing a prize-winning black sheep.

I look forward to John's continued success in his many and varied endeavors. His work with optical computers could prove to be a revolutionary force in shaping the next wave of computer technology.

Mr. President, I ask unanimous consent that an article from the Hunts-

ville Times on the work of Dr. Caulfield be included in the RECORD.

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

[From the Huntsville Times, Aug. 1, 1991]

UAH's JOHN CAULFIELD LEAVING OPTICS POST
(By Mike Paludan)

The University of Alabama in Huntsville's top optics expert is leaving his position but plans to stay in the area.

Dr. John H. Caulfield, director of UAH's Center for Applied Optics and an optics researcher of international reputation, told the Huntsville Times Wednesday that he hoped the university would find a replacement for him within about a month.

UAH officials have interviewed several candidates to replace Caulfield in the position, which paid him \$110,000 a year, said university spokesman Rick Mould.

Caulfield, 55, said he plans to remain in the Huntsville area and possibly stay at UAH to teach physics. Another option, he said, would be to join the private sector.

After six years in a job Caulfield said he always planned to keep for only five, the UAH scientist leaves the school with a beefed-up optics program and what he called "the best optics facility in the world."

A new \$8.7 million optics center, paid for with a Department of Energy grant, should be completed on the UAH campus this fall, Mould said.

That facility will help UAH attract the top optics researchers in the world, Caulfield said.

UAH has performed more than \$10 million in optics research under Caulfield's directorship, with participation from about 30 local companies. Caulfield said his work will continue in that research area.

University and business leaders in Huntsville recruited Caulfield in 1985 after identifying optics as an industrial focus for the city in line with the push to diversify its economic base beyond a dependence on government defense and space work.

On the industrial development side, Caulfield admitted his goal of turning North Alabama into the "Silicate Valley" of the United States in optics work remains elusive, so far.

"The recession has hurt," Caulfield said.

Major funding from private investors to start up a new optical computing company, Nodal Systems Inc., fell through last year, but Caulfield said a new source of capital may surface this fall.

And further discussions between Caulfield and others behind Nodal, on the one hand, and other companies for use of its patents could bring work to Huntsville, Caulfield said.

Those patents could place Caulfield's company in an early lead for the new-generation computer industry. So far, only a handful of optical computing patents have been granted, said Ed Rosenfield, editor and publisher of *Intelligence*, a trade publication devoted to advanced computer technology.

The most recent of Caulfield's patents is assigned to Teledyne Brown Engineering of Huntsville, said Donald L. Wenskay, a patent attorney in Michigan who tracks neural network developments. That optical computer patent is one of 24 granted to Caulfield since the mid-1980s, he said.

Nodal would seek to design, build and market an optical computer capable of operating 1,000 times faster and with a million times less power than existing electronic computer technology.

Using holograms for storage instead of chips and laser beams instead of electronics for data transmissions, the optical computer could have a worldwide multibillion-dollar market in the next decade, Caulfield has said.

High-speed and low-energy optics may usher in development of a long-sought-after computer that mimics the human brain—a so-called neural network with capabilities far beyond the artificial intelligence technology of present-day computers.

Nobal's lack of financial backing to date doesn't surprise Rosenfeld.

"He's certainly one of the premier talents in the optical world. That doesn't mean he can attract money. Three or four years ago people got money fairly quickly. Venture capital money hasn't been flowing into neural networks. A lot of venture money went into (leveraged buyouts) in the late '80s," Rosenfeld said.

Japanese officials have contacted Caulfield about optical computer development, but the UAH scientist has expressed little interest in that financial route, he said.

Caulfield's sentiment is in line with members of the Bush administration who have protested such overtures to university researchers, according to a recent Washington Post story.

The story said no actual funding offers had been made to the university researchers such as Caulfield.

Mitsubishi Corp. in Japan appears to be the company closest to commercial development of optical computers, said Rosenfeld.

TRIBUTE TO AUBREY J. "RED" WAGNER

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Aubrey J. "Red" Wagner for his outstanding leadership and contributions on behalf of the Tennessee Valley Authority. His distinguished work and tenure as its Chairman—longer than anyone else in TVA's history—earned him the title "Mr. TVA."

Red Wagner, who died in July 1990 at the age of 78, served the public throughout his entire life, leaving a profound and lasting impression on those who had the privilege of working with him. Those who were close to him commonly refer to his honesty, dedication, energy, and persistence in accomplishing TVA's mission and goals.

Red's TVA career began in 1934, the year after the agency was founded, and spanned 44 years. Originally from Wisconsin, he came to TVA as an engineering aide, focusing on the agency's river development program. In 1948, he became manager of the Navigation and Transportation Branch. He eventually became general manager and was subsequently appointed by President Kennedy to the TVA Board. Not surprisingly, Red soon became Chairman, a position he held for 16 years. His tenure as a board member and as its Chairman still stand as agency records. As has often been stated, as TVA grew, Red Wagner grew with it.

During his career at TVA, Red Wagner earned a degree of respect and loyalty uncommon in business organizations, public or private. His personal

and direct influence on TVA's mission and programs is unparalleled, as he helped design and build one of the Nation's largest electric power systems. Of course, his efforts were instrumental to the development of Alabama's inland waterways and overall navigational system.

It is entirely fitting that last month, the towboat *Maggie B* was renamed the *Red Wagner* in recognition of his leadership and contributions to TVA. The *Red Wagner* is based in Muscle Shoals, AL, and is used to move material and heavy equipment up and down the Tennessee River. This is perhaps the ideal memorial to an impeccable individual whose very work made such transportation possible.

Mr. President, I ask unanimous consent that an article on the life and career of Red Wagner be included in the RECORD.

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

"MR. TVA" REMEMBERED
(By Worth Wilkerson)

Those who worked with him most closely remember Aubrey J. "Red" Wagner best for his integrity, his dedication, and his persistence.

"Red spent his life serving the public," says retired manager of Power G. O. Wessenauer. "That was always uppermost in his mind, whether he was planning for the navigation system on the Tennessee River, or serving as TVA General Manager, or making decisions as a member of the Board of Directors."

Wessenauer describes Wagner as a "very dedicated man" who also "was very persistent, as exemplified by the Tellico Project—many people didn't think the projected benefits would ever be realized, but Red never had any doubts, and I think what's happening at Tellico now bears him out."

A family member spoke with a resident of Tellico Village last winter about the possibility of Wagner's visiting that new housing/recreation development, health permitting, when the weather got better. He never got to make that visit. Wagner died in his sleep July 14 in a Knoxville health-care facility at the age of 78.

In a TVA career that began the year after the agency was organized and that lasted for 44 years, Wagner served a record 17 years on the TVA Board of Directors. He was Chairman for 16 of those years—also a record.

During his tenure, Wagner gained a degree of respect and personal loyalty among rank-and-file TVA employees that is almost unprecedented for a large organization. He was called "Mr. TVA" by many. Historians say his influence on TVA's direction and programs is equaled only by that of the first Board.

Retiree Godwin Williams, who also once served as Manager of Power, applies the word "integrity" to Wagner. "There was never anything shady or questionable about what he was doing," Williams says. "It was always very straightforward."

Williams says he often marveled at Wagner's "tireless energy—he never let up until he accomplished what he was trying to do. If he wanted something, he'd tell you why he thought it was a good idea and would listen to you, for a little while at least, if you dis-

agreed. He was always very polite and a gentleman in letting you have your say."

Bob Howes, who headed TVA's recreation program and was the first manager of Land Between the Lakes, says Wagner was a "penetrating thinker who was always thinking ahead of most of us. I remember saying to myself, 'I wish I'd said that' sometimes, when he'd made a point in a meeting."

Howes also echoes the comments of Wessenauer and Williams about Wagner's tenacity.

"He could be very stubborn when he was convinced he was right," Howes says. "Yet, he was willing and able to grow as he moved up through the organization. I remember early on he and I were on opposite sides of an issue on reservoir shorelines, but he came full circle as he moved up and gained a broader perspective."

J. Porter Taylor, who took over TVA's navigation program after Wagner moved to the General Manager's Office, sums up the feeling of many of Wagner's colleagues and TVA employees, saying simply, "He was just a great guy; there was none better."

A native of Wisconsin, Wagner came to TVA in 1934 fresh with a civil engineering degree, to work as an engineering aide. He concentrated on the navigation aspects of the river development program and in 1948 was named to head the Navigation & Transportation Branch. He was made Assistant General Manager in 1951 and General Manager in 1954.

President John F. Kennedy appointed him to the TVA Board in 1961 to succeed Brooks Hays, who had resigned. When Chairman Herbert D. Vogel resigned the following year, Kennedy designated Wagner as Chairman.

When Wagner's first term neared an end in 1969 without a reappointment, he cleared his desk and prepared to leave. But President Richard Nixon reappointed him at the last minute, and he returned to serve another nine years—giving him the longest service of any member ever on the board.

**THE TALLADEGA PRISON
UPRISING**

Mr. HEFLIN. Mr. President, the period between August 19 and 30 is indelibly etched in our minds as the time of the "Second Russian Revolution," the time when the forces of democracy prevailed in the Soviet Union and altered the world's political landscape as we have known it for some 45 years.

We should, however, also take note of the dramatic events which were unfolding simultaneously at the Federal Correctional Institute in Talladega, AL, when 121 angry inmates seized control of the facility and took 10 employees hostage, leading to a perilous standoff with law enforcement officials.

The uprising itself began on August 20, when Cuban detainees took 10 hostages at the prison to protest their eminent deportation; they had exhausted all appeals and had little to lose by employing violence to fight this extradition. The siege lasted for 10 tense and emotional days, as the entire Talladega community and State rallied in support.

The uprising came to a climax in the early morning hours of August 30, when all deliberative attempts to secure the

hostages' release proved futile. The hostage rescue team, backed by other FBI and Bureau of Prisons response teams, led a precisely executed assault on the prison at the direction of Acting Attorney General Barr. At considerable risk to their own safety and in the face of unknown potential dangers, these well-trained law enforcement officers stormed the facility and within seconds the hostages had been removed to safety. Again, it is a credit to this special group of FBI men, whose motto is simply "To Save Lives," that no one suffered major injury.

I applaud the teamwork of the FBI and Bureau of Prisons, as well as the strong leadership and decisiveness of their respective directors, William Sessions and J. Michael Quinn, and that of Acting Attorney General William P. Barr. Indeed, the participants at all levels within these organizations should be commended for their roles in resolving the crisis. Without their professionalism and total cooperation, the outcome could have been very different.

Additionally, the Talladega Police Department, local media, and the correctional institute's community relations board, comprised of elected officials and community leaders, all provided valuable assistance. Volunteers established a center for the families of the hostages and conducted a "Yellow Ribbon" campaign. These yellow ribbons, symbolizing the community's support for the hostages and their families and friends covered the normally quiet town of Talladega, most known for its yearly stock car racing events.

Mr. President, today we can celebrate a happy ending to this saga, for an extraordinary group of FBI agents and other law enforcement professionals acted decisively and courageously in bringing the uprising to a halt, with the 10 hostages relatively unharmed.

I conclude by extending a belated but special "welcome home" to Linda Marie Calhoun, Herman Cruz, Mary A. Hogan, Ronald J. Holland, Leonard C. McKinney, Bryon K. Sanders, Sherwin K. Scarbrough, Rita K. Sudduth, Mark L. Tinsley, and Gerald Michael Walsh, and salute their bravery while held hostage at the correctional facility.

Mr. President, I request unanimous consent that an article on the FBI's hostage rescue team and its role in the Talladega uprising, as well as a list of the members of the institute's community relations board, be included in the RECORD.

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

[From the New York Times, Aug. 31, 1991]
F.B.I. RESCUE TEAM'S BAPTISM OF FIRE
(By David Johnston)

WASHINGTON, August 30.—Until today the Federal Bureau of Investigation's elite team that led the assault on the Federal prison in

Talladega, Ala., was a little-known force that had never before been used for such a large-scale hostage rescue. It had taken part in a few violent confrontations with less risk of widespread injury and in fugitive arrests in high-risk situations and it had been posted to several sites where there was a potential for violence.

The bureau's 50-member Hostage Rescue Team was created in 1982 in response to concern about terrorism, hijackings and hostage taking. The unit serves as a domestic counterpart to the military's Delta Force, set up to conduct similar operations overseas.

Drawn from the ranks of the bureau's agents, the team consists of 50 men. Women are not barred from the team. Several have applied, but failed the very demanding physical trials.

NO OTHER DUTIES

The team operates from a base at Quantico, Va., the site of the F.B.I.'s national training academy. Unlike members of the F.B.I. Special Weapons and Tactics Teams who have regular investigative assignments, members of the hostage rescue group have no other duties while assigned to four- or five-year tours with the unit.

Members of the team, whose motto is "To Save Lives," undergo rigorous physical and mental conditioning as well as intensive training in firearms, explosives and rescue operations on aircraft, buses, high-rise buildings and prisons. Several officials said that the specialized training was a factor that helped explain how the team succeeded in storming the prison without causing serious injuries among the hostages or inmates.

Acting Attorney General William P. Barr began preparing for today's assault on the prison on the day that Cuban inmates seized the hostages, law enforcement officials said today.

Shortly after the hostages were taken on Aug. 20, Mr. Barr convened an advisory group, which met at least once a day. The group left the actual negotiations to prison officials, who, except in an emergency, were under orders not to try any rescue efforts without approval from Washington.

But after realizing early on that negotiators could not give in to the inmates' demands to be freed and that a stalemate was likely to be reached quickly, the officials "concluded that the situation could not be successfully resolved through negotiations," a senior Justice Department official said.

The F.B.I. prepared two plans, an emergency rescue mission and a more elaborate plan, which evolved into the raid undertaken today. The advisory group concluded that the hostages would be in jeopardy unless the rescuers acted before the inmates realized they would not be able to obtain their freedom through negotiations.

Fearing that the opposing factions among the detainees might use the hostages in their own internal disputes, officials decided to act before the situation deteriorated to the point that an emergency rescue operation might have to be mounted, possibly placing the hostages in even greater danger.

On Thursday morning, Mr. Barr and his aides made the preliminary decision to storm the cellblock, but held open the possibility that negotiations might progress far enough to avoid a forced rescue. Late Thursday night, Mr. Barr moved from the Justice Department to F.B.I. headquarters, where the bureau's Strategic Intelligence Operations Center on the fifth floor of the J. Edgar Hoover Building was activated.

Among those present with Mr. Barr were William S. Sessions, F.B.I. director, Michael

Quinlan, director of the Bureau of Prisons, Floyd Clarke, F.B.I. deputy director, and William Baker, F.B.I. assistant director in charge of the criminal division.

Before giving the order to free the hostages, Mr. Barr polled his aides as well as prison officials in Alabama about the risks of the operation.

For today's operation, bureau officials deployed the full team, along with some former members. In all, the team that led the assault had nearly 80 agents. Members of bureau SWAT units in Atlanta, Birmingham, Ala., and Knoxville, Tenn., and a Bureau of Prisons' Special Operations and Response Team entered the prison compound behind the main rescue team.

The F.B.I. team was first posted at the Los Angeles Olympics in 1984, where it was never needed; since then it has been a presence behind the scenes at events in which there is a potential terrorist actions. Among these have been the Republican and Democratic National Conventions in 1988.

In 1987, members of the team took part in the arrest of Fawaz Yunis, who was seized in international waters off Cyprus. He was later convicted of air piracy and hostage-taking in connection with the hijacking of an airliner at Beirut International Airport in 1985.

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Mr. Bob Hand, Glen Representative, Office of Congressman Glen Browder.

Mr. Jay Thornton.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order the hour of 12:30 p.m. having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m.; whereupon, the

Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

FEDERAL FACILITIES COMPLIANCE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 596, which the clerk will report.

The bill clerk read as follows:

A bill (S. 596) 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.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I note both managers are still in their respective, usual, Tuesday caucuses 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. MITCHELL. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request which I am advised by staff for the Republican leader has been cleared by the Republican leader.

I, therefore, now ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time return the Senate to the consideration of Calendar No. 99, S. 596, the Federal Facilities Compliance Act, notwithstanding the provisions of rule XXII.

Mr. President, I should amend that to say "may at any time turn the Senate."

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

CLOTURE VOTE—S. 1745

Mr. MITCHELL. Mr. President, following consultation with the Republican leader, I now announce that the cloture vote on the motion to proceed to the civil rights bill will occur at 2:50 p.m. today, that is, in approximately 20 minutes.

Mr. President, I have not yet put that in the form of a unanimous-consent request. I do so now.

I ask unanimous consent that the vote on cloture on the motion to proceed to the civil rights bill occur beginning at 2:50 p.m. today.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. MITCHELL. Mr. President, although I am not going to put this into

a unanimous-consent request, we have discussed the matter, our staffs have discussed the matter, and it is our understanding that the Federal Facilities Compliance Act will now be before us and that the managers intend to dispose of the remaining managers' technical amendment and the Wirth amendment, and that that will complete action on that measure but for the subject matter of unauthorized disclosure of information, which is still now the subject of discussion between the distinguished Republican leader, myself, and other interested Senators.

So what we will do is get those matters done between now and 2:50, then have a cloture vote at 2:50. Following that, we will then make a determination as to whether I exercise the authority just granted me to turn to the Federal Facilities Compliance Act or whether we continue with respect to the Civil Rights Act. That will follow further discussions that I will have shortly with the distinguished Republican leader.

Mr. President, I understand the managers on the Federal Facilities Compliance Act are present and will be ready to go shortly, 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. BAUCUS. 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. BAUCUS. Mr. President, under the agreement that pertains to this bill, it is my understanding that the managers of the bill are entitled to offer a technical amendment. Is my understanding correct?

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. BAUCUS. Mr. President, with respect to that interpretation, there may be one or two other technical amendments that the managers may wish to offer as a package to be in order at a later date. Would it be in order to offer those technical amendments as well?

The PRESIDING OFFICER. Yes. That would be in order. The order includes technical amendments to be agreed to by the managers.

AMENDMENT NO. 1265

Mr. BAUCUS. I thank the Chair. Mr. President, I have a series of three technical amendments to the bill that have been cleared by both sides, essentially. One is at the request of the Senator from Washington, the Presiding Officer; another by Senator LAUTENBERG, with respect to surety provisions; and another from Senator BURNS, my colleague from Montana, with respect to mine waste capabilities. I send those amendments to the desk and ask that they be considered.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 1265.

In section 105, subsection (b), in line 4 of new section 3004(m)(3) of the Solid Waste Disposal Act, after "comment", insert "and after consultation with appropriate State agencies in all affected States".

In section 105, subsection (b) in line 12 of new section 3004(m)(4) of the Solid Waste Disposal Act, after "comment", insert "and after consultation with appropriate State agencies in all affected States".

In section 109, subsection (b)(3), line 12, after "shall be" insert "only for the cost of completion of the contract work".

In section 111, line 1, after "solid", delete "of" and insert in lieu thereof "or".

In section 114, delete "AMENDMENT TO THE FEDERAL FACILITY COMPLIANCE ACT OF 1991" and insert in lieu thereof "USE OF MINE WASTE TREATMENT CAPABILITIES".

The PRESIDING OFFICER. Does the Senator wish to have the amendments considered en bloc?

Mr. BAUCUS. I make that request.

The PRESIDING OFFICER. The amendments will be considered en bloc.

The question is on agreeing to the amendment.

The amendment (No. 1265) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, we are now awaiting clearance on two amendments. I see one of the Senators on the floor. I ask the Senator if he is ready.

AMENDMENT NO. 1266

(Purpose: To establish energy management requirements for congressional buildings)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1266.

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

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

The amendment is as follows:

On page 6, after line 12, add the following new section:

SEC. 5. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol (referred to in this section as the "Architect") shall undertake a program of analysis and retrofit of the Capitol Buildings, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

(b) PROGRAM.—

(1) LIGHTING.—

(A) IMPLEMENTATION.—

(i) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and subject to the availability of appropriated funds to carry out this section, the Architect

shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less.

(ii) REPLACEMENT OF INCANDESCENT LIGHTING.—Wherever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

(B) COMPLETION.—Subject to the availability of appropriated funds to carry out this section, the program described in subparagraph (A) shall be completed not later than 5 years after the date of enactment of this Act.

(2) EVALUATION AND REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

(B) COSTS.—The report shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure.

(3) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Architect shall issue an implementation plan for the installation of all energy conservation measures identified in accordance with paragraph (2) with payback periods of less than 10 years.

(B) INSTALLATION.—The plan shall provide for the installation of the measures described in subparagraph (A) not later than 6 years after the date of enactment of this Act.

(4) ENERGY SAVINGS PERFORMANCE CONTRACTS.—

(A) IN GENERAL.—In carrying out this section, the Architect is authorized and encouraged to solicit and enter into one or more energy savings performance contracts offered by one or more private firms.

(B) CONTRACT REQUIREMENTS.—Each energy savings performance contract shall—

(i) require an annual energy audit;

(ii) specify the terms and conditions of each payment and performance guarantee; and

(iii) provide that, for the term of each guarantee, the contractor is responsible for maintenance and repair services for energy-related equipment, including computer software systems.

(C) PAYMENTS.—The Architect may incur an obligation to finance a project contracted for in accordance with this paragraph if—

(i) the energy savings guaranteed in the contract exceeds the debt service requirements; and

(ii) aggregate annual payments do not exceed the energy savings guaranteed in the contract during each contract year.

(D) IMPLEMENTATION.—The procedures and methods used to calculate the energy savings guaranteed in the contract shall be based on—

(i) sound engineering practices; and

(ii) consideration of relevant variables, including applicable utility rate schedules and fuel and utility billing schedules.

(E) DEFINITION.—As used in this paragraph, the term "energy savings performance contract" means a contract that—

(i) provides for the performance of services for the design, acquisition, installation, testing, operation, and, if appropriate, maintenance and repair, of an energy conservation measure identified in accordance with paragraph (2); and

(ii) may provide for appropriate software licensing agreements.

(5) **UTILITY INCENTIVE PROGRAMS.**—In carrying out this section, the Architect is authorized and encouraged to—

(A) accept any rebate or other financial incentive offered through a program for energy conservation or the management of electricity or gas demand that—

(i) is conducted by an electric or natural gas utility;

(ii) is generally available to customers of the utility; and

(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost effective for the buildings described in subsection (a); and (B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. WIRTH. Mr. President, this amendment requires that the U.S. Capitol complex not only become energy efficient, but it requires the Architect of the Capitol to undertake relamping of the Capitol, the Senate buildings, the House buildings, and also to undertake a study of all of the methods and to implement those methods for heating and air-conditioning efficiency.

This is an amendment which I have been working on for a long time.

I ask unanimous consent that an industry review of Capitol Hill lighting which I commissioned from industry groups some years ago, which was completed in 1989, be printed in the RECORD at this point.

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

[A report to the U.S. Senate Subcommittee on Energy Regulation and Conservation and the U.S. House of Representatives Subcommittee on Energy and Power]

INDUSTRY REVIEW OF CAPITOL HILL LIGHTING
(Prepared by the Lighting Equipment Division, National Electrical Manufacturers Association, Washington, DC, October 16, 1989)

EVOLUTION OF LIGHTING TECHNOLOGY

During the past decade significant advances have been made in lighting energy efficiency. Political/economic forces spawned by the OPEC oil embargo of the early 1970s and technological innovations, particularly the introduction of computers into the workplace, are the driving forces for changes in lighting.

As a result, lamps, ballasts and fixtures changed. Sophisticated lighting controls gained market acceptance. The traditional incandescent and fluorescent lamps were supplemented by an array of more energy efficient types.¹ These lamps address the spe-

¹ Examples include: (1) energy saving incandescent and fluorescent, (2) cathode disconnect fluorescent lamps, (3) 1 1/4 inch diameter (T10), four-foot fluorescent lamps, (4) compact fluorescent systems for retrofitting incandescent lamps, (5) tungsten-halogen capsule lamps in traditional and reflector envelopes,

cial need to save energy by a simple replacement process. These were augmented by additional advanced technology lamps.² Even greater energy savings are achievable with these new generation lamps, but they generally require new fixtures or circuits to optimize their performance.

Fluorescent lamp ballasts have also undergone major changes. The standard electromagnetic ballast is being displaced by the energy saving premium electromagnetic ballast.³ Despite slow commercial acceptance of early generations of electronic fluorescent ballasts during the past decade, there are indications that advanced electronic ballast designs introduced during the past two years are receiving considerably greater attention in the market place. An electromagnetic ballast consists basically of a steel laminated core surrounded by two aluminum or copper coils. This assembly, along with a capacitor, transforms electrical power into a form appropriate to start and regulate the fluorescent lamp. The energy saving electromagnetic ballast differs from the traditional standard ballast in the materials used. Electronic ballasts start and regulate fluorescent lamps through the use of electronic circuitry at the range of 9 kHz and above, rather than the traditional core and coil assembly at 60 Hz. The high frequency levels of electronic ballasts reduce the power required by fluorescent lamps for a given level of light output.

The proliferation of visual display terminals (VDTs) and concomitant demands for altered light delivery systems have dramatically impacted lighting design practices. The viewing surface of the VDT is vertical; the opposite of the horizontal "paper task," which is viewed flat on a desk top. The VDT screen's surface is usually highly polished curved glass as opposed to the matte flat surface of most paper. As a result, lighting designs once considered appropriate for offices, are now considered inappropriate for electronic offices.

This change in visual demands in today's office place affects the energy conservation equation and initial costs, because of the increased demands by end-users for quality lighting design. With VDTs present, delivery systems must be more carefully designed, installed and maintained. The reflectance of objects, such as the ceiling, walls, floor, and desk tops of an office, are taken into account. Daylighting controls, such as venetian blinds, curtains, bottom-up and top-down shades and other shielding devices should be integrated into the total lighting plan. Lighting control system may include microprocessors, occupancy sensors, light sensors, dimmers, and low voltage switching systems. New types of luminaires have evolved that are both efficient and increase visual comfort while using VDTs.

The significance of our changing work environment to those desiring greater energy conservation is this: Lighting design and application have become more critical in areas

and (6) krypton-filled incandescent lamps for long life.

² Examples of advanced technology lamps are compact fluorescent lamps (the bases of which may not allow them to be simple replacements for incandescent lamps), the recent reduced-diameter fluorescent lamps, low voltage tungsten-halogen reflector lamps, and low wattage HID light sources.

³ Effective January 1, 1990, standard fluorescent ballasts used to start and operate F40T12, F96T12 and F96T12HO in 120 VAC and 277VAC fluorescent lamp systems will no longer be allowed to be manufactured for use within the U.S. Premium electromagnetic and electronic fluorescent lamp ballasts complying with minimum ballast efficacy factor (BEF) standards will be required to be used in their place. Cf PL 100-357.

where VDTs are used. Tolerances are tighter; arbitrary lighting limits⁴ increase the probability of more problems.

DESIGNER AND CUSTOM OPTIONS

NEMA lighting manufacturers responded to the mandate of the Senate and House energy subcommittees with a practical "straight forward" list of retrofit recommendations—direct exchange of equipment.

However, there are other "lighting design" options. The professional staff of the Office of Architect of the Capitol suggested NEMA provide a "design recommendation." It would be inappropriate for NEMA, as an association of equipment manufacturers, to make such a recommendation. A professional lighting designer should be retained by Congress to consider a wide range of alternatives.

CONCLUSIONS AND COST/BENEFIT ANALYSIS

There are many opportunities for Congress to improve the lighting in its own domain while establishing an energy saving precedent for the Nation. Pages 9 through 17 of this report details NEMA's recommendations for improved lighting energy management.

To focus on what Congress can accomplish, NEMA concludes its review by highlighting office lighting and providing a cost/benefit analysis of its recommended "Best" options for replacing lighting systems in Congressional offices.

Throughout the Senate and House office buildings, except for the Hart Senate Office Building, fluorescent luminaires with four F40T12 lamps and two standard ballasts are the primary source of general illumination. Such "standard systems" use between 175 and 192 watts per luminaire, depending upon the measurement criteria.⁵

As previously shown, a "good" alternative would be to change the standard lamps to F40T12ES (energy saving) lamps and use of two premium electronic ballasts. The "Better A" alternative would use energy saving lamps in conjunction with two electronic ballasts. "Better B" proposed using F032T8 or F40T10 lamps with electronic ballasts. The "Best" options, considering both lighting quality and energy savings, are luminaires using three F032T8 fluorescent lamps with one 3-lamp electronic ballast.⁶

⁴ Such an example is found in the Commercial Building Guidelines promulgated by U.S. Department of Energy, Jan. 30, 1989, Federal Register, Vol. 54, No. 18, Part III, which amended 10 CFR 435 by projecting 1993 area lighting limits in watts-per-square foot without regard to the state of lighting technology or the visual demands of end users.

⁵ A "lighting system" referred throughout this report equates to a luminaire—the combination of lamps, ballast and fixture. Luminaires of the type referred to in this report, tested in accordance with NEMA Standard 270-1988 "Procedure for Fluorescent Lamp/Ballast/Fixture Performance Comparison," show lower wattage consumption rates that bench test measurements.

ANSI Standard C82.2-1984 provides a measurement of lamp and ballast performance on a test bench in a controlled 77 °F ambient temperature environment. The watts consumed by the lamp/ballast combination is generally higher than the watts consumed by lamps and ballasts installed in fixtures. Because the industry uses both methods of measurements, the figures presented in this report are listed in a range.

⁶ Relatively similar savings can be achieved with three-lamp parabolic louvered recessed or surface-mounted fixtures using T-8 lamps (Cf. Table 1-A). However, for sake of example, only the pendant mounted fixtures were compared in the presentation.

Table 1 shows comparable energy savings which can be achieved by replacing various lamp and ballast combinations. Table 1-A portrays energy savings gained by replacing lighting systems with one of the "Best" options—whether an open pendant, surface mounted and recessed fixture.

TABLE 1.—SAVINGS OPPORTUNITIES RETROFITTING LAMPS AND BALLASTS

[Existing fluorescent fixture as base comparison—four F40T12 lamps with two standard ballasts=175 to 192 watts]

Options	WATTS saved	Percent saved	Lighting equivalency
Base	0	0	Base
Good	37 to 54	21 to 28	Slightly less.
Better A	57 to 74	33 to 39	Do.
Better B/T8	70 to 87	40 to 45	Do.
Better B/T10	32 to 49	18 to 26	Slightly more.

Note.—Research has shown that within the range of normal office lighting environments, the human eye cannot normally distinguish differences in levels of 15 percent or less. In Tables 1, and 1-A, "slightly less" is in the range of zero to -10 percent, while "slightly more" is in the range of zero to +20 percent. The low range figures are based on the luminaire NEMA 270-1988 criterion; the higher numbers are computed on the ANSI C82.2-1984 bench test criterion.

TABLE 1.A—SAVINGS OPPORTUNITIES REPLACING LIGHTING SYSTEMS—NEW FIXTURES

[Existing fluorescent fixture as base comparison—four F40T12 lamps with two standard ballasts=175 to 192 watts]

Options	WATTS saved	Percent saved	Lighting equivalency
Base	0	0	Base
Best pendant	86 to 103	49 to 54	Equivalent Light.
Best surface	95 to 112	54 to 58	Slightly Less.
Best recessed	91 to 108	52 to 56	Do.

Lighting professionals recognize that line voltage, ambient operating temperature, environmental surfaces, differences in commercially available component tolerances, and other factors affect the performance of individual systems. However, the basic comparison in sound, and energy conservation can be achieved by "trading up" from a standard fixture to one of the "Best" option three-lamp (T8) electronically ballasted fixtures.

To complete a cost/benefit analysis, the three "Best" option lighting systems were compared to two operational models provided by the Office of the Architect: One is a 500-room office building (comparable in size to the Cannon and Russell buildings) using four fixtures per room and paying 5 cents per kilowatt hour (kWh). The other, is the same building paying 7 cents per kWh.

Energy computation formula: Luminaire total watts divided by 1,000 times 4 luminaires per room times 500 rooms times 18-hour daily use times 300 days a year equals total annual building-wide energy (kWh) used for lighting.

As an example, the "Base" option (the existing luminaire with standard F40T12 lamps and two standard magnetic ballasts) uses 175 watts under the NEMA 270-1988 measurement (192 watts under the ANSI C82.2-1984 bench test). Four such luminaires use 700 watts; that, times 500 rooms equals 350,000 watts, or 350 kW. Left on 18 hours a day (6,300 kWh daily) for 300 days a year equals 1,890,000 kWh.

[Using the ANSI bench-test method, the total yearly energy consumption would be 2,073,600 kWh.]

Experience with how fixtures actually perform in the field show that the NEMA 270-1988 luminaire measurement procedure more closely approximates reality. Therefore, the standard fixture consumption base for this analysis is based on 175 watts per luminaire. All comparisons of systems are made against the standard luminaire currently used in the Congressional Office Buildings.

Using the options described on pages 33 and 34, and the formula on page 35, the following energy savings tables were prepared:

TABLE 2.—ANNUAL SAVINGS IN kWh AND DOLLARS COMPARING VARIOUS OPTIONS VERSUS STANDARD LIGHTING

(Lamp and ballast retrofit)

Options	Total building kWh to operate	Amount kWh saved versus standard	Savings at \$0.05/kWh	Savings at \$0.07/kWh
Base	1,890,000	0	0	0
Good	1,490,400	399,600	\$19,980	\$27,972
Better A	1,274,400	615,600	30,780	43,092
Better B/T8	1,134,000	756,000	37,800	52,920
Better B/T10	1,544,400	345,600	17,280	24,192

¹ The Better B/T10 recommendation ranks higher than the Good, Better A, or Better B/T8, on the basis of increased light output per luminaire as compared to both the standard (or base) systems and the other energy saving systems.

TABLE 2.A—ANNUAL SAVINGS IN kWh AND DOLLARS COMPARING VARIOUS OPTIONS VERSUS STANDARD LIGHTING

(Replacing lighting systems—new fixtures)

Options	Total building kWh to operate	Amount kWh saved versus standard	Savings at \$0.05/kWh	Savings at \$0.07/kWh
Base	1,890,000	0	0	0
Best pendant	961,200	928,800	\$46,440	\$65,016
Best surface	864,000	1,026,000	51,300	71,820
Best recessed	907,200	982,800	49,140	68,796

The cost/benefit analysis concentrates on the three "Best" option lighting systems (pendant, surface and recessed fixtures with a single electronic ballast and three F032T8 lamps). An analysis of retrofitting various lamp and ballast combinations was not done because of the highly variable labor rate. While there are commonly agreed-upon labor units for removing and installing various fixtures, there are different methods of calculating the cost of replacing lamps and ballasts.

Therefore the only valid data which could be provided for retrofitting lamps and ballasts, would be the government purchase price of the recommended items.

TABLE 3.—INSTALLED COSTS OF VARIOUS BEST SYSTEMS

Fixture type ¹	Labor unit per fix ² (units)	Labor cost per building ³	Mean unit fix cost ⁴	Total fixture cost bldg. ⁵
Type A: Pendant 3-lamp	2.45	\$137,440	\$193.15	\$386,300
Type B: Surface mounted 3-lamp	2.10	117,800	137.00	274,000
Type C: Recessed flanged 3-lamp	2.20	123,420	140.38	280,760

¹ NEMA conducted a confidential survey of manufacturers to determine the mean price of a model fixture ordered in quantities of 2,000 and delivered on site without lamps. Type A: A pendant-mounted fluorescent fixture (complete with a 5-foot stem and mounting hardware) with provision for three F032T8 lamps, containing one 120 V AC electronic (high frequency) ballast, and fitted with 3 inch 18 cell low brightness anodized aluminum parabolic lower. Type B: A surface-mounted fluorescent fixture, 2 feet by 4 feet in size, containing one 120 V AC electronic (high frequency) ballast, with provision for three F032T8 lamps, and fitted with 3 inch 18 cell low brightness anodized aluminum parabolic lower. Type C: A NEMA-type F (flanged) recessed fluorescent fixture, 2 feet by 4 feet in size, containing one 120 V AC electronic (high frequency) ballast, with provision for three F032T8 lamps, and fitted with 3 inch 18 cell low brightness anodized aluminum parabolic lower.

² The National Electrical Contractors Association (NECA), founded in 1901, headquartered at 7315 Wisconsin Avenue, Bethesda, Maryland 20814, represents 5,000 electrical contractors throughout the U.S. Annually, NECA publishes a Manual of Labor Units to assist the electrical construction industry in estimating the amount of labor required to install various electrical devices and systems. Labor units are listed in three categories, "normal," "difficult," and "very difficult." For purposes of this analysis, the "very difficult" rate was used since it applies to installations at ceiling heights between 12 and 16 feet which applies to most Congressional offices.

³ The labor cost per building was computed by multiplying the sum of the labor unit per fixture and 0.50 labor units for old fixture removal by the hourly contract rate for labor. (The contract rate is a combination of \$18.70 per hour for a journeyman electrician in the Washington, D.C. area, plus \$5.61 for employee benefits, and \$3.74 for contractor overhead and profit; the total is \$28.05.) Therefore for Type-A fixtures, the unit cost is \$28.05 x 2.45=\$68.72. To calculate the labor cost per building, the unit cost (e.g. \$68.72) is multiplied by 2,000 fixtures (\$68.72 x 2,000=\$137,440.00).

⁴ The mean unit fixture costs are based upon prices collected by the NEMA Statistical Department under confidential policies established by the Board of Governors and administered in compliance with federal anti-trust laws. The prices are not bid prices, but are presented only as representative of commercial market prices for model fixtures at the July-August 1989 level.

⁵ The total fixture cost for buildings is the value of a unit times 2,000 units based on four fixtures for each of 500 rooms.

Because the federal government purchases lamps (fluorescent tubes) and ballasts on a fixed schedule, their prices are considered separately. All unit fixture prices shown in this report are without lamps, but do include ballasts. Therefore, to correctly compute the total installed costs, the price of lamps must be added. In the "Best" option scenario proposed by NEMA, 3 F032T8 lamps would be used in each new fixture, for a total of 6,000 lamps. If the "Good," "Better A," "Better B/T8," or "Better B/T10" options were chosen, then 4 lamps would be needed to relamp existing fixtures, for a total of 8,000 lamps.

TABLE 4.—LAMP COSTS I

Lamp type	Unit price	Total number to retrofit building	Total cost
The following lamps are Government price listed: ¹			
F40T12 warm white (cents)	74.9	8,000	\$5,992
F40T12ES warm white energy saving (cents)	90.0	8,000	7,200
FR0T10 warm white ²	\$5.30	8,000	42,400

¹ Prices are based on those published by U.S. Department of Defense General Logistics 1989 Contract Awards.

² Price based on GSA Federal Supply Schedule; additional 4 percent applies to purchases in quantities of 1,500 to 8,970.

TABLE 5.—LAMP COSTS II

Lamp type	Unit price	Total number to retrofit building	Total cost
The following unit prices were provided by a confidential NEMA statistical survey: ¹			
F032T8 3,000 kelvin color	\$2.13	8,000 relamp	\$17,040
F032T8 4,100 kelvin color	2.26	6,000 new fix	12,780
		8,000 relamp	18,080
		6,000 new fix	13,560

¹ Since the government contract does not list all T-8 lamps, NEMA conducted a confidential survey to determine the mean historical price for these lamps.

To determine the simple pay-back for investing in the three "Best" option lighting systems, NEMA compared the energy savings at both 5 and 7 cents to the total installed cost. The total cost includes (a) the total building installation and removal costs, (b) the cost of 2,000 fixtures, and (c) the cost of 6,000 T-8 lamps. Ballasts are installed by the fixture manufacturer and are part of the cost of the luminaire. The result of that comparison is shown in Table 6.

It should be noted that in the context of this review, simple pay-back takes into account only the purchase of the luminaires and lamps, and their installation. In the private sector, numerous other direct and indirect cost/benefits would be considered including impacts on productivity, increased safety and security (and the concomitant financial savings on insurance rates), cost of money, marketability of office space, and so on. In such cases, the pay-back period is generally much shorter.

TABLE 6.—INSTALLED COSTS VERSUS ENERGY SAVINGS

Fixture type	Total installed cost of new light-system ¹	Simple pay-back at \$0.05 kWh (years)	Payback at \$0.07 kWh (years)
Type A: Pendant 3-lamp	\$536,520	11.6	8.3
Type B: Surface mounted 3-lamp	404,580	7.9	5.6

TABLE 6.—INSTALLED COSTS VERSUS ENERGY SAVINGS—Continued

Fixture type	Total installed cost of new light-system ¹	Simple pay-back at \$0.05 kWh (years)	Payback at \$0.07 kWh (years)
Type C: Recessed flanged 3-lamp	416,960	8.5	6.1

¹The total installed cost of new lighting systems includes: Unit cost times 2,000 luminaires. Labor for removal of old luminaires and installation of new luminaires. The cost of 6,000 cool white F032T8 (4,100K) lamps.

If one of the "Good," "Better A," or "Better B" options were chosen, then the unit price of fluorescent lamp ballasts would have to be taken into consideration, together with installation costs. To compute the total cost of replacing ballasts, a decision would have to be made whether to do a one-for-one replacement (exchanging one high frequency ballast for each standard magnetic ballast in the case of retrofitting an F40T12 system), or whether a three- or four-lamp ballast would be used for F40T10 and F032T8 systems. The following is a table of ballasts unit costs for computing cost/benefit payback.

TABLE 7.—BALLAST UNIT PRICE

(Industry mean price for ballasts sold to GSA through an electrical distributor)

Ballast type	Unit price
Type PR ¹	\$6.60
Type E-1 ²	22.90
Type E-2 ³	27.40
Type E-3 ⁴	27.90

¹Type PR: A premium electromagnetic ballast designed to start and operate two F40T12 fluorescent lamps at 120 V AC. Such ballast complies with the National Appliance Energy Conservation Amendments of 1988 (Public Law 100-357) enacted June 28, 1988.

²Type E-1: An electronic (high frequency) ballast designed to start and operate two F40T12 and F40T10 fluorescent lamps at 120 V AC. Such ballasts comply with provisions of 47 CFR Parts 15 and 18, Rules of the Federal Communications Commission.

³Type E-2: An electronic (high frequency) ballast similar to E-1 designed to start and operate three F032T8 fluorescent lamps at 120 V AC.

⁴Type E-3: An electronic (high frequency) ballast similar to E-1 designed to start and operate four F032T8 fluorescent lamps at 120 V AC.

The savings in electrical charges shown in the "Savings in kWh and Dollars" table on pages 36 and 37 should be used in conjunction with the "Lamp Cost I" and "Lamp Cost II" tables on pages 43, along with the above "Ballast Unit Price" table to calculate simple payback.

Lighting controls offer another opportunity for significant energy savings. While there are a wide variety of control systems currently on the market, NEMA concentrated on occupancy (presence sensitive) controls for its analysis in response to concerns expressed by the Architect of the Capitol that the working patterns in Congressional offices are such that more sophisticated systems would be impractical. Therefore NEMA used a very conservative model of having the fluorescent office lighting (the three "Best" option types) turned off 2 additional hours a day through the use of sensor technology. The resulting savings are shown in Table 8.

TABLE 8.—ENERGY SAVINGS THROUGH USE OF OCCUPANCY CONTROLS 2 HOURS PER DAY—300 WORK DAYS ANNUALLY

Fixture type	Kilowatt hours saved annually at 2 hrs x 300 work days (kWh annual)	Annual savings at \$0.05 kWh	Annual savings at \$0.07 kWh
Type A: Pendant 3-lamp	106,800	\$5,340	\$7,476
Type B: Surface mounted 3-lamp	96,000	4,800	6,720
Type C: Recessed flanged 3-lamp	100,800	5,040	7,056

There are wide variances in control technology costs and installation rates. For an accurate estimate of costs and payback, it is suggested Congressional officials work with a systems designer and individual companies. Unlike lamps, ballasts, and fixtures, there are no "generic answers" to questions about controls.

What is established, is that in the commercial/industrial setting, controls have been found to save very significant amounts of energy. As a result, they have been found to be cost effective and in increasing demand by the market.

Mr. WIRTH. This amendment has been cleared by the Rules Committee, by Senator GLENN, the Government Operations Committee, and the Energy Committee. So I think we have touched all the relevant jurisdictions on this. I hope we might get the distinguished managers of the bill to accept the amendment as well.

Mr. BAUCUS. Mr. President, we have reviewed the amendment offered by the Senator from Colorado. It is acceptable to the committee. It is this Senator's understanding that the committee which has jurisdiction over the matter, the Rules Committee, has cleared the amendment, as well as the Government Operations Committee. Senator GLENN has cleared the amendment. I urge adoption of the amendment.

Mr. CHAFEE. Mr. President, I think it is a good amendment. Indeed I would like to be added as a cosponsor if I might.

We think it is worthwhile and should be adopted.

Mr. GLENN. Mr. President, I rise to say a few words about Senator WIRTH's amendment, which I support. With this amendment, Senator WIRTH incorporates and extends an idea which I included in my bill S. 1040, the Government Energy Efficiency Act of 1991. One section of my bill requires that the Architect of the Capitol undertake a study to determine the feasibility and costs of bringing congressional buildings in line with Federal energy reduction goals. Having reported my bill out of the Governmental Affairs Committee on June 27, 1991, I instructed my staff to begin negotiating with Senator JOHNSTON's and Senator WALLOP's staff in order to develop a Federal energy management amendment to S. 1220. I should add that significant progress has been made to this end.

I strongly believe that we in Congress should not exempt ourselves from the same energy efficiency requirements which we place on the Federal Government. As chairman of the Senate Committee on Governmental Affairs, I've taken an increasingly hard look at special exemptions for Congress, particularly in the areas of civil rights, and environment, safety, and health legislation.

Our experience with energy efficiency investments over the last 10 years shows that before we mandate such improvements, we need to know

how much they are going to cost and how much energy will be saved. Senator WIRTH's amendment incorporates this notion, and extends several other provisions of S. 1040 to the Architect's office. Notably, the Architect, under Senator WIRTH's proposal, may accept utility rebates and enter into performance-based energy contracts.

Mr. President, I would like to congratulate my friend from Colorado on his amendment—which I think will go a long way toward improving energy efficiency in the Capitol complex, and I urge my colleagues to support it.

Mr. WIRTH. Mr. President, given the sorry state of public opinion, the Congress is going to have to do all that it can to demonstrate its leadership capability.

The amendment I am offering today is an attempt to demonstrate that kind of leadership.

For more than 3 years, I have been working with private-sector representatives and the Architect of the Capitol to determine what opportunities we have in the area of energy-efficient lighting.

In short, we have an enormous opportunity—the amendment I am offering would demonstrate our leadership on environmental policy, energy policy, and economic policy.

My amendment directs the Architect to relamp all congressional office buildings where there is a potential to pay back this investment within 10 years. That potential is huge Mr. President.

The Architect of the Capitol estimates that there are 27 million dollars worth of cost-effective, energy-efficient lighting opportunities throughout the Capitol complex.

Based on a survey I requested with Congressman SHARP, lighting experts estimate that much of our lighting is so inefficient that new lighting would pay for itself in 5-10 years.

If the equipment pays for itself in 7 years, for example, we could cut our energy bill by almost \$4 million a year—saving the \$27 million over the bulk of one term in the Senate. And because this equipment lasts for many years, we would save much more than that. If we assume that the equipment operates for 20 years—a modest assumption—over those 20 years, new lighting equipment would save the Congress \$80 million for a gross savings of \$53 million. That is not bad, Mr. President, saving \$53 million on a \$27-million investment—a 15-percent rate of return, or twice the amount we could make by investing in a 10-year Treasury bill today.

But the news is even better than that. My amendment authorizes the Architect to enter into performance contracting and utility rebate programs that could yield the Congress that \$53 million at little or no cost.

Energy saving performance contracts offer a way to improve energy effi-

ciency at no cost to the building owner. Performance contracts are very popular in the private sector and in local government operations. They work like this. In most cases, a third party will audit buildings and install cost-effective efficiency improvements. The client, the Congress in this case, uses private third-party financing to pay for the cost of the retrofit. The contractor guarantees that the monthly savings on the energy bill will exceed the cost of the loan payment or else the contractor pays the difference. Therefore, Congress as a stable institution, would be able to borrow the funds and repay the loan at no cost.

The Honeywell Co., just one of many companies engaged in these programs, recently completed energy retrofit in 750 school districts across the Nation using performance contracts.

My amendment also allows the Architect to take advantage of utility rebate programs. Under these programs—again, widely used by the private sector and local governments—local utilities will pay for a portion of the cost of installing energy-efficiency improvements. Nationwide, electric utilities spent more than \$1 billion on efficiency in 1990, according to the Edison Electric Institute. It is estimated that \$2 billion will be invested by utilities in 1991. There is absolutely no reason why we should not be working with Pepco to realize similar benefits in the Congress.

Finally, Mr. President, this amendment directs the Architect to look at other areas of congressional energy use to find even more cost-effective efficiency projects. There are a number of new heating and cooling technologies, occupancy controls, and window technologies that could help us save even more taxpayer money, reduce environmentally harmful emissions even further, and save energy overall.

This, is a win, win, win amendment, Mr. President. And Lord knows that we need to be sending this kind of signal to the American people. We have to get our house in order. We have to be an example for the rest of the Nation. We need to be leaders on sound economic policy, good environmental policy, and strong energy policy. That is what this amendment does and I urge all of my colleagues to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 1266) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I think there is only one other amendment that is yet to be cleared. We are waiting clearance of that amendment. It is

essentially an amendment to be offered by Senator ROBB. Pending that clearance, and I see no other business to be transacted on this bill, 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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2:50 having arrived, the clerk will report the motion to invoke cloture.

The clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1745, a bill to amend the Civil Rights Act of 1964:

Paul Simon, Paul Wellstone, Joe Biden, Bob Graham, Claiborne Pell, Wendell Ford, Paul Sarbanes, Richard H. Bryan, Christopher Dodd, Bill Bradley, Joseph Lieberman, Edward M. Kennedy, Don Riegle, Al Gore, Terry Sanford, John D. Rockefeller IV.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 1745, a bill to amend the Civil Rights Act of 1964, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 93, nays 4, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—93

Adams	Baucus	Biden
Akaka	Bentsen	Bingaman

Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Bradley	Gramm	Nickles
Breaux	Grassley	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Presler
Burns	Heflin	Pryor
Byrd	Hollings	Reid
Chafee	Inouye	Riegle
Cochran	Jeffords	Robb
Cohen	Johnston	Rockefeller
Conrad	Kassebaum	Roth
Cranston	Kasten	Rudman
D'Amato	Kennedy	Sanford
Danforth	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Seymour
Dixon	Leahy	Shelby
Dodd	Levin	Simon
Dole	Lieberman	Simpson
Domenici	Lott	Specter
Durenberger	Lugar	Stevens
Exon	Mack	Thurmond
Ford	McCain	Wallop
Fowler	McConnell	Warner
Garn	Metzenbaum	Wellstone
Glenn	Mikulski	Wirth
Gore	Mitchell	Wofford

NAYS—4

Craig	Smith
Helms	Symms

NOT VOTING—3

Burdick	Coats	Kerrey
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The PRESIDING OFFICER. On this vote, the yeas are 93, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

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

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. 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. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader who is present here on the floor, as well as the managers of the civil rights bill, including Senators KENNEDY, DANFORTH and others, about the best way to proceed at this time.

Under the rules, the Senate now having voted to invoke cloture on the motion to proceed to the civil rights bill, those who oppose proceeding to the civil rights bill have the right to utilize up to a maximum of 30 hours before the Senate could get to the bill itself.

I have suggested that rather than requiring the Senate to remain in continuous session for the next 30 hours, in

which circumstance we could not get to the bill until 9:30 p.m. tomorrow evening, approximately, that we agree simply to proceed to the bill at a time certain tomorrow that is agreeable to all concerned and thereby obviate the need for a continuous session through the evening.

I have suggested to the distinguished Republican leader and other interested Senators, following discussions with them as to their respective schedules, that noon tomorrow would be an appropriate time. Following comments on the other pending matter and any comments the distinguished Republican leader would like to have, I am going to propose that we do that.

The other matter is the Federal facilities bill on which we have been working intermittently for the past several days and with respect to which I am advised by the managers all has been completed but for one amendment which will be accepted by the managers and, therefore, take just a few minutes and the subject matter for amendment to that bill under the order which would remain after that is with respect to investigation of unauthorized disclosure of information.

With respect to that latter subject, Senator DOLE and I have had a series of discussions which I anticipate are continuing. I made a suggestion to Senator DOLE this morning in writing which he has indicated he is going to shortly respond to in writing. It is my hope that we could reach agreement on that matter today, or at the latest sometime tomorrow, or in the absence of agreement, reach a point where it is evident that we cannot agree, in which case proceed to the alternative which we discussed and incorporated partially in the order, which would be to permit the junior Senator from California to offer his amendment, at which time I would then offer a second-degree amendment, in effect a competing alternative for conducting the inquiry, and have that matter debated and disposed of by the Senate.

I do not have a fixed time in mind for that at this time because I do not know when we are going to reach either an agreement or reach the point where it is clear to us we cannot reach agreement or resolve the matter in a manner just last stated by myself. That is where we stand now.

If this is agreeable, I would be prepared to announce that there will be no further rollcall votes today and that we proceed to try to dispose of this matter. If we reach agreement, we can do so by voice vote and then set a time for final passage on the Federal facilities bill sometime tomorrow at a time convenient for most Senators.

With that, Mr. President, having stated the situation and the various considerations that I have had in mind, I will be pleased to yield to the distinguished Republican leader for any com-

ments or suggestions he may wish to make.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, the majority leader having yielded, I think we are now in the process of determining whether or not we can proceed tomorrow.

So far, it is OK, but we have additional parties to check. And then we do have the matter of deciding in the event we should proceed to the civil rights bill and not-yet-resolved ground rules on investigation, improperly disclosed information, whether we would interrupt the civil rights bill or whether that would follow that because that might have an impact whether or not I can get consent to go at an earlier time.

So we are prepared I think on the civil rights bill—it is my hope there is some movement now. I think the parties are expressing some willingness on all sides to try to come together to see if we cannot resolve this. I know that Senator DANFORTH is meeting with Mr. Gray from the White House, or was shortly before the last vote. That, itself, I think is significant. I will get back to the majority leader as soon as I can.

In addition, I think I will momentarily be able to give you a counterproposal with reference to the proposal you gave me this morning.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments.

I, therefore, will await a response by my Republican colleague both with respect to my suggestion that we agree on a time certain for taking up the civil rights bill and that we get back a counterproposal with respect to the subject matter of the investigation.

It is my intention that we get to the civil rights bill hopefully sometime tomorrow. I understand that Senators have the ability under the rules to further delay getting to it, but that time, at the outside, would expire at about 9:30 tomorrow. I think it actually would expire before that given the very few number of Senators who voted against. They could take other time, I understand. But I hope we can get agreement on that, and I look forward to receiving a response from the Senator in both respects.

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. I thank the Chair. Just a question of clarification. It was my understanding that as of last Thursday evening, in accordance with the unanimous-consent agreement, we were going to attempt to do everything we could to reach a bipartisan solution and agreement relative to the investigation of the leaks that occurred in the Senate Judiciary Committee; however, in the event we could not, that in fact my amendment would come up for

a vote sometime today. Did I misunderstand that and, if so, is there a time certain?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I believe the Senator did misunderstand. The order, which is printed on page 2 of the calendar, simply provides that the legislation would be laid aside until 2:15 p.m. today, at which time the only amendments in order would be the following amendments listed there, including the last there being amendments dealing with unauthorized release of Senate documents.

Since there were four categories of amendments listed and no time limitation on those, it was not possible for anyone as of the time this order was entered to state with certainty what time that process would be completed, any Senator, as we know from long and sad experience, having the ability to speak at any time for as long as he or she wants.

I hope we can get to it soon. I have been in the forefront of those urging investigation and hope that we can either reach an agreement on how best to proceed or, failing that, to decide it on the basis of the debate and votes of the Senate.

The way this order is written—and I think was intended—is that there is not any way to state it specifically. For example, right now, if we went back to it and the Senator offered his amendment, in the absence of a unanimous consent limiting the time, neither I nor anyone else would be able to know when that debate would be concluded and, therefore, when the vote would occur. So my hope is we can do it as soon as possible. But I am quite certain the order does not require that the vote occur today.

Mr. SEYMOUR. I thank the Senator.

Mr. CHAFEE. I wonder if I could ask a question of the distinguished majority leader.

Mr. MITCHELL. Mr. President, I will be pleased to yield to the Senator from Rhode Island for a question.

Mr. CHAFEE. It is my understanding that the first order of business is for there to be agreement that we could proceed to the civil rights bill at noon tomorrow, something similar thereto. I think that is going to work out.

My question really pertains to the amendment of the distinguished Senator from California. If we did get agreement to proceed to the civil rights bill tomorrow at noon, would it be the intention of the distinguished majority leader that we would have no more votes today and then, assuming the Senator could not get agreement on the Seymour language with what he wanted, then we would proceed to that tomorrow?

Mr. MITCHELL. I have not made a decision on precisely when to proceed

to it. Under the order, I will make that decision following consultation with the Republican leader. My hope has been that we could complete action on that as soon as possible.

I, frankly, had intended and hoped that we could do it today, but we are not able to because we have not completed the process of discussion to see whether or not we could reach agreement. At this moment I am awaiting a response from the Republican leader to a proposal which I made this morning. When I receive that response, I will review it, consult with my colleagues, and see if we can reach agreement on it.

Mr. CHAFEE. So the luring prize of no more votes today awaits both the determination of the agreement to proceed at noon tomorrow, or thereabout, on the civil rights bill and also agreement on the arrangement of the distinguished Senator from California with the Senator in connection with the undisclosed information revelation?

Mr. MITCHELL. I have not sought to condition my statement with respect to no more votes on either or both of those. It is my hope that will be the result, but I do not present it in conditional form or suggest that it is conditional in any way.

Mr. CHAFEE. I thank the Senator.

Mr. MITCHELL. Indeed, if we can reach an agreement, I would suggest we do it by voice vote, unless someone wants a recorded vote, in which event we set the recorded vote for a time certain when it will be convenient for most Senators. And the same is true with passage of the Federal facilities bill. I would like to get agreement on that and set a time certain for a vote on tomorrow.

The only thing holding up the Federal facilities bill now is the subject matter of the amendment of the Senator from California. And, of course, it has to be pointed out that if it is offered and voted on as an amendment to that bill, it must go through the whole legislative process which must occur.

I hope we can do this in a way unrelated to the Federal facilities bill. If we do it in relationship to that, it means that bill has to go to conference with the House. We do not know when it will be completed. I have been trying to get this bill passed for 5 years.

Mr. CHAFEE. I can testify to that.

Mr. MITCHELL. I hope it will not take 5 more years to get it done, but I hope, in an effort to accommodate many conflicting interests involved, we can resolve it in the fairest possible way.

Mr. SEYMOUR. Mr. President, I would like to ask a question of the distinguished majority leader.

Mr. MITCHELL. Mr. President, I will be pleased to yield to the distinguished Senator from California.

Mr. SEYMOUR. Mr. President, I certainly do not want to stand in the way

of passage of the important legislation that the Senator brought before this body, the Federal facilities bill. And I certainly do not want to delay consideration of the civil rights bill. My whole motive has been to try to ensure that this body address the leaks that occurred as quickly as possible and yet in a responsible fashion.

In that regard, I ask the majority leader, would it be the Senator's consideration that if in fact this body acts responsibly and in a majority relative to whatever amendment we might agree to, in fact immediately following the passage of such an amendment the Senator would support an independent bill, a stand-alone bill that could move us quickly to begin these investigations? Is my understanding correct?

Mr. MITCHELL. I will certainly consider that. Indeed, my original objective was in that regard. My original objective was to do this in a freestanding way. And it was the Senator from California who chose to offer it as an amendment to other unrelated legislation.

I will certainly consider that alternative and certainly had done so prior to the time the Senator from California offered his amendment.

Mr. SEYMOUR. Again, my only objective is to ensure that we move and we do not stop moving toward an objective on which I am sure we both agree. I would just state I am hopeful that this afternoon yet the distinguished Republican leader and the Senate majority leader can come to an agreement that would not necessitate my moving forward with the amendment. But in the event that we are not, then I am interested in pursuing a time certain in which my alternative amendment could be brought up.

In that regard, I just wanted to go on record to state that if we are not successful in putting the bipartisan agreement together, nor reaching a time certain relative to when I might bring up my alternative amendment, then I would oppose the civil rights bill coming up at noon tomorrow.

Mr. MITCHELL. The Senator has a perfect right to oppose the civil rights bill, if that is his decision, and I respect his exercise of that right for whatever reason he chooses. It is a rather commonplace event in the Senate that Senators who oppose legislation use rules or procedural devices to prevent legislation from coming up.

The fact of the matter is we deal with it every day, on almost every bill now. We have had to go through a cloture vote on a motion to proceed to a bill on which only four Senators voted against. This tied up the Senate, in effect delayed us 2 days, to accommodate the interest of 4 Senators. We often do it to accommodate one Senator.

So if the Senator from California wants to prevent the civil rights bill from coming up, he can do it tomorrow.

He can do so. But I will say to the Senator that the maximum length of delay that he can achieve under the rules is 30 hours, which has already started running.

So that is his perfect right. I understand, if he wishes to exercise that right. I daily confront that situation on a variety of measures. I do not know what is gained for the Senator from California, or anybody else, to say we are going to make the Senate stay in session all night and go 30 consecutive hours until 9 o'clock tomorrow night, instead of agreeing in advance to bring the bill up at noon. That is the difference.

So I am prepared to say 1 or 2 hours. But if he wants to do that, he has a perfect right to do that, and I understand and accept it.

Mr. President, am I correct in my understanding that the time is running?

The PRESIDING OFFICER. The time on cloture is running.

Mr. MITCHELL. So the time is now running?

Mr. DOLE. Will the Senator yield?

Mr. MITCHELL. Yes.

Mr. DOLE. Mr. President, I think the point the Senator from California was making—and he had indicated to me earlier he does not want to hold up the civil rights bill—and what he is concerned about, is if he agrees to take it up at noon, then he may be foreclosed for several days from offering his amendment to the Federal facilities bill.

I think he certainly wants to cooperate. I think he also is trying to preserve his rights.

Mr. MITCHELL. I understand that. I appreciate that.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, accordingly, I now ask unanimous consent that there be a period for morning business during which Senators be permitted to speak.

I amend that request to ask that the Senate turn to the consideration of S. 596, the Federal Facilities Compliance Act of 1991, for the sole purpose of disposing of an amendment by Senator ROBB.

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

Mr. MITCHELL. Mr. President, I further ask unanimous consent that, following disposition of the amendment by Senator ROBB, there be a period for morning business during which Senators be permitted to speak not to extend beyond the hour of 5 p.m., at which time the majority leader be recognized.

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

Mr. MITCHELL. Mr. President, I further ask unanimous consent that the

time between now and 5 p.m. be counted against the 30 hours under the cloture rule.

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

FEDERAL FACILITIES COMPLIANCE ACT

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 596) 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.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1267

Mr. BAUCUS. Mr. President, in behalf of Senator ROBB, I offer a technical amendment to section 304 of S. 596. It is essentially a clarification amendment which would, in effect, provide that any reclamations under a Federal EIS, that applies to Lorton landfill, will in fact be complied with.

This amendment has been cleared by all appropriate Members on this side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. ROBB, proposes an amendment numbered 1267.

Insert at the end of section 304(b)(2): "unless the conditions enumerated in subsection (a) are met."

Insert at the end of section 304(b)(3): "unless the conditions enumerated in subsection (a) are met."

The PRESIDING OFFICER. Is there further debate? Is there objection to the amendment?

Without objection, the amendment (No. 1267) is agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. COHEN. Mr. President, I am very pleased that the Senate is considering the Federal Facilities Compliance Act of 1991. This important legislation will ensure that States are able to enforce Federal hazardous waste laws with all parties, including facilities of the Federal Government. It is entirely appropriate that Federal facilities be held to the same standard as others for the disposal and cleanup of hazardous waste, just as they are held accountable for adherence to Federal standards governing clean air and water. As an original cosponsor of S. 596 and a cosponsor of the same legislation in the last Congress, I am glad that the time to correct the previous imbalances in this area has finally arrived.

The bill the Senate is considering, however, is actually an improvement over the bill I originally cosponsored. I am pleased that an amendment to the bill, offered by Senator JEFFORDS, myself, and others, has been adopted to provide some relief to small towns that are struggling to meet Federal mandates. Representatives of many small towns in Maine have contacted me with alarming reports about the costs that accompany Federal requirements associated with clean water and safe drinking water laws. In Bethel, ME, where 500 of its 2,300 residents use the water system, the town's cost for complying with the Safe Drinking Water Act is estimated at between \$500,000 and \$750,000, and water rates are expected to double. The town of Andover, ME, with only 135 water users, must pay \$880,000 to comply with the act.

This summer, I joined with several of my colleagues on both sides of the aisle in introducing two pieces of legislation that offer assistance to the small communities now facing tremendous costs in their efforts to comply with Federal environmental mandates.

One of these authored by the senior Senator from North Dakota [Mr. BURDICK] offers financial assistance to small communities. While I support this goal and have cosponsored his legislation, I do not believe that dollars alone will ease the burden of compliance that these communities face. Accordingly, I also joined Senator JEFFORDS in introducing legislation, the Small Town Environmental Planning [STEP] Act, which would create a practical way for small towns to prioritize their compliance with Federal mandates, while still progressing toward our environmental goals. It seems to make good sense that, in the interest of meeting the goals of the Clean Water Act, the Safe Drinking Water Act, and other laws, we do all we can to see that every municipality has the means to come into compliance.

The amendment to the Federal Facilities Compliance Act by my colleague from Vermont, Senator JEFFORDS, builds on the basic premise of the STEP Act and gives small towns some important tools to meet Federal goals. It authorizes the creation of a small town environmental task force to more effectively identify environmental and public health regulations that pose significant problems for small towns, improve the relationship between the EPA and small towns, and study ways to improve small towns' ability to meet Federal regulations. It also ensures that small towns will have a friend in the agency in the newly established office of a small town ombudsman, who will be assigned specifically to assist small towns and facilitate their contacts with the EPA in Washington.

All too often, small communities can be unaware of the intricate details of

Federal regulations until they are notified that they have failed to meet specified requirements. To alleviate this concern and the subsequent penalties that may result, this amendment requires the EPA to publish a list of mandates under Federal environmental and public health statutes, and to notify small communities of these requirements. The EPA will also study the possibility of establishing a multimedia permit program, where small communities can do one-stop shopping for all their required Federal permits. The time, effort, and money saved by this process would be a welcome relief to these towns.

I think it is worth noting that the goals of this amendment and the original STEP Act are not inconsistent with the interests of a clean, safe environment. I have long supported Federal efforts aimed at preservation of the environment and of the health of all Americans. In the long run, I believe our national environmental and public health and safety goals can actually be better served if we ensure that local communities are equipped to meet Federal mandates.

I want to commend Senator JEFFORDS in particular for his tireless efforts on behalf of all small communities across this Nation. My thanks also to the distinguished majority leader—my colleague from Maine, Senator MITCHELL—for his willingness to include this amendment in this legislation. I hope that enactment of these provisions will be only the first of several steps to help small towns meet all the requirements of Federal mandates.

As I said when the STEP Act was originally introduced, I will continue to work on ways to provide relief to larger towns, which face many of the same difficulties in meeting these mandates. I look forward to working with my colleagues to explore the most effective means possible of providing these communities with the tools they need to comply with Federal requirements, without being overburdened by the costs.

FEDERAL FACILITIES COMPLIANCE ACT

Mr. BAUCUS. Mr. President, the issue of Federal facilities compliance is really quite simple. Should the Federal Government be subject to the same environmental laws as everyone else?

Quite frankly, I had thought this question had been settled a long time ago—as far back as 1976—when Congress first enacted the Resource Conservation and Recovery Act. Section 6001 of RCRA states that:

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government * * * shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural * * * in the same manner, and to the same extent, as any person is subject to such requirements.

Clearly, congressional intent in 1976 was to make sure that the Federal

Government complies with all RCRA requirements. In 1976, Congress placed Federal facilities on an equal basis with private firms, municipalities, States, and individuals who violated RCRA. But that is not the case today.

Despite this clear language, the executive branch has continued to insist that it is not subject to the same environmental laws as everyone else.

Despite this clear language, three Federal courts of appeal have read congressional intent differently.

In cases before the sixth, ninth, and tenth circuits, each court ruled that States could not seek civil penalties from the Federal facilities violating RCRA.

In these cases, the U.S. Department of Justice argued, and the courts agreed, that RCRA has not clearly and unambiguously waived sovereign immunity with respect to civil penalties. With all due deference to these courts, I think they plainly misinterpreted the law.

I agree with the U.S. District Court for Maine—which is the highly esteemed court on which the majority leader once served. This court has held that:

Any intelligent person reading the statute would think the message plain. Federal facilities will be treated the same as private institutions so far as enforcement of the solid waste and hazardous waste laws are concerned. * * *

Mr. President, we need to make sure that all courts interpret congressional intent as it was meant to be; as the U.S. District Court in Maine has done. We need to clarify the law so that RCRA clearly and unambiguously waives sovereign immunity with respect to civil penalties.

That is the purpose of S. 596, the Federal Facilities Compliance Act. Senator MITCHELL, who has been fighting for this legislation, is to be commended for his leadership, his patience, and his persistence on this issue.

I am convinced that fines and penalties for violations of the law are a necessary and effective method of enforcement. This is as true for environmental law as it is for any other type of law.

The EPA itself testified to the Environment and Public Works Committee that:

Penalties serve as a valuable deterrent to noncompliance and to help focus facility managers' attention on the importance of compliance with environmental requirements.

It's no wonder then that in May 1986 the General Accounting Office concluded that the Federal Government has been slow to comply with hazardous waste laws.

In its 1986 report, the GAO reviewed RCRA compliance at 17 Federal civilian agencies in 12 States. GAO found that almost half of the hazardous waste handlers inspected by EPA were

cited for violations. Over one-quarter were out of compliance for 6 months or more. Some had been out of compliance for more than 3 years.

Similarly, in February 1991 the Office of Technology Assessment in a report on cleanup, stated the Federal weapons facilities have produced widespread contamination of the environment from toxic chemicals and radionuclides.

Mr. President, without this legislation, recalcitrant Federal facilities will continue to violate the law.

S. 596 will change that. It will ensure that the Federal Government must play by the same rules as everyone else. It does so in three fundamental ways.

First, according to some courts, RCRA is the only major Federal environmental statute that does not clearly waive sovereign immunity. S. 596 specifically states that it does.

Specifically, it provides that administrative orders, and all civil and administrative fines and penalties may be imposed for violations by Federal agencies.

Second, the bill rejects the Department of Justice position. It specifies that EPA may take enforcement actions against other Federal agencies.

Finally, the pace of cleanup at Federal facilities has been too slow. To speed it, this bill will require each Federal facility to conduct an environmental assessment and annual inspections.

Mr. President, the Federal Facility Compliance Act will without question, give States what the Federal Government now has—the ability to enforce against violations of the law.

Some have argued, however, that this legislation is a budget buster. Critics have argued that fines and penalties will drain the Federal budget and divert limited funds for cleanup into State coffers.

This criticism is unfounded.

First, the Congressional Budget Office does not believe that the legislation will bust the budget. CBO said in a letter to Senator BURDICK:

* * * the long-term cost of compliance would not change substantially as a result of this bill.

Second, in cases where sovereign immunity is clearly waived, under the Clean Air Act, for example, the size of fines and penalties collected has been minimal.

In Ohio, a \$25,000 penalty was assessed for 10,270 days of violations under the Clean Air Act. It cost Ohio, \$30,000 to litigate that case.

In Tennessee an administrative penalty of \$10,000 for a clean air violation is being assessed by the State.

According to CBO, in 1990, DOD paid about \$150,000 in fines and penalties to EPA and various States. Since 1979, DOE has paid about \$1 million in environmental fines and penalties. Typical

assessments against Federal facilities ranged from \$1,000 to \$250,000.

History demonstrates that States will not impose fines and penalties to raise money from the Federal Treasury. So this criticism is a red herring.

Other critics have argued that they can support this legislation but only if we eliminate some of the RCRA requirements that Federal facilities must meet.

Now this does not make any sense. It is like agreeing to pay a speeding ticket but only after we raise the speed limit.

The standards are based on protection of health and the environment. We cannot afford to change the requirements for the Department of Defense, the Department of Energy or for other Federal agencies. Federal facilities are among the worst offenders of the law.

The Department of Energy's Rocky Flats facility in Colorado, and the Fernald site in Ohio, for example have had a long history of environmental violations.

DOE has admitted full knowledge, since 1951 of pollution at Fernald. Moreover, DOE has conceded that it has released more than 300,000 pounds of radioactive uranium particles into the air at Fernald.

At DOE's Rocky Flats facility, the Federal Bureau of Investigation and the EPA have found numerous violations—including the illegal disposal and burning of hazardous waste and radioactive waste, and the illegal discharge of such wastes into nearby rivers.

The track record at the Department of Defense is not much better. DOD has 94 Superfund sites, and over 17,000 contaminated sites in every State in the Nation.

All told, some 63 percent of Federal facilities have serious RCRA violations for failing to protect ground water. But only 38 percent of all private facilities have similar violations.

This is wrong. The Federal Government should be the leader in compliance with our Nation's environmental laws. But the fact is we are laggards, not leaders.

The reason is quite clear.

When three courts rule that RCRA fines and penalties do not apply to Federal facilities, there is little to force compliance. That is why this legislation is absolutely necessary. It will ensure greater compliance by Federal facilities with our solid and hazardous waste laws.

Finally, Mr. President, let me point out to my colleagues that last year, the Environment and Public Works Committee unanimously reported similar legislation. Unfortunately, there was not enough time at the end of the session for the Senate to consider the legislation.

We are fortunate that we now have time to consider this legislation. And I urge all of my colleagues to support it.

MIXED WASTE

Mr. JOHNSTON. Mr. President, I spoke briefly last week when the Senate adopted an amendment to address the problem of mixed waste storage at federal facilities. That amendment—which was worked out with the majority leader, members of the Armed Services Committee, members of the Energy Committee, and many other Members of the Senate—will go a long way toward solving the problem of mixed waste storage. I am grateful to all those Members who worked with us to develop the amendment.

In the absence of this amendment, I am afraid that S. 596 would have been a train wreck waiting to happen. In the absence of a comprehensive solution to the problem of mixed waste storage, I am afraid that we would have been right back here on the Senate floor in a couple of years trying to correct the problem that we created in S. 596. Fortunately, the Senate has worked its will, and we have developed such a comprehensive solution to this problem. The amendment adopted last week addresses the problems in a sensible and straightforward manner that also includes an opportunity for involvement by the States.

It simply would not make sense to adopt S. 596 without this amendment. Without this amendment, S. 596 would create an untenable situation where Federal agencies would be penalized for failure to comply with requirements with which it is impossible to comply.

The fundamental premise of S. 596 is that the Federal Government should be held to the same standards as the private sector with respect to compliance with the environmental laws. To ensure that the Federal Government is held to the same standards, S. 596 would waive sovereign immunity and allow the State to impose fines and penalties against Federal facilities to enforce compliance with the Solid Waste Disposal Act. I agree with the premise of S. 596. The Federal Government must be held to the same standards as the private sector. But it simply does not make sense to waive sovereign immunity and impose fines and penalties in situations where it is impossible for the Federal Government to comply.

This is precisely the situation that now exists with respect to mixed waste at Federal facilities. The problem with mixed waste arises from a conflict in our laws and regulations. It is not legal to store some of these mixed wastes but yet we cannot dispose of them either. There are insufficient regulations. There is insufficient treatment technology. There is insufficient treatment capacity. It is a problem that is impossible to solve without this amendment.

Section 3004 of the Solid Waste Disposal Act prohibits the land disposal of certain hazardous waste unless the

waste has been treated and specifies that such waste can be stored only to allow the accumulation of sufficient quantities for treatment. This prohibition also covers mixed waste, where radioactive waste is mixed with hazardous waste.

The Department of Energy, the National Institutes of Health, and the Veterans' Administration each have a serious problem with compliance with this storage prohibition because treatment technologies do not yet exist for many types of mixed waste streams. Even where technology exists, there is not now adequate treatment capacity for processing of mixed waste. The Department of Energy has identified over 25 discrete mixed waste streams—representing 30 percent of the total inventory of mixed waste—for which there is no available treatment technology. For another 250 discrete mixed waste streams—or 70 percent of the inventory—the technology exists, but there is insufficient capacity.

In addition, there are no existing regulations specifically for the treatment of mixed waste. The regulations developed pursuant to the Solid Waste Disposal Act were developed strictly for hazardous waste and not for mixed waste. In many cases, what is appropriate for treatment of hazardous waste may not be appropriate for treatment of mixed waste. Attempts to apply the existing hazardous waste treatment regulations to mixed waste have proved unworkable. For example, the treatment regulations may require an inventory and retreatment of the contents of a storage drum prior to disposal. However, similar handling of a storage drum that contains mixed waste might result in unnecessary exposures to radioactivity. Therefore, it is essential that the regulations that will govern the handling and treatment of mixed waste are specifically designed for mixed waste.

The mixed waste amendment adopted to S. 596 will correct an otherwise unworkable situation. This amendment will get at the heart of the problem by requiring the Environmental Protection Agency to develop a list of mixed waste for which treatment is unavailable and promulgate the necessary regulations for mixed waste and by making it legal to store these mixed wastes until December 31, 1993. Where technology continues to be unavailable, there would be an opportunity to obtain a variance from EPA to continue to store these mixed wastes until July 1, 1997. By 1997, we hope that the technology will be developed for most of these waste streams.

I am very pleased that we were able to develop this amendment. I believe that it is structured in such a way that it will not only address the immediate problem of mixed waste storage but also serve to force the limits of technology development. There is an abso-

lute deadline for compliance with the land disposal storage prohibition contained in section 3004 of the Solid Waste Disposal Act. But it is a sensible deadline. It is not an unrealistic deadline that will only ensure that we will be back here again to extend it.

Many of my colleagues have stated that the Federal Government lacks incentive to develop the needed technology aggressively and that fines and penalties are necessary to force the technology along. I do not agree with that. I agree that we must force the limits of technology development but we must do so in a sensible manner. I believe that the amendment we have crafted will address both of these objectives.

Again, I want to thank the majority leader for his efforts in working with us to address this problem. Many Senators were involved in negotiating the specific language of this amendment, and I think it truly represents the will of the Senate. It is my hope that when the Senate conferees meet with the House of Representatives on this legislation that they will stand firm in their commitment to this amendment.

S. 596, as amended, represents a sensible way to ensure that the Federal Government is subject to the same environmental standards as the private sector. Without this amendment, however, I fear that the solution in S. 596 will simply be unworkable.

I ask unanimous consent that the attached letter from the Secretary of Energy, Adm. James Watkins, as well as an explanation of the amendment, be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, October 16, 1991.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR BENNETT: The Senate will soon consider S. 596, a bill that would amend the Resource Conservation and Recovery Act (RCRA) to expand the existing waiver of sovereign immunity to cover fines and penalties and administratively assessed orders.

I would like to emphasize that I fully support the objectives of the legislative proposals: to bring Federal facilities into compliance with applicable Federal and State environmental laws and, in particular, RCRA. In working to review and address the requirements of the Senate bill, the Department has stated that it can and should comply with all RCRA requirements applicable to the management of purely hazardous waste and that sovereign immunity should be waived to allow fines and penalties for violations of these requirements.

In principle, the Department also favors an expanded waiver of sovereign immunity with regard to the management of mixed waste. However, before such a waiver takes place, I believe that amendments to RCRA's technical requirements must be made to address the problems associated with the Department's management and treatment of this unique waste.

Provisions of RCRA prohibit the land disposal of certain hazardous and mixed wastes

unless the wastes have been treated in accordance with Environmental Protection Agency standards to reduce their potential for migration. The law also prohibits the storage of these wastes except to allow the accumulation of sufficient quantities to facilitate proper recovery, treatment, or disposal. However, compliance with these requirements is not possible since treatment technology and capability is currently not available for much of the Department's mixed waste.

The Department's mixed waste compliance problem reflects, in part, the fact that RCRA and its regulations were drafted for the management of purely hazardous waste. Attempts to "force fit" current RCRA requirements related to mixed waste have proved unworkable. If the Department is to achieve full compliance with RCRA, we must have a regulatory framework that takes into account the unique problems associated with treating mixed waste and provides for mixed-waste storage until appropriate treatment technologies are developed and implemented. Passage of Federal facility compliance legislation that does not establish such a process and not add efforts to bring the Department's facilities into compliance with RCRA. I firmly believe that sound public policy requires that laws establish workable requirements—rather than set the stage for regulated entities to fail.

In order words because of RCRA, it is illegal to store mixed waste, and because of technological reality it is impossible to treat and dispose of the waste. This untenable predicament must be resolved in the context of this bill. Allowing the assessment of fines and penalties when it is impossible to comply makes a mockery of the law and will simply divert resources and delay clean-up efforts.

I appreciate your interest in ensuring compliance at Federal facilities and assure you that I share the same interest. I ask your support in ensuring that amendments to S. 596 are adopted that direct the safe storage of this mixed waste until adequate treatment technologies are developed and implemented. I look forward to your continuing role in these efforts.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

JOHNSTON AMENDMENT—MIXED WASTE
STORAGE AT FEDERAL FACILITIES

Amends section 3004(m) of the Solid Waste Disposal Act to require the Environmental Protection Agency to publish within 90 days a list of mixed waste for which the Administrator determines that treatment technologies do not exist or sufficient treatment capacity is not yet available. This list shall be updated annually.

Amends section 3004(m) to require EPA to promulgate regulations specifically for the treatment of mixed waste by December 31, 1992.

Amends section 3004(j) of the Solid Waste Disposal Act to exempt from the land disposal storage prohibition mixed waste for which treatment technology does not exist or for which sufficient treatment capacity is not yet available until December 31, 1993.

Amends section 3004(j) to provide an opportunity to obtain a variance from the land disposal storage prohibition beyond December 31, 1993, where technology or capacity continues to be unavailable. Where technology is unavailable, the EPA Administrator could grant a two-year variance, which could be renewed for periods of one

year. Where capacity is unavailable, the Administrator could grant a one-year variance, which could be renewed for periods of one year. No variance could extend beyond July 1, 1997. Any variance granted by EPA would be subject to judicial review.

Does not alter or modify any existing agreements or consent orders affecting mixed waste storage to which the federal government is a party.

MIXED WASTE

Mr. BAUCUS. Mr. President, last week the Senate adopted an Environment and Public Works Committee amendment on mixed waste to address the issue of compliance with hazardous waste storage requirements for mixed waste. I appreciate the interest of other Senators in the development of this committee amendment.

The amendment was a compromise by all concerned. Some of my colleagues are persuaded that the Department of Energy faces a treatment capacity shortfall that is beyond the power of that agency to control. While I do not agree, I am willing to address the issue as evidenced by the mixed waste amendment adopted last week. This is a difficult issue of great interest to the States.

I ask unanimous consent to insert a copy of a letter I received today from the National Association of Attorneys General on the amendments to S. 596 that were adopted on October 17, 1991. These are particularly useful comments as they are prepared by State officials responsible for enforcing hazardous waste requirements against the Federal Government.

I also want to applaud the efforts of the National Association of Attorneys General, the National Governors Association, Sierra Club, and the many other organizations who have worked hard on this legislation.

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

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, October 22, 1991.

Hon. MAX S. BAUCUS,
Washington, DC.

DEAR SENATOR BAUCUS: We are pleased that Senate passage of S. 596 is imminent. S. 596, the Federal Facilities Compliance Act, which would ensure that federal agencies comply with state and federal environmental laws, has been a key priority of the National Association of Attorneys General. Congress' reaffirmation that penalties can be applied to federal facilities when they violate the law is a significant step forward in helping to protect the health and safety of the citizens. We commend your Subcommittee for addressing this issue and moving it along.

We have several reservations, however, about S. 596 as it appeared in the October 17 Congressional Record and hope that these issues will be addressed in conference with H.R. 2194. Our concerns about amendments to this legislation generally fall within three areas, (1) mixed wastes; (2) munitions; and (3) public vessels.

Regarding mixed wastes, S. 596 does nothing to encourage DOE to move forward in developing adequate treatment capacity. In

fact, the potential length of the extension combined with a lack of incentives for DOE to meet these deadlines causes serious concern.

By its own reckoning, DOE has had four years to address the need to develop adequate capacity to treat mixed wastes. It is worth noting that adequate capacity was lacking for many wastes when the land disposal restrictions first came out in 1984. EPA granted a national capacity variance, and other generators took advantage of that time to develop adequate capacity for a wide variety of wastes, including many that, except for the radioactive component, are the same as many of DOE's mixed wastes. Right now, DOE is in violation of the land disposal restrictions at many of its facilities. While extensions beyond 1993 do require that DOE demonstrate that treatment capacity or technology cannot reasonably be developed by the 1993 deadline, absent specific obligations imposed by statute, order, or judicial decree, it is entirely probable that DOE will continue to muddle along for another six years with little progress toward resolving this issue.

While we understand that there were other reasons for changing the language, we are concerned that the impact of this change could be to eliminate the violations entirely, thus precluding the states or EPA from imposing compliance schedules to ensure that DOE acts swiftly to correct these violations. If there is no violation, no order can be issued, no complaint can be filed and no relief can be granted. As Judge Babcock of the federal district court for the District of Colorado found in a recent case brought by the Sierra Club against DOE, "DOE's demonstrated attitude is that it is a governmental agency that can avoid RCRA's mandates indefinitely with impunity. Absent appropriate sanction, I have no credible reason to believe that DOE will comply with a two year time requirement [to obtain a RCRA permit]. Therefore, I conclude that nothing less than the threat of shutdown on non-compliance with this order will effectively enforce the requirement that DOE obtain a RCRA permit for the mixed residues now stored in violation." If Congress wants DOE to comply with the land disposal restrictions regarding its mixed wastes by 1993, or any other date, it should not pardon DOE's existing violations and eliminate the only existing incentive to which DOE appears responsive: the threat of court orders.

In other areas, the savings clause in section 6 is under-inclusive in that it excludes non-consensual orders and permits that may impose requirements on DOE related to correcting violations of §3004(j). Such orders and permits should be preserved. Further, the definition of "mixed waste" in section 8 gives federal departments and agencies an incentive to mix hazardous waste with radioactive waste in order to obtain an exemption from §3004(j). In an age where we encourage private industry to reduce the volume and toxicity of their wastes through pollution prevention measures, thereby minimizing the hazardous waste compliance costs, it is hardly appropriate to encourage federal agencies and departments to do the opposite at the expense of the taxpayer. The mixed waste definition should apply only to wastes that could not have been managed in such a manner as to avoid the mixture of radioactive and hazardous wastes.

We also have concerns about the amendment to section 1006 of the Solid Waste Disposal Act concerning munitions. We would prefer, among other things, to have EPA

draft the regulations in consultation with DOD.

Finally, with regard to section 12 of the bill, labelled "Public Vessels," we are concerned about potential abuse. Ships at sea may have space restrictions that limit their ability to comply with RCRA storage requirements. However, when the ships dock, these wastes should be removed and stored in a RCRA permitted facility where they can be managed more safely.

We appreciate your efforts to make federal departments and agencies accountable for their pollution at their facilities. This legislation is clearly in the public interest, and we thank you for your efforts in this area.

Sincerely,

Attorney General Ken Elkenberry, President, National Association of Attorneys General, Attorney General of Washington; Attorney General Jeff Amestoy, President-elect, National Association of Attorneys General, Chair, NAAG Environment Legislative Subcommittee, Attorney General of Vermont; Attorney General Gale Norton, Vice Chair, NAAG Environment and Energy Committee, Attorney General of Colorado; Attorney General Hubert H. Humphrey, III, Chair, NAAG Environment and Energy, Committee, Vice President, National Association of Attorneys General, Attorney General of Minnesota; Attorney General Lee Fisher, Member, NAAG Environment Legislative Subcommittee, Chair, NAAG Midwest Regional Conference Attorney General of Ohio.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will now proceed to a period for morning business with Senators entitled to speak for up to 5 minutes each, such period to last until 5 p.m., at which time the majority leader will be recognized.

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

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

Mr. GRAHAM. Mr. President, I understand that we are now in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

VETERANS' COLA

Mr. GRAHAM. Mr. President, in the rush to conclude our activity last fall, Congress adjourned without authorizing a cost-of-living increase for our Nation's veterans.

Not surprisingly, over the recess Members heard from their constituents who were angry about being forgotten.

So in January of this year, numerous Members stood on the floor to speak

about how terrible it was that Congress recessed without authorizing a cost-of-living adjustment for our Nation's veterans.

The distinguished majority leader offered as the first piece of legislation introduced in this body in 1991 a bill authorizing the veterans' COLA.

I introduced an identical bill on this subject, and eventually a COLA was authorized.

Mr. President, I would like to draw your attention to the calendar. Today is October 22. Although no adjournment date has yet been set, we know that it is drawing closer. As of this date, no cost-of-living-adjustment bill for veterans is scheduled for debate.

Are we going to let this matter slip through the cracks again in 1991 as we did in 1990? This Senator, and I know the Presiding Officer will join me in this, is committed to see that that does not happen.

Back in July, the Senate Veterans' Affairs Committee approved a cost-of-living adjustment. I am confident that the distinguished chairman of the Veterans' Affairs Committee and the ranking member are working hard to bring that bill to the floor.

It is imperative that the kind of behind the scenes negotiating that killed the cost-of-living adjustment bill last year not result in similar inaction by Congress this year.

Last Friday, the Washington Post reported that 40 million Social Security recipients would receive a 3.7-percent cost-of-living increase starting January 3, 1992.

A similar increase will go into effect automatically for low-income individuals receiving supplemental security income; to retired Federal employees and their survivors; and to military retirees. This group of individuals can now begin to calculate what their Federal benefits will be for 1992.

But, Mr. President, the men and women who have served honorably in the armed services during combat and their survivors do not know if or when their benefits will be adjusted or by how much.

During consideration of the legislation in the Veterans' Affairs Committee, an amendment was offered to index the veterans' cost-of-living adjustment to the Social Security COLA to make authorization an automatic process rather than a legislated, politicized process.

I supported that amendment, although it failed in the committee, and I intend to support that provision if it is debated on the Senate floor.

Mr. President, the committee has included some very important provisions related to radiation exposure in the cost-of-living adjustment bill, legislation which I support.

However, I want to alert my colleagues that I do not intend to sit back and watch the Senate adjourn this year

as we did last year without passing a cost-of-living adjustment for our Nation's veterans.

It is my understanding that timely receipt of benefit adjustments in January will not be ensured if Congress does not approve the COLA by this Thursday.

Mr. President, I ask unanimous consent to print in the RECORD immediately after my remarks a letter received by me, dated October 22, 1991, from Cleveland Jordan, the National Commander of the Disabled American Veterans.

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, in this letter Mr. Jordan makes this statement:

*** I urge that you make every effort to get immediate Senate consideration of our COLA legislation. Recently, Secretary of Veterans' Affairs Derwinski stated that if Congressional approval were not achieved by October 24th his Department could not ensure the timely receipt of benefit adjustments in January of next year.

Mr. President, I encourage my colleagues to join me in demanding that the cost-of-living adjustment bill is passed and passed without further delay. We have already just last year placed our veterans in great anxiety and personal disruption and placed this institution into serious question as to whether it can conduct its business in an appropriate and expedited manner. We cannot afford to repeat that sorry spectacle again in 1991.

EXHIBIT 1

DISABLED AMERICAN VETERANS,
Washington, DC, October 22, 1991.

Hon. BOB GRAHAM,

U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: Last July, the full House of Representatives approved and referred to the Senate H.R. 1046, legislation authorizing a cost-of-living adjustment (COLA) in the VA disability and death compensation benefits of our nation's service-connected disabled veterans, their widows and orphans. A short time later, following the August recess, the Senate Veterans Affairs Committee ordered its own COLA legislation, S. 775, favorably reported to the floor.

Since that time no further action has been taken on this legislation.

Senator Graham, I am certain you recall that last year, due to the inability of a few members of the House and Senate to resolve differences on the issue of Agent Orange, VA disability compensation increase legislation failed to clear the Congress and over 2.3 million disabled veterans, their widows and orphans—the only such federal beneficiaries—were forced to wait months for their benefit adjustments. Cries of outrage and anger from across the country were focused upon Washington and embarrassed members of Congress were forced to temporarily halt their praise of Desert Shield (soon to be Desert Storm) veterans and promise that such an insensitive lapse would never occur again.

Incredibly I am now forced to ask if we are once again poised on this same precipice?

As noted above, weeks and weeks have gone by with no action taken on the pending

COLA legislation. True, the Senate schedule has been dominated of late by confirmation hearings, but this is only a recent development and does not explain the inaction since early September. Also, as you and I are both very much aware, if need be, the House and the Senate can act quite expeditiously, with both bodies approving legislation and sending it to the White House in a single day.

Senator Graham, in your capacity as a member of the Veterans Affairs Committee, I urge that you make every effort to get immediate Senate consideration of our COLA legislation. Recently, Secretary of Veterans Affairs Derwinski stated that if Congressional approval were not achieved by October 24th his Department could not ensure the timely receipt of benefit adjustments in January of next year.

Senator Graham, I am certain that you will give this request the most serious attention that it deserves. It would indeed be a great burden for members of Congress—in an election year—to explain why they again could not act quickly and favorably on benefit adjustments for our nation's wartime disabled.

Sincerely,

CLEVELAND JORDAN,
National Commander.

Mr. GRAHAM. 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. RIEGLE. 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. RIEGLE. I also ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that right.

THE HOMELESS

Mr. RIEGLE. Mr. President, I want to present to my colleagues a portion of a column, a newspaper column, written in the Detroit Free Press. It appeared on October 20 and is written by a woman who writes for the Free Press named Susan Watson. She, in this piece, describes coming to Washington to sit in on the Thomas nomination hearings. And in the course of describing her trip to Washington, she talks about some of the things that she saw while she was here in the city. I want to read just that portion of her column and then I will put the whole column in the RECORD.

In the middle of her article—just to start at that point—she said:

I was absorbed in that kind of woolly day-dreaming when I saw him. Or rather, I should say, when I saw it. At first glance, I thought someone had discarded a bundle of old clothes on the freshly swept sidewalk. Then I took a second look, and I recognized that the tattered clothes were draped over a body that lay on the walkway, perpendicular to the broad boulevard.

I shouldn't have been surprised. After all, this was Washington, D.C., a city where homeless people stretch out on crowded

streets traveled by bureaucrats, policy makers and members of high society. Long before it was commonplace in Detroit to see some disheveled homeless person stretched out in a bus shelter, the homeless had staked their claim to the Capitol's most impressive streets.

"Is that a person?" I asked the driver, more out of a need to comment on what I had just seen, rather than to confirm it.

The driver nodded. He said people were sleeping and living in the streets all over the city. "It's going to get worse because some of the shelters have shut down," he said.

"What do you do, just step over people sleeping on the sidewalk?" I asked, turning the subject back to the man we had just passed.

"No," the driver said softly. "You don't step over them. You walk around them."

A DELUDED MAN'S DANCE

I hesitated, then mentioned a disoriented and probably homeless man I had seen the previous evening as I was having dinner in a pleasant restaurant that overlooked a small plaza.

The man of indeterminate age danced with the night shadows. His clothes were dirty, his hair was matted, but he moved with a certain grotesque grace, his arms gently guiding an invisible partner.

Some pedestrians walked by as if he didn't exist.

I know the dancing man was delusional, a fantasizer, perhaps burdened by schizophrenia. But I wonder about our nation's reactions to him and those like him. Our leaders funnel billions of dollars into foreign countries while citizens here go jobless and hungry. The White House speaks of economic recovery while the country grapples with a recession. We ignore poverty and homelessness at our feet.

Surely, that kind of behavior makes us as a nation just as delusional as that dancing man, just as socially disconnected and just as swept up by fantasy.

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

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

WHILE HOMELESS LIVE ON STREETS, NATION LIVES A FANTASY (By Susan Watson)

It was Tuesday morning, and I was looking out the window of the cab that was taking me to Capitol Hill for the Senate vote on Clarence Thomas' nomination to the U.S. Supreme Court.

The driver cruised down one boulevard after another, past elegant marble buildings with shiny brass fixtures.

I wasn't paying attention to the scenery. I was thinking about all the psychological mumbo jumbo that had been bandied about during the closing days of the tortured process.

Words like delusional and schizophrenic had bounced off the richly marbled walls of the hearing room. Under sparkling chandeliers, Anita Hill was described as a woman who fell victim to her own improbable romantic hallucinations.

Soft whispers about fantasies tiptoed up graceful federal stairways. Everyone seemed preoccupied with that one woman's psychological well-being—or the lack of it.

LIAR, THEN A SCHIZOPHRENIC

People who couldn't spell the word schizophrenic suddenly became experts at rec-

ognizing the sickness in the Oklahoma law professor. It was ironic, I mused, that before Hill passed her much-discussed lie-detector test, she had been branded a manipulative liar. After the test, she suddenly was transformed into a person suffering from delusions.

The psychological labeling was a matter of political convenience. It helped Hill's accusers make it through the thorny tangle of the hearings.

I was absorbed in that kind of woolly day-dreaming when I saw him. Or rather, I should say, when I saw it. At first glance, I thought someone had discarded a bundle of old clothes on the freshly swept sidewalk. Then I took a second look, and I recognized that the tattered clothes were draped over a body that lay on the walkway perpendicular to the broad boulevard.

I shouldn't have been surprised. After all, this was Washington, D.C., a city where homeless people stretch out on crowded streets traveled by bureaucrats, policy makers and members of high society. Long before it was commonplace in Detroit to see some disheveled homeless person stretched out in a bus shelter, the homeless had staked their claim to the Capitol's most impressive streets.

"Is that a person?" I asked the driver, more out of a need to comment on what I had just seen, rather than to confirm it.

The driver nodded. He said people were sleeping and living in the streets all over the city. "It's going to get worse because some of the shelters have shut down," he said.

"What do you do, just step over people sleeping on the sidewalk?" I asked, turning the subject back to the man we had just passed.

"No," the driver said softly. "You don't step over them. You walk around them."

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The man of indeterminate age danced with the night shadows. His clothes were dirty, his hair was matted, but he moved with a certain grotesque grace, his arms gently guiding an invisible partner.

Some pedestrians walked by as if he didn't exist.

I know the dancing man was delusional, a fantasizer, perhaps burdened by schizophrenia. But I wonder about our nation's reactions to him and those like him. Our leaders funnel billions of dollars into foreign countries while citizens here go jobless and hungry. The White House speaks of economic recovery while the country grapples with a recession. We ignore poverty and homelessness at our feet.

Surely, that kind of behavior makes us as a nation just as delusional as that dancing man, just as socially disconnected and just as swept up by fantasy.

I only hope that now that Anita Hill's detractors have had their say about her so-called emotional problems, those same people will turn their attention to the emotional problems of this country. After all, any nation that can pretend that its poor and sock do not exist obviously isn't playing with a full deck.

Mr. RIEGLE. Mr. President, I am very struck by the power with which she describes the scene which is common to so many of us in this city; and is, to see homeless people all around

the city, particularly in the wintertime on the sidewalks where the hot-air grates are to be found. In every case, those hot-air grates have become the places where homeless people go in the wintertime in order to get enough heat to keep from freezing to death here in the District of Columbia. In fact, on some very cold nights, we have had situations where the temperatures have been well below zero where people, in fact, have frozen to death—right here on the streets of the Nation's Capital.

We can do something about this if we decide that we want to commit ourselves to addressing the problems here in the United States, not just the problems of homeless persons such as she describes, but our unemployed workers who have exhausted their unemployment compensation need the extended unemployment benefits. Surely, we are in a position to respond to that need. Other persons in our society are seeking work, and not finding it with the high unemployment; single parents in many cases, men and women out there today trying to support a family, finding either no jobs or maybe only part-time work and what they need and are seeking is full-time work.

Unfortunately, our Government today has an economic plan for every country in the world except our own. We have plans for almost every foreign nation, jobs plan for Mexico, help last week announced for the nation of Cambodia, and the list goes on and on around the world; almost no help in terms of building a stronger and a fairer and a more decent America. There are people out there in desperate circumstances and, in some instances, there is no recourse for them other than the fact that we take some account of their dire situation and move to respond to it as a society.

Most people, however, want to work; they cannot find jobs. They need unemployment compensation in the meantime. We ought to be providing it. But this condition of walking around our problems, stepping over our human problems in America, is part of the condition that I think this writer so aptly describes and something that we can change.

We have the power in this country to set a direction for our Nation. What we see here in America we are not seeing in other nations today. Japan is a nation that is thriving. It does not have a condition where it has thousands of homeless people out across the streets and in the doorways and under the bridges in their country. And the same is true of other modern nations. They manage to organize their economic affairs and their society in such a way that you do not have these kinds of widespread and mounting problems such as we have in America.

Something can be done about it. Something should be done about it. I think it ought to be the goal of our

Government to address the problems here in the United States, to get our people back to work, to get our economy humming, to make sure there is opportunity for people to be able to be self-sufficient and go out and earn a living and for those who cannot, because of either mental difficulties that they may have or other problems, that we have some humane way of responding to that problem so they are not just thrown to the four winds, such as described in this article today.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. 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 Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 1850 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. 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. 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.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 6:30 p.m. under the same terms and conditions as the previous order.

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

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 1852 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BRYAN. Mr. President, I do not believe any other Member seeks recognition at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). 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.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, and I say to Members of the Senate, our discussions are continuing in an effort to resolve the pending matter in a way that will be accepted as fair and responsible by all concerned. I hope we can reach agreement in the near future.

Accordingly, Mr. President, with the consent of the distinguished Republican leader, I ask unanimous consent that the period for morning business be extended until 7 p.m. under the same terms and conditions as under the previous order.

The PRESIDING OFFICER. 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. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

EXECUTIVE SESSION

Executive Calendar

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations reported today by the Committee on Banking, Housing, and Urban Affairs:

Russell K. Paul, to be an Assistant Secretary of Housing and Urban Development;

Shirlee Bowne, to be a member of the National Credit Union Administration Board;

James C. Kenny, to be a member of the Board of Directors of the National Corporation for Housing Partnerships; and

William Taylor, to be a member and Chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

I further ask unanimous consent that the nominees be confirmed, en bloc, 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 imme-

diately 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 confirmed, en bloc, are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Russell K. Paul, to be an Assistant Secretary of Housing and Urban Development.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

Shirlee Bowne, to be a member of the National Credit Union Administration Board.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

James C. Kenny, to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

FEDERAL DEPOSIT INSURANCE CORPORATION

William Taylor, to be member and Chairman of the Board of Directors of the Federal Deposit Insurance Corporation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

REPORT OF VIOLATIONS OF THE FISHERMEN'S PROTECTIVE ACT RELATIVE TO DRIFTNET FISHING—MESSAGE FROM THE PRESIDENT—PM 88

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on October 18, 1991, during the recess of the Senate, received the following message from the President of the United States; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

The conservation of high seas living marine resources and averting threats to such resources have become important international issues in recent years. Much of the concern has focused on the use of the large-scale pelagic driftnet fishing method. The United

States has worked with several high seas driftnet fishing countries to assess the impacts that these methods have upon the marine environment through cooperative high seas monitoring programs. The data collected in these programs has substantiated concerns about the destructive nature of this wasteful fishing technique.

The international community recognizes the problems posed by large-scale pelagic driftnet fishing on the high seas. In December 1989, the United States cosponsored Resolution 44/225 that was adopted by consensus by the United Nations General Assembly (UNGA), as was reaffirmation Resolution 45/197 a year later. UNGA Resolution 44/225 calls for an end to the use of large-scale pelagic driftnets on the high seas by June 30, 1992, unless jointly agreed conservation and management regimes can be put in place to prevent the unacceptable impacts posed by this fishing method on the marine environment. The scientific data show the indiscriminate nature of this fishing technique. Thus, I fully expect that all those involved in large-scale pelagic driftnet fisheries will make plans to end such fishing by June 30, 1992. Accordingly, I have instructed Secretary Baker to seek such commitments from driftnet fishing countries.

Pursuant to the provisions of subsection (b) of the Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978), I am reporting to you following certification by the Secretary of Commerce on August 13, 1991, that the Republic of Korea (ROK) and Taiwan violated the terms of the cooperative scientific monitoring and enforcement agreements the United States has with the ROK and Taiwan. The Secretary's letter to me was deemed to be a certification for the purposes of subsection (a) of the Pelly Amendment. Subsection (a) requires that I consider and, at my discretion, order the prohibition of imports into the United States of fish products from the ROK and Taiwan, to the extent that such prohibition is sanctioned by the General Agreement on Tariffs and Trade.

Since certification, both the ROK and Taiwan have responded to U.S. concerns in some measure. The ROK has recalled to port all the Korean driftnet vessels that were detected by U.S. enforcement patrols beyond the high seas driftnet fishing boundaries, instructed its commercial and enforcement vessels to adhere to the ROK regulations enacted pursuant to the U.S.-ROK driftnet agreement, and imposed penalties on masters and owners of 14 violating vessels. Since the ROK certification, Korean driftnet vessels appear to have operated in accordance with the boundary provisions of the U.S.-ROK driftnet agreement; however, as of October 5, seven Korean driftnet vessels had failed to return to port in

compliance with the ROK recall notice. The Government of the ROK has expressed its regret for the violations and has assured the United States that it will do its utmost to ensure that its vessels adhere to all relevant enforcement provisions outlined in the U.S.-ROK driftnet agreement.

Taiwan has yet to take remedial and punitive measures with respect to its driftnet vessels found operating outside of the prescribed high seas fishing area in the North Pacific. The authorities on Taiwan, however, have noted that the vessels in question have been boarded and investigated on the high seas by Taiwan patrol vessels and that punitive actions would be contemplated at the close of the current fishing season when the fishing vessels return to their home ports.

Taiwan has responded to the general concern of the international community by positively addressing the fundamental objective of ending large-scale pelagic driftnet fishing on the high seas by June 30, 1992, as called for by UNGA Resolution 44/225. On September 13, 1991, our representatives received a letter from the authorities on Taiwan that stated that the Executive Yuan reiterated a government policy to end the use of this fishing method by June 30, 1992. The place great reliance on the authorities on Taiwan to implement this policy in a forthright and timely manner.

I have decided to defer sanctions against Taiwan and Korea for 90 days pending evaluation of any additional remedial and punitive measures that each may take regarding the 1991 violations for which it was certified and their adherence to the driftnet agreements.

Over the longer term, I will watch closely their commitment to end large-scale pelagic driftnet fishing on the high seas by June 30, 1992, in line with the desire of the international community to end such fishing by that date.

Certification of Korea or Taiwan will be continued pending review of their performance. I have directed Secretary Mosbacher, in cooperation with Secretary Baker, to continue to monitor developments relating to large-scale pelagic driftnetting conducted on the high seas by the ROK and Taiwan and to report to me in 90 days or as otherwise warranted.

GEORGE BUSH.

THE WHITE HOUSE, October 18, 1991.

REPORT ON EMBARGO OF CERTAIN TUNA AND TUNA PRODUCTS FROM MEXICO—MESSAGE FROM THE PRESIDENT—PM 89

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on October 21, 1991, during the recess of the Senate, received the following message from the President of the United States;

which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

Pursuant to the provisions of subsection (b) of the Pelly Amendment to the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1978), I am reporting to you that on August 22, 1991, the Secretary of Commerce reported to me that the country of Mexico has been under a court-ordered embargo since February 22, 1991. No yellowfin tuna or products derived from yellowfin tuna harvested by Mexico with purse seines in the eastern tropical Pacific Ocean may be imported into the United States.

The Secretary's letter to me was deemed to be a certification for the purposes of subsection (a) of the Pelly Amendment. Subsection (a) requires that I consider and, at my discretion, order the prohibition of imports into the United States of fish and fish products from Mexico, to the extent that such prohibition is consistent with the General Agreements on Tariffs and Trade. Subsection (b) requires me to report to the Congress within 60 days following certification on the actions taken pursuant to the certification; if fish and wildlife imports have not been prohibited, the report must state the reasons for the lack of a prohibition.

After thorough review, I have determined that, given that an embargo is currently in effect and given the continuing negotiations with Mexico toward an international dolphin conservation program in the eastern tropical Pacific Ocean, sanctions will not be imposed against Mexico at this time. Mexico will continue to be certified, and we will review Mexico's marine mammal incidental mortality under the Marine Mammal Protection Act if a finding is requested for 1992. I will make further reports and recommendations to you as developments warrant.

GEORGE BUSH.

THE WHITE HOUSE, October 21, 1991.

MESSAGES FROM THE HOUSE
RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on October 21, 1991, during the recess of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendments of the Senate to the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. AUCOIN, Mr. SABO, Mr. DIXON, Mr. DWYER of New Jersey, Mr. WHITTEN, Mr. MCDADE, Mr.

YOUNG of Florida, Mr. MILLER of Ohio, Mr. LIVINGSTON, and Mr. LEWIS of California as managers of the conference on the part of the House.

The message also announced that the House has passed the joint resolution (S.J. Res. 131) designating October 1991 as "National Down Syndrome Awareness Month," without amendment.

ENROLLED BILLS AND JOINT RESOLUTION
SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1720. An act to amend the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District, and for other purposes;

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; and

S.J. Res. 131. Joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

MESSAGES FROM THE HOUSE

At 11:35 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3169. An act to lengthen from five to seven years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia or its environs;

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas; and

H.J. Res. 340. Joint resolution to designate October 19 through 27, 1991, as "National Red Ribbon Week for a Drug-Free America."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3169. An act to lengthen from five to seven years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia or its environs; to the Committee on Energy and Natural Resources.

H.R. 3576. An act to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas; to the Committee on Banking, Housing, and Urban Affairs.

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. 3033. An Act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that on October 18, 1991, during the recess of the Senate, he had signed the following enrolled bills which had been previously signed by the Speaker of the House:

H.R. 2426. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2698. An act 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

H.R. 2942. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

ENROLLED BILLS AND JOINT
RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that on today, October 22, 1991, he had signed the following bills previously signed by the Speaker of the House:

H.R. 1720. An act to amend the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District, and for other purposes;

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; and

S.J. Res. 131. Joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

ENROLLED JOINT RESOLUTION
PRESENTED

The Secretary of the Senate reported that on today, October 22, 1991, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 131. Joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

EXECUTIVE AND OTHER
COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and doc-

uments, which were referred as indicated:

EC-2036. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the District of Columbia Appropriations Act for 1992; to the Committee on the Budget.

EC-2037. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2038. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2039. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2040. A communication from the Acting Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2041. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the State Revolving Fund Final Report; to the Committee on Environment and Public Works.

EC-2042. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend section 5315 and 5316 of title 5, United States Code, to raise the position of the Chief Counsel for the Internal Revenue Service, Department of the Treasury, from Level V to Level IV of the Executive Schedule; to the Committee on Finance.

EC-2043. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice that the President has authorized the use of assistance from the U.S. Emergency Refugee and Migration Assistance Fund to meet the unexpected and urgent needs of refugees and other displaced persons in the Horn of Africa and the Middle East; to the Committee on Foreign Relations.

EC-2044. 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 October 10, 1991; to the Committee on Foreign Relations.

EC-2045. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Statistical Programs of the United States Government, Fiscal Year 1992"; to the Committee on Governmental Affairs.

EC-2046. A communication from the Executive Director of the United States National Commission on Libraries and Information Science, transmitting, pursuant to law, the

fiscal year 1991 annual report of the Commission under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC-2047. A communication from the Mayor of the District of Columbia, transmitting, pursuant to law, an actuarial report on changes to the Police Officers and Firefighters Retirement Program; to the Committee on Governmental Affairs.

EC-2048. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the Center's report on Court-Annexed Arbitration in Ten District Courts (1990) and legislative recommendations of the Center's Board on Court-Annexed Arbitration; to the Committee on the Judiciary.

EC-2049. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the annual report on agency activities under the Equal Access to Justice Act for fiscal year 1990; to the Committee on the Judiciary.

EC-2050. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated October 1, 1991; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-2051. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title II of the Export Administration Amendments Act of 1985, as amended, to authorize appropriations for fiscal years 1992, 1993, and 1994 for the Department of Commerce export promotion programs; to the Committee on Banking, Housing, and Urban Affairs.

EC-2052. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the Continuing Appropriations for fiscal year 1992; to the Committee on the Budget.

EC-2053. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to approve the location of a memorial to George Mason; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 756. A bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes (Rept. No. 102-194).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

William Taylor, of Illinois, to be a member of the Board of Directors of the Federal De-

posit Insurance Corporation for a term expiring February 28, 1993;

William Taylor, of Illinois, to be chairperson of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring February 28, 1993;

James C. Kenny, of Illinois, to be a member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1993;

Shirlee Bowne, of Florida, to be a member of the National Credit Union Administration Board for the term of six years expiring April 10, 1997; and

Russell K. Paul, of Georgia, to be an Assistant Secretary of Housing and Urban Development.

(The above 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.)

By Mr. PELL, from the Committee on Foreign Relations:

Richard C. Houseworth, of Arizona, to be United States Alternate Executive Director of the Inter-American Development Bank;

Edward Gibson Lanpher, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to Zimbabwe;

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Edward Gibson Lanpher.
Post: Harare, Zimbabwe.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none/all minors.

4. Parents names, Anne Gibson Lanpher, Mother (see attached memo), father, deceased.

5. Grandparents names, deceased/none.

6. Brothers and spouses names, Mr. and Mrs. Lawrence Coe Lanpher (see attached memo).

7. Sisters and spouses names, Mr. and Mrs. Peter D. Ellis, None.

[Memorandum, Feb. 6, 1991]

To: E. Gibson Lanpher.
From: Lawrence Coe Lanpher.
Re: Political Contributions.

In accordance with your request, I have attempted to identify all political contributions made by my family, Mom, and Lori (including Pete) during the period January 1, 1986 to the present in connection with any federal, state or local candidate, political action committee, election or otherwise. The results are set forth below.

LAWRENCE COE LANPHER AND FAMILY

The direct political contributions are as follows:

Ed Markey for Congress, April 24, 1986, \$250.

Friends of John Whitney, May 17, 1986, \$50.
Ed Markey for Congress, November 4, 1986, \$250.

Ed Markey for Congress, June 7, 1987, \$500.
Udall for Congress, May 19, 1988, \$50.

Georgiou for Assembly, December 27, 1989, \$15.

Please note that the Whitney contribution was for a Maryland State race; the Georgiou

contribution was for a California State race; the rest were U.S. Congress.

In addition, I have contributed to the Kirkpatrick & Lockhart Political Action Committee, which, in turn, makes contributions in U.S. Congress and Senate races, Pennsylvania State and local elections, and in D.C. elections. My contributions to the K & L PAC have been as follows:

- 1990, \$1,175.
- 1989, \$1,175.
- 1988, \$590.
- 1987, \$585.
- 1986, \$862.50.

LORI AND PETE ELLIS

I spoke with Lori and Pete on February 3, 1991. They told me that they have made no political contributions of any kind during the period January 1, 1986 to the present.

ANN GIBSON LANPHER

I spoke with Mom after you had spoken with her and thus made sure that the search included state and local contributions going back to January 1, 1986. The list Mom put together is set forth below. She has included some "semi-political" payments which probably do not have to be listed. However, since she went to the trouble of pulling all the data together, I will set it all out an let you make the decision on what to list.

Date	To whom	Amount
Federal:		
Jan. 8, 1990	Democratic National Committee/Federal Account	\$50
Do	Democratic Congressional Campaign Committee	50
Do	Democratic Senatorial Campaign Committee	50
Jan. 27, 1990	National Committee for an Effective Congress	50
Feb. 15, 1990	Common Cause	50
Mar. 20, 1990	American Civil Liberties Union	25
Aug. 9, 1990	Handgun Control	25
Oct. 19, 1990	Democratic National Committee/Federal Account	50
State:		
May 5, 1990	Committee to Elect Paul Luebke	50
Sept. 7, 1990	Committee to Elect Paul Luebke (North Carolina State Legislature)	50
Local:		
May 29, 1990	Wilson for Chairman Committee (John Wilson for Chairman of D.C. City Council)	25
Semipolitical:		
Jan. 22, 1990	Women's National Democratic Club (Assessment at \$150 on 5 Life Memberships in WNDC=Ann Gibson Lanpher; E. Gibson Lanpher; Lawrence Coe Lanpher; Claudia Lee Lanpher; Sue [Lanpher] Sherman)	750
Oct. 29, 1990	Women's National Democratic Club (Part of pledge made in 1989 to help reduce indebtedness on building next door on New Hampshire Ave., NW, owned by WNDC and rented out)	300
Jan. 4, 1989	Democratic Congressional Campaign Committee (Membership renewal)	50
Feb. 6, 1989	National Committee for an Effective Congress	50
Feb. 16, 1989	Common Cause (Membership renewal)	50
April 11, 1989	Democratic Senatorial Campaign Committee	50
May 28, 1989	Democratic Congressional Campaign Committee	25
Sept. 12, 1989	Handgun Control	25
Oct. 2, 1989	Woman's National Democratic Club (Contribution to "Pop the Balloon" campaign, to meet balloon payment, due early 1991, on property WNDC owns (and rents out) next door on New Hampshire Ave., NW)	300
Jan. 6, 1988	Democratic Congressional Campaign Committee	50
Jan. 8, 1988	Democratic National Committee (Membership renewal)	50
Jan. 23, 1988	Common Cause (special contribution refinancing Reform Congressional Campaign)	50
Do	Handgun Control (Lobbyist)	25
Feb. 18, 1988	AARP/Vote (American Association of Retired Persons)	15
Feb. 19, 1988	Common Cause Renewal	50
May 24, 1988	Democratic National Committee/Federal Account	50
Oct. 24, 1988	National Committee for an Effective Congress	50
Mar. 12, 1987	Democratic Congressional Campaign Committee	75
Do	National Committee for an Effective Congress	50

Date	To whom	Amount
Do	Common Cause	50
Do	Democratic National Committee	50
Oct. 13, 1987	Democratic National Committee (Membership renewal)	50
Feb. 28, 1986	Democratic National Committee (Membership renewal)	50
Mar. 4, 1986	Democratic Congressional Campaign Committee	75
Do	Common Cause	50
Do	National Committee for an Effective Congress	25
July 10, 1986	"Senate Majority '86" (Pamela Harriman)	25
Sept. 22, 1986	Democratic Congressional Campaign Committee	25
Sept. 23, 1986	Common Cause/D.C.	50
Sept. 27, 1986	National Committee for an Effective Congress	50
Oct. 20, 1986	Handgun Control PAC	25

(The above 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. BOREN (for himself and Mr. NICKLES):

S. 1840. A bill to direct the release of all right, title, and interest of the United States in and to, and all restrictions, conditions, and limitations on the use or conveyance of, certain real property located in Oklahoma City, Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUIE:

S. 1841. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residence of handicapped individuals to allow removal of architectural barriers; to the Committee on Finance.

By Mr. DASCHLE:

S. 1842. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. MOYNIHAN):

S. 1843. A bill to amend the Federal Water Pollution Control Act to improve and enforce compliance programs; to the Committee on Environment and Public Works.

By Mr. SEYMOUR:

S. 1844. A bill to authorize the sale of a Bureau of Reclamation loan to the United Water Conservation District in California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Mr. DURENBERGER):

S. 1845. A bill to ensure that all Americans have the opportunity for a higher education; to the Committee on Labor and Human Resources.

By Mr. BRADLEY:

S. 1846. A bill to modify the tax and budget priorities of the United States, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself and Mr. GLENN):

S. 1847. A bill to direct the Secretary of the Interior to construct a National Training Center at the National Afro-American Museum and Cultural Center and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 1848. A bill to restore the authority of the Secretary of Education to make certain preliminary payments to local educational agencies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 1849. A bill to provide for the full settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. DANFORTH):

S. 1850. A bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1851. A bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States; to the Committee on Foreign Relations.

By Mr. KENNEDY:

S. 1852. A bill to amend the Social Security Act with respect to Medicare to protect the wage index for an urban area in a State if such wage index is below the rural wage index for such State for purposes of calculating payments to hospitals for inpatient hospital services, and for other purposes; to the Committee on Finance.

By Mr. BRYAN (for himself, Mr. DODD, and Mr. WIEGLE):

S. 1853. A bill to amend the Fair Credit Reporting Act to protect consumers from the use of inaccurate credit information and the misuse of credit information; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE:

S. 1854. A bill to authorize the Secretary of the Interior to perform the planning studies necessary to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the Mni Wiconi Rural Water Supply Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 1855. A bill to provide for greater accountability for Federal Government foreign travel; to the Committee on Governmental Affairs.

By Mr. CRANSTON (for himself, Mr. AKAKA, Mr. BURDICK, Mr. COHEN, Mr. DECONCINI, Mr. GORE, Mr. HATFIELD, Mr. JEFFORDS, Mr. KERRY, Mr. KOHL, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. PELL, Ms. MIKULSKI, Mr. PACKWOOD, Mr. SARBANES, Mr. INOUIE, and Mr. BIDEN):

S. 1856. A bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself and Mr. BOREN):

S. 1857. A bill to amend the Internal Revenue Code of 1986 to provide a reduction in the capital gains rate, to provide a mechanism to pay for such reduction if it results in a decrease in Federal revenues, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1858. A bill to direct the Secretary of Health and Human Services to prepare an

annual report to the Congress on welfare dependency; to the Committee on Labor and Human Resources.

By Mr. HATFIELD (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BRADLEY, Mr. BURDICK, Mr. BURNS, Mr. COCHRAN, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. FOWLER, Mr. JEFFORDS, Mr. INOUE, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. SANFORD, Mr. SEYMOUR, Mr. STEVENS, and Mr. WOFFORD):

S.J. Res. 217. A joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DANFORTH (for himself, Mr. PRYOR, Mr. BAUCUS, Mr. BOND, Mr. FOWLER, Mr. MCCONNELL, Mr. HELMS, Mr. BOREN, Mr. SANFORD, Mr. KERREY, Mr. DURENBERGER, Mr. SIMON, Mr. GRASSLEY, Mr. DIXON, Mr. JOHNSTON, Mr. BURDICK, Mr. WALLOP, and Mr. HARKIN):

S. Res. 201. A resolution to express the sense of the Senate regarding enforcement of the oilseeds GATT panel ruling against the European Community; to the Committee on Finance.

By Mr. SPECTER:
S. Con. Res. 72. A concurrent resolution to support the presentation of the Ellis Island Medal of Honor on January 1, 1992; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1840. A bill to direct the release of all right, title, and interest of the United States in and to, and all restrictions, conditions, and limitations on the use or conveyance of, certain real property located in Oklahoma City, OK, and for other purposes; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN REAL PROPERTY IN OKLAHOMA CITY, OK

• Mr. BOREN. Mr. President, I have come to the floor today to introduce a bill that will transfer the title of the Tinker Bicentennial Park property in Midwest City, OK, from the Federal Government to Midwest City. The release of this title would allow Midwest City to initiate improvements on Tinker Bicentennial Park that would expand its usage and upgrade its facilities. The proposed changes will benefit not only the citizens of Midwest City, but tourists and visitors to Tinker Air Force Base and Midwest City as well.

Acquired by Midwest City in 1976, through the Federal Used Property Program, Tinker Bicentennial Park literally serves as a front door to Tin-

ker Air Force Base and because of its location on Interstate 40, it is seen by thousands of motorists daily.

As it is now, Tinker Bicentennial Park is predominantly undeveloped green space; its potential as a pleasant, functional park has gone largely unrealized. In an effort to better serve the public, Midwest City is seeking permission to make improvements necessary to beautify the park, and to create new recreational opportunities for residents and tourists.

Among the proposed changes is the construction of a 3,200 square foot tourist and information center. An additional parking area with room for 35 passenger vehicles and 3 recreational vehicles will accompany the center. The center will not only provide a rest stop for tourists, but will also serve as a focal point for the distribution of literature on the many recreational and cultural amenities available in the Oklahoma City metropolitan area and the entire State.

To increase the value of the park to the public, the city would like to install walking/jogging trails and a pair of volleyball courts. With the exception of city streets, there is currently no outdoor walking/jogging area available in the Midwest City public recreational facilities.

The city has also proposed the installation of several pieces of playground equipment, picnic tables, and a sand box. Adjacent to the playgrounds will be several areas designated as display grounds. The city wishes to locate an F-4 fighter and other military hardware in these areas. Because of the city's close economic and geographic ties with Tinker Air Force Base, the equipment would serve both an educational; and decorative function.

Mr. President, since at least 1989, Midwest City has been negotiating with the Park Service to initiate the proposed changes, but has been unsuccessful in its efforts. The Park Service is concerned that the construction of visitors center at Tinker Bicentennial Park would convert the site from recreation to tourism and transportation use. Specifically, the Park Service questions the need for parking areas suitable for recreational vehicle/bus parking. The city feels it is important for several reasons. Because of Tinker's prominence in central Oklahoma, the city envisions that the many central Oklahoma elementary schools and other organizations that visit Tinker AFB, will stop at the park to view the aircraft, rest or eat lunch. Second, the city feels that further enhancement of the park's facilities will not only increase its daily use, but will enable it to become a very important location for special events and gatherings.

Mr. President, the legislation I offer today, by transferring the title of Tinker Bicentennial Park property from

the Federal Government to Midwest City, will enable the city to turn this beautiful, but under utilized park, into a functional area which will provide needed services to the citizens of Midwest City and the visitors of Tinker Air Force Base.

Mr. President, I ask unanimous consent that a copy 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. 1840

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

SECTION 1. RELEASE.

(a) IN GENERAL.—Except as provided in subsection (b), not later than 30 days after the date of the enactment of this Act, the Secretary of the Interior shall execute such instruments as may be necessary to release all right, title, and interest of the United States in and to, and all restrictions, conditions, and limitations on the use or conveyance of, the real property described in subsection (c).

(b) EXCEPTION.—Subsection (a) shall not apply to—

(1) the reversionary interest of the United States in such property in the case of national defense, as described in clause I of the deed referred to in subsection (c); and

(2) the reservation of the right of the United States to a perpetual easement for the establishment, maintenance, and operation of a restrictive use area for the operation of aircraft to and from Tinker Air Force Base, Oklahoma, as described in clause J of the deed referred to in subsection (c).

(c) REAL PROPERTY DESCRIBED.—The real property referred to in subsection (a) is the property described in Exhibit "A" of the Quitclaim Deed (Oklahoma Statutory Form) that is contained in the records of the County Recorder of the County of Oklahoma, State of Oklahoma, and that has been recorded in Book No. 4295, pages 924 through 931. •

By Mr. DASCHLE:

S. 1842. A bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

MEDICAID COVERAGE OF NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES

• Mr. DASCHLE. Mr. President, I rise today to introduce a bill to provide direct Medicaid reimbursement to certified nurse practitioners and clinical nurse specialists delivering primary care to patients in both rural and urban areas. The ultimate goal of this measure is to enhance the availability of health care services for our country's unserved and underserved citizens.

According to a recent Department of Health and Human Services report entitled "The Status of Health Personnel in the United States," the availability of primary care expands access to services, improves health outcomes, minimizes unnecessary utilization, and lowers costs. However, today, many Amer-

icans are doing without basic health care services because of the diminishing number of primary care physicians and the declining number of those physicians willing to accept Medicaid patients. Fortunately, this dilemma of need and benefit facing a dearth of physicians has a solution. Because of their advanced training, certified nurse practitioners and clinical nurse specialists are licensed to perform many of the primary care services usually performed by physicians. A number of recent studies, including one conducted by the Office of Technology Assessment, have documented that certified nurse practitioners and clinical nurse specialists provide high quality care in a cost-effective manner that results in a high level of patient satisfaction.

The Department of Defense recognizes these facts. Its CHAMPUS Program has for more than a decade provided direct reimbursement to nurse practitioners, and, in more than 15 States, legislation has been enacted requiring health insurers to reimburse nurse practitioners directly for their services. These States acknowledge the potential cost savings that can be passed on to their residents through increased utilization of nurse practitioners.

Congress has supported similar measures in the past: Recent legislation now provides direct Medicare reimbursement for nurse practitioners in rural areas, and direct Medicaid reimbursement for certified pediatric and family nurse practitioners. This bill would go beyond the two specialized nurse practitioner professions currently receiving direct reimbursement under Medicaid and allow for all nurse practitioners and clinical nurse specialists, who are legally authorized to perform under State law, to be reimbursed.

The legislation I am introducing today recognizes that better utilization of nurse practitioners and clinical nurse specialists among Medicaid-eligible patients will help enhance both access to and quality of care for those citizens whose access to health care services is so severely limited.

Mr. President, I ask unanimous consent that this legislation in its entirety be printed in the RECORD.

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

S. 1842

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

SECTION 1. MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) by amending paragraph (21) to read as follows:

“(21) services furnished by all certified nurse practitioners (as defined by the Sec-

retary) or clinical nurse specialists (as defined in subsection (b)) which the certified nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider;”;

(2) in paragraph (24) by striking the comma at the end; and

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (24), (22), and (23), respectively, and by transferring and inserting paragraph (24) after paragraph (23), as so redesignated.

(b) CLINICAL NURSE SPECIALIST DEFINED.—Section 1905 of such Act (42 U.S.C. 1396) is amended by adding at the end the following new subsection:

“(c) The term ‘clinical nurse specialist’ means an individual who—

“(1) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

“(2)(A) holds a master’s degree in a defined clinical area of nursing from an accredited educational institution.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1992.●

By Mr. LAUTENBERG (for himself and Mr. MOYNIHAN):

S. 1843. A bill to amend the Federal Water Pollution Control Act to improve and enforce compliance programs; to the Committee on Environment and Public Works.

CLEAN WATER ENFORCEMENT AND COMPLIANCE IMPROVEMENT ACT

● Mr. LAUTENBERG. Mr. President, I rise today to introduce the Clean Water Enforcement and Compliance Improvement Act of 1991. This important bill will provide much-needed changes to the enforcement provisions of the Clean Water Act, and will help restore and preserve our Nation’s already stressed lakes, rivers, and coastal areas. I would like to commend my colleague from New Jersey, Congressman PALLONE, for introducing similar legislation in the other body.

Mr. President, when Congress first enacted the Clean Water Act in 1972, we established lofty goals—to make our Nation’s waters fishable and swimmable. And we mandated strict enforcement and provided for penalties to assure compliance with the act’s provisions.

We were responding to strong public concern about pollution of our waters. That concern is every bit as strong today because people understand that clean water is essential to human life. In a Gallup Poll taken this past spring, pollution of rivers, lakes, and drinking water was first on the list of environmental problems people worry about. They want us to make the commitment to rid our waters of bacteria, toxins, and garbage.

Yet after close to 20 years, and after substantial revisions since its enact-

ment, the act has failed to meet its goals. While water quality is improving, our waters are not clean. In 1988, over one-third of our rivers, lakes, and estuaries which have been assessed throughout the country either are failing to achieve designated water quality levels or are threatened with failing to achieve those levels. In my State of New Jersey, a survey of roughly 10 percent of the State’s rivers showed that only 15 percent are safe for swimming.

And we need go not further than our own backyard for proof: in the District of Columbia, the Nation’s Capital, there is not a single body of water—not one, Mr. President—that’s classified as fishable and swimmable. One reason is plain—the Clean Water Act is not being adequately enforced.

Mr. President, effective enforcement is essential to achieving the goals of the act. Not only does effective enforcement deter violations, but it also helps ensure that appropriate corrective actions are taken in a timely manner when violations do occur.

But recent testimony before the Environment and Public Works Committee confirms that enforcement of our clean water laws had been far from adequate. The EPA’s inspector general testified that enforcement actions taken by EPA and the States were frequently ineffective in returning major violators to compliance. The GAO said that EPA and State enforcement actions were weak and sporadic. And the Public Interest Research Group found that violations of the act are frequently ignored, even when patterns of chronic noncompliance appear. And these are just the generalizations. The specifics are appalling:

USPIRG testified that in a 3-month period last year, 12 percent of the largest industrial dischargers in the Nation, and 13 percent of the largest municipal dischargers were in significant noncompliance with their NPDES permits.

And these are only the worst violators at the largest facilities—we are not exactly sure what the other roughly 63,000 NPDES permitted facilities are discharging because EPA does not count them against agency goals. Even the EPA IG said that the number of facilities reported as being in significant noncompliance is vastly understated compared to the total number of permitted facilities;

The EPA IG found that in 46 of 69 NPDES audits he conducted, the penalty assessments were not sufficient to recover the economic benefit gained as a result of noncompliance. The IG pointed to one case where a POTW had been in chronic violation of its permit for 6 years. A maximum penalty was assessed at \$97 million, EPA reduced the penalty in settlement to \$5.9 million, and the violator ultimately paid \$40,600. And the facility is still not in full compliance. the message of such a

penalty policy is clear: It pays to pollute. If you pollute, you will have an economic advantage over your competitors who are complying.

This inadequate enforcement must end. Our citizens who want clean water, are insisting on it. The Clean Water Enforcement and Compliance Improvement Act will strengthen enforcement efforts.

The provisions in this bill have been drawn from two sources. The first is New Jersey's tough, new "Clean Water Enforcement Act," which is being held up across the Nation as the standard for water pollution penalty assessment, compliance, and enforcement. As one of the most densely populated and industrialized States, New Jersey is sending a tough message to polluters, that clean water is not just a luxury, it is a necessity. But New Jerseyans should not be the only ones to benefit from effective clean water enforcement. My bill will help ensure that all people, in every State, are protected from the dangers of polluted water.

Mr. President, this bill also incorporates recommendations from a draft EPA report to Congress. The report, which focuses on improving compliance and enforcement under the Clean Water Act, was required by the 1987 amendments to the act. But the report, Mr. President, has been held up at OMB for over a year. Now EPA can not even implement the recommendations of its own environmental professionals. So once again its time for Congress to step in and make into law what the agencies cannot seem to do administratively.

My bill will toughen penalties for polluters, improve enforcement by EPA and State water pollution agencies, and expand citizens' right-to-know about violations of the Clean Water Act.

It establishes mandatory minimum penalties for serious violations of the Clean Water Act.

It requires that civil penalties be no less than the economic benefit resulting from the violation.

It requires more frequent reporting of water discharges to identify violations more quickly.

And it requires EPA to publish annually a list of those facilities that are in significant noncompliance with the Clean Water Act.

The bill has been endorsed by the Natural Resources Defense Council, the National Wildlife Federation, U.S. Public Interest Research Group, and almost 100 other groups within the clean water network.

I urge my colleagues to join me in sending a strong message to polluters. And I ask unanimous consent that a copy of the bill and a summary of its provisions be included in the CONGRESSIONAL RECORD.

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

S. 1843

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 "Clean Water Enforcement and Compliance Improvement Act of 1991".

SEC. 2. FINDINGS.

(a) **IN GENERAL.**—The Congress finds that—

(1) a significant number of persons who have been issued permits under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) are in violation of such permits;

(2) current enforcement programs of the Administrator of the Environmental Protection Agency and the States fail to address violations of such permits in a timely and effective manner;

(3) often violations of such permits continue for a considerable period of time, yielding significant economic benefits for the violator and thus penalizing similar facilities which act lawfully;

(4) penalties assessed and collected by the Administrator from violators of such permits are often less than the economic benefit gained by the violator;

(5) swift and timely enforcement by the Administrator and the States of violations of such permits is necessary to increase levels of compliance with such permits; and

(6) actions of private citizens have been effective in enforcing such permits and directing funds to environmental mitigation projects.

(b) **FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.**—Section 101 of the Federal Water Pollution Control Act (33 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) **FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.**—Congress finds that a discharge which results in a violation of this Act, including a violation of a regulation, standard, limitation, requirement, or order issued pursuant to this Act, interferes with the restoration and maintenance of the chemical, physical, and biological integrity of the water system into which the discharge occurs (including any downstream waters) and, therefore, harms users of such water system."

SEC. 3. VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.

Section 307(d) of the Federal Water Pollution Control Act (33 U.S.C. 1317) is amended to read as follows:

"(d) **VIOLATIONS.**—After the effective date of any effluent standard or prohibition, pretreatment standard or requirement, or local limit promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition, pretreatment standard or requirement, or local limit."

SEC. 4. INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.

Section 308(a) of the Federal Water Pollution Control Act (33 U.S.C. 1318(a)) is amended—

(1) by striking "the owner or operator of any point source" each place it appears in the subsection and inserting "a person subject to a requirement of this Act"; and

(2) in subparagraph (A) of paragraph (4)—

(A) by striking "and" at the end of clause (iv);

(B) by redesignating clause (v) as clause (vi); and

(C) by inserting after clause (iv) the following new clause: "(v) submit to periodic in-

spections at such intervals as the Administrator shall prescribe by regulation (by not later than 2 years after the date of the enactment of the Clean Water Enforcement and Compliance Improvement Act of 1991), and".

SEC. 5. PENALTIES.

(a) **CRIMINAL PENALTIES RELATING TO THE ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.**—Section 309(c)(3)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)(3)(A)) is amended by inserting after "Army or by a State," the following: "or who knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,".

(b) **TREATMENT OF SINGLE OPERATIONAL UPSETS.**—

(1) **CRIMINAL PENALTIES.**—Section 309(c) of such Act (33 U.S.C. 1319(c)) is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) **CIVIL PENALTIES.**—Section 309(d) of such Act (33 U.S.C. 1319(d)) is amended by striking the last sentence.

(c) **AMOUNTS OF ADMINISTRATIVE PENALTIES.**—

(1) **IN GENERAL.**—Section 309(g)(3) of such Act (33 U.S.C. 1319(g)(3)) is amended by striking the last sentence.

(2) **AMOUNTS.**—Section 309(g)(2) of such Act (33 U.S.C. 1319(g)(2)(B)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(or an adjusted amount determined pursuant to subsection (k))" after "\$10,000"; and

(ii) by inserting "(or an adjusted amount determined pursuant to subsection (k))" after "\$25,000"; and

(B) in subparagraph (B), by striking the first sentence and inserting the following new sentences: "The amount of a class II civil penalty under paragraph (1) may not exceed \$10,000 per day (or an adjusted amount determined pursuant to subsection (k)), and except as provided in the following sentence, the maximum amount of any such civil penalty under this subparagraph shall not exceed \$200,000 (or an adjusted amount determined pursuant to subsection (k)). The maximum amount of any such civil penalty (as described in the preceding sentence) shall not apply in any case where the Administrator (or the Secretary, as the case may be), in consultation with the Attorney General, determines that a greater amount is appropriate for the violation. A determination under the preceding sentence that the amount of the penalty for a violation shall exceed \$200,000 shall not be subject to judicial review."

(d) **USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.**—

(1) **IN GENERAL.**—Section 309(d) of such Act (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following new sentence: "The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment."

(2) **CONFORMING AMENDMENT.**—Section 505(a) of such Act (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: "including ordering the use of a civil penalty for carrying out mitigation projects in accordance with such section 309(d)".

(e) **LIMITATION ON DEFENSES.**—Section 309(g)(1) of such Act (33 U.S.C. 1319(g)(1)) is amended by adding at the end the following new sentence: "In a proceeding to assess or

review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty."

(f) **RECOVERY OF ECONOMIC BENEFIT.**—Section 309 of such Act (33 U.S.C. 1319) is amended by adding at the end the following new subsection:

"(h) **RECOVERY OF ECONOMIC BENEFIT.**—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit or savings (if any) resulting from the violation for which the penalty is assessed plus interest as determined under section 3717(a) of title 31, United States Code, accruing from the date of the violation."

(g) **LIMITATION ON COMPROMISES.**—Section 309 of such Act (33 U.S.C. 1319) is further amended by adding at the end the following new subsection:

"(i) **LIMITATION ON COMPROMISES OF CIVIL PENALTIES.**—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

"(1) the minimum amount required for recovery of economic benefit under subsection (h), to

"(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount."

(h) **MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.**—Section 309 of such Act (33 U.S.C. 1319) is further amended by adding at the end the following new subsection:

"(j) **MINIMUM CIVIL PENALTIES FOR CERTAIN SERIOUS VIOLATIONS AND FOR SIGNIFICANT NONCOMPLIERS.**—

"(1) **SERIOUS VIOLATIONS.**—Notwithstanding any other provision of this section (except as provided in paragraph (2)), the minimum civil penalty which may be assessed and collected under this subsection from a person—

"(A) for a discharge from a point source of a hazardous pollutant which exceeds any applicable effluent limitation established by or under this Act by 20 percent or more, or

"(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be \$1,000 (or an adjusted amount determined pursuant to subsection (k)) for the first such violation in a 180-day period.

"(2) **SIGNIFICANT NONCOMPLIERS.**—Notwithstanding any other provision of this section, the minimum civil penalty which may be assessed and collected under this subsection from a person—

"(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds any applicable effluent limitation established by or under this Act by 20 percent or more;

"(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds any applicable effluent limitation established by or under this Act by 40 percent or more;

"(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds by any amount the applicable effluent limitation established by or under this Act; or

"(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be \$5,000 (or an adjusted amount determined pursuant to subsection (k)) for each such violation.

"(3) **INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.**—The Administrator shall classify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being classified as a significant noncomplier.

"(4) **ANNUAL REPORTING.**—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis, a list of all persons classified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

"(5) **LIMITATION ON COMPROMISES.**—Notwithstanding any other provision of this section, the amount of a civil penalty established pursuant to this subsection may not be compromised.

"(6) **HAZARDOUS POLLUTANT DEFINED.**—For purposes of this subsection, the term 'hazardous pollutant' has the same meaning as given the term 'hazardous substance' under subsection (c)(7) of this section."

(1) **ADJUSTMENT FOR INFLATION.**—Section 309 of such Act (33 U.S.C. 1319) is further amended by adding at the end the following new subsection:

"(k) **ADJUSTMENT FOR INFLATION.**—(1) Any maximum amount of any class I or class II civil penalty described in subsection (g)(2) and any minimum amount of a civil penalty described in subsection (j) shall be adjusted for inflation by the Administrator by regulation pursuant to this subsection.

"(2) Not later than December 1, 1995, and every 5 years thereafter, the Administrator shall, pursuant to paragraph (3), prescribe by regulation, and publish in the Federal Register, a schedule containing the adjusted amount for each penalty described in paragraph (1), applicable to violations that occur on or after January 1 of the calendar year immediately following the date of publication of the regulations.

"(3) The adjusted amount for each penalty described in paragraph (1) shall be determined by increasing the amount of such penalty by a cost-of-living adjustment for the preceding 5 years. Any increase determined under this paragraph shall be rounded—

"(A) in the case of a penalty of an amount greater than \$1,000, but less than or equal to \$10,000, to the nearest multiple of \$1,000;

"(B) in the case of a penalty of an amount greater than \$10,000, but less than or equal to \$100,000, to the nearest multiple of \$5,000;

"(C) in the case of a penalty of an amount greater than \$100,000, but less than or equal to \$200,000, to the nearest multiple of \$10,000; and

"(D) in the case of a penalty of an amount greater than \$200,000, to the nearest multiple of \$25,000.

"(4) For the purposes of this subsection:

"(A) The term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(B) The term 'cost of living adjustment for the preceding 5 years' means—

"(i) with respect to an initial adjustment for inflation under this subsection, the percentage by which the Consumer Price Index for the month of June preceding the date of the initial adjustment exceeds the Consumer

Price Index for the month of June in the calendar year 5 years before the date of the initial adjustment; and

"(ii) with respect to any subsequent adjustment for inflation under this subsection, the percentage by which the Consumer Price Index for the month of June preceding the date of the adjustment exceeds the Consumer Price Index for the month of June preceding the month of the date of the immediately preceding adjustment for inflation."

SEC. 6. NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.

(a) **JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.**—Section 402(b)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)(3)) is amended by inserting "and to insure that any person who is or may be adversely affected by such ruling has the right to judicial review of such ruling" before the semicolon at the end.

(b) **GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.**—Section 402(b) of such Act (33 U.S.C. 1342(b)) is further amended by adding at the end the following new paragraph:

"(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection."

(c) **INSPECTIONS.**—Section 402 of such Act (33 U.S.C. 1342) is amended by adding at the end the following new subsection:

"(q) **INSPECTION.**—

"(1) **GENERAL RULE.**—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

"(2) **MINIMUM STANDARDS.**—The Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

"(A) A representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the permitted facility and the effluent being discharged. To the extent possible, such representative sampling shall be taken at the same time and from the same effluent discharge as is a sampling taken to carry out a permit requirement under this section.

"(B) An analysis of all samples collected by the Administrator or the State under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

"(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

"(D) An evaluation of the sampling techniques used by the permittee.

"(E) A random check of discharge monitoring reports of the permittee for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B) with respect to the representative sampling conducted by the Administrator or the State under subparagraph (A).

"(F) An inspection of the sample storage facilities and techniques of the permittee."

(d) REPORTING.—Section 402 of such Act (33 U.S.C. 1342) is further amended by adding at the end the following new subsection:

"(r) REPORTING.—

"(1) GENERAL RULE.—Each person holding a permit issued under this section that the Administrator determines to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

"(2) SIGNATURE.—All reports filed under paragraph (1) must be signed by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, of another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official."

(e) APPLICABILITY.—The amendments made by this section shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(1) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(2) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

SEC. 7. EXPIRED STATE PERMITS.

Section 402(d) of the Federal Water Pollution Control Act (33 U.S.C. 1342(d)) is amended by adding at the end the following new paragraph:

"(5) EXPIRED STATE PERMITS.—In any case in which—

"(A) a permit issued by a State for a discharge has expired,

"(B) the permittee has submitted in a timely manner an application to the State for a new permit for the discharge, and

"(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a)."

SEC. 8. COMPLIANCE SCHEDULE.

Section 302(b)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following new sentence: "The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing."

SEC. 9. CITIZENS SUITS.

(a) PRETREATMENT REQUIREMENTS AND LOCAL LIMITS.—Section 505(f)(4) of such Act

(33 U.S.C. 1365(f)(4)) is amended by striking "or pretreatment standards" and inserting "pretreatment standard, pretreatment requirement, or local limit".

(b) DEFINITION OF CITIZEN.—Section 505(g) of such Act (33 U.S.C. 1365(g)) is amended by inserting before the period at the end the following: "including a person who uses the water downstream from a discharge, or would use such water if it were not polluted, during the period that the discharge exceeds an effluent standard or limitation issued under this Act".

SEC. 10. ISSUANCE OF SUBPENAS.

Section 509(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1369(a)(1)) is amended by striking "obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act," and inserting "carrying out this Act".

SUMMARY OF S. 1843

TOUGHENS PENALTIES

Establishes minimum civil penalties for Serious Violations and Significant Noncompliers.

Serious Violations require a minimum \$1,000 penalty. Serious Violations are discharges of hazardous substances exceeding a water pollution discharge standard by 20% or more and dischargers of less harmful pollutants by 40% or more.

Significant Noncompliance requires a minimum \$5,000 penalty. Significant Noncompliance involves two or more serious violations, four or more violations of any water pollution standard, or two instances of non-reporting in a 180 day period.

Requires that civil penalties be no less than the economic benefit or savings resulting from the violation.

Requires that penalties be adjusted to account for inflation.

FACILITATES ENFORCEMENT

Increases the level of administrative penalties EPA may assess, which will expand EPA's ability to use administrative penalties rather than having to file enforcement actions in court.

Authorizes sewage treatment plants to inspect facilities which discharge into sewer systems.

Requires large facilities to report to EPA or the state on its water emissions monthly and requires smaller facilities to report quarterly. Reports must be signed by the highest ranking official at the facility.

Expand EPA's authority to obtain any information needed to implement the Clean Water Act. Current law limits this authority to obtaining information only for certain sections of the Act.

EXPANDS CITIZEN RIGHT-TO-KNOW

Requires EPA to publicize list annually of significant noncompliers.

Requires public hearings where industry proposes to take more than two years to come into compliance with the Clean Water Act.*

By Mr. SEYMOUR:

S. 1844. A bill to authorize the sale of a Bureau of Reclamation loan to the United Water Conservation District in California, and for other purposes; to the Committee on Energy and Natural Resources.

SALE OF A BUREAU OF RECLAMATION LOAN

• Mr. SEYMOUR. Mr. President, today I rise to introduce the Freeman Diversion Improvement Project Act of 1991,

a bill which would authorize the Secretary of Interior to enter into negotiations with the United Water Conservation District for the purchase of their Government loan.

In 1983 the United Water Conservation District of Ventura County in my State of California applied for a loan with the Bureau of Reclamation under the Small Reclamation Loan Act. The loan application was approved and funded in 1987. With the funds available, the district was able to improve the Freeman Diversion Dam and to stabilize the Santa Clara River. A portion of the funds were used to provide fish protection features to the diversion dam.

This project is important to the area known as the Oxnard Plains which depends on both underground and surface supplies to provide water for agriculture and urban uses. Diversion from the Santa Clara River provides much-needed additional surface supplies. It is also critical to recharge the ground water basin in order to counter the intrusion of saltwater from the Pacific Ocean into the underground zones.

This legislation will lead to an agreement with the district to pay off in lump sum its loan with the Federal Government. Passage will relieve the Federal taxpayers of carrying, over the next 20 years, the debt owed by the district. It will reduce the Federal administration cost and overall will improve the management and performance of the Federal Government's loan portfolio. The district intends to issue local revenue bonds to finance the loan buy-out. This will place into the private economy the investment of nearly \$10 million in the water infrastructure of Ventura County.

Mr. President, this is good business for the American taxpayer and for the economy. It will open the way for private funds to be invested in the Freeman diversion improvement project thus reducing the burden of the general public to carry this multimillion-dollar loan.

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. 1844

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

SECTION. 1. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall enter into negotiations leading to an agreement for the sale of the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this Act as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-20-

W0615 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—The agreement negotiated pursuant to subsection (a) shall provide for payment of the purchase price on a lump-sum basis in an amount determined by the Secretary of the Interior to be appropriate.

SEC. 2. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 1(b)—

(1) the District's obligation under the loan contract described in section 1(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 3. REVIEW.

Not later than 60 days before entering into the agreement described in section 1, the Secretary shall submit the agreement to Congress for review.●

By Mr. SIMON (for himself and Mr. DURENBERGER):

S. 1845. A bill to ensure that all Americans have the opportunity for a higher education; to the Committee on Labor and Human Resources.

FINANCIAL AID FOR ALL STUDENTS ACT OF 1991

Mr. SIMON. Mr. President, today, Senator DURENBERGER, from Minnesota, and I are introducing the Financial Aid For All Students Act.

Last week a Gallup poll found, once again, and I will quote from an article from the Chronicle of Higher Education: "More than ever, Americans think that having a college degree is important to get a job or advance in a career."

And there is no question it is important. For those between the ages of 25 and 34, if you have a 2-year associate degree, you will earn on the average 40 percent more than those who have only a high school education. If you have a bachelor's degree, you will earn on the average 63 percent more than those who have only a high school education. If you have a professional degree you will earn triple the amount.

That is important to these individuals, but it is also important to the economy of the Nation.

You and I, Mr. President, if I may say, are old enough to remember the GI bill after World War II. It was conceived as a gift to veterans. But it turned out to be a huge investment in our own prosperity. If you were to take the old GI bill and put an inflation factor on it, today that would average a little better than \$8,000 a year in student assistance.

I am not suggesting that we can move to that; nor is my colleague from Minnesota. But there is no question we have to do better. We have been slipping as a nation in terms of our student assistance, and tens of thousands of people in this Nation are not going

to college who would like to go to college simply because they do not have the funds for it.

I am going to read briefly from three letters that are fairly typical of mail all of us receive. What we are doing with this bill that Senator DURENBERGER and I are introducing that I hope we can get many of our colleagues to cosponsor has met a need.

Why is there disillusionment with our Government? I think in part it is they see us in partisan fights and not meeting the real needs that are out there. And these are real needs.

Let me quote from a letter from Nancy Dobereiner from Moline, IL. She says:

I currently work two jobs (one full-time and one part-time) just to make ends meet. I do not live an extravagant life. I drive a 1985 Ford Tempo, and am paying off a mortgage on a home that had to be refinanced due to my former husband's employment status. He was one of the many in this area affected by major layoffs in the farm implement industry during the 1980's. My gross income from both jobs last year was \$29,600. My oldest son, Craig, will be a junior at Northeast Missouri State University this fall. Two of his three years he has been eligible for a grant of \$250/year. Although this is not a great amount, when you are a struggling student, every penny counts. By the time he graduates, he will have accumulated approximately \$23,300 in student loans (Perkins and GSL. He also receives aid from the work/study program.) I would not want to enter the profession he intends to facing that amount in loans. Craig intends to be a math teacher, a low paying profession, but it is what he wants to do because he feels this country is in dire need of good math teachers. Northeast offers a 5 year teaching program that he will graduate from with his masters degree. There are no 4 year high standards and it's affordability. Craig has a tough road ahead of him.

One story from one person.

Tracy Gleason from Trivoli, IL—again, one paragraph in the letter. It says:

Not so long ago when I was in junior high and high school, I had no choice, I was forced to attend school. Now, I desire nothing more than to attend college and earn my degree, and money is the only thing holding me back.

And another letter from Niccy Nebelsick from Bellville, IL, and she writes:

I am in between a rock and a hard place.

I am looking for some way to finish college. I am 27 years old, and I support myself by working three jobs. One is a full time position with the City of Belleville, one part time position is with the Circuit Clerk's Office for St. Clair County, and the third position is part time at the Ford Truck Dealership. I've held two positions for three years and three positions for two years.

Here is the rock; at this point I have acquired 25 credit hours at Belleville Area College. I've done this by two night courses and the rest by their Telecourse classes. Here is the hard place; I tried to find out about some kind of financial assistance. As soon as I told them that my gross salary for last year was slightly under \$20,000.00 I was told that my income was too high for assistance.

Well, what can we do? I am on the board of trustees of a fine, small Lutheran college of Danish heritage, Dana College, in Blair, NE—about 500 students. It is like most small colleges, it is struggling, but it has to use an unusual amount of its resources to devote to helping students.

We have a choice, Mr. President, as we reauthorize the Higher Education Act, and that is either to tinker at the edges or to do something really significant.

What Senator DURENBERGER and I are trying to do is something really significant. We say let us provide assistance, and we have a program that not only complies with the Budget Act but long term saves money for the Federal Government because we reduce the amount of default payments. This year we will pay \$3.8 billion in student loan defaults. We reduce that ultimately to zero, and we provide assistance to everyone.

Let me just add others have come up with similar plans. Congressman PETRI from over in the House has done it. Senator BRADLEY has a somewhat comparable program. Senator KENNEDY a few years ago introduced a somewhat similar program.

We pay for this combination of increasing the Pell grant, the basic grant, and having a loan program, a credit program called the IDEA Program, a credit program that will be available to students and they pay back on the basis of their income.

Right now, under the guaranteed student loan, you have a certain amount you are supposed to pay back no matter what the income. It makes it almost impossible for many students to pay back. We save approximately \$2.7 billion in money that would otherwise go to banks, servicers, default costs, and the in-school interest subsidy. We also establish—and this is a specific suggestion of my colleague, Senator DURENBERGER—a \$1,000 excellence scholarship as well as providing \$100 million to the States for establishing early intervention programs following the Eugene Lang suggestion of his "I Have a Dream" program.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the three letters to which I have referred.

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

MOLINE, IL,
August 9, 1991.

Senator PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: Enclosed is a copy of an editorial that was in the August 7, 1991, edition of the Daily Dispatch concerning federal grants to college students.

I cannot believe, and have a hard time swallowing the fact that the current administration is actually proposing only those families with an income of \$10,000 or less should receive federal grants.

As a single parent, I would ask Congress not to go along with this proposal. Let me explain why.

I currently work two jobs (one full-time and one part-time) just to make ends meet. I do not live an extravagant life. I drive a 1985 Ford Tempo, and am paying off a mortgage on a home that had to be refinanced due to my former husband's employment status. (He was one of the many in this area affected by major layoffs in the farm implement industry during the 1980's.) My gross income from both jobs last year was \$29,600. My oldest son, Craig, will be a junior at Northeast Missouri State University this fall. Two of his three years he has been eligible for a grant of \$250/year. Although this is not a great amount, when you are a struggling student, every penny counts. By the time he graduates, he will have accumulated approximately \$23,300 in student loans (Perkins and GSL. He also receives aid from the work/study program.) I would not want to enter the profession he intends to facing that amount in loans. Craig intends to be a math teacher, a low paying profession, but it is what he wants to do because he feels this country is in dire need of good math teachers. Northeast offers a 5 year teaching program that he will graduate from with his masters degree. There are no 4 year programs at the University. We chose this school because of it's high standards and it's affordability. Craig has a tough road ahead of him.

My youngest son, Joshua, will be a senior in high school this fall. He also intends to go on to college in the fall of '92. (This will put two students from the same family in college at the same time—what a financial crunch.) Josh plans to major in political science and go on to law school. His lifetime goal is to become a member of Congress. Big dreams (we all have to have them, don't we?) that could be crushed if the federal grant system becomes limited to those families under the \$10,000 income bracket. I hate to think what Josh's student loans will amount to by the time he finishes school.

I don't understand how the current administration can even think about cutting out families with incomes in the \$10,000-\$30,000 range. Today, in order to "make it financially" in America, one must be very poor, or very rich. There is nothing to help middle income families such as ours. I sometimes think I should give up the fight, loose our home, quit my job, and go on welfare. Then my children, too, could benefit from federal grants, instead of racking up an insurmountable amount in loans, but that would be totally against my nature.

I work hard for everything I have in life—I don't believe in free rides. Without federal grants available to families in our income range, children such as mine will be the ones to suffer. With two children in college within the next year, things will be even tighter than they currently are in the Dobreiner household. Grants in whatever amount are needed. I will do whatever is necessary to see that both of my boys get a college education (even if it means taking on a third part-time job). I hope that I can count on you to help stop this current proposal dead in it's tracks.

I look forward to hearing your views on this matter in the near future.

Sincerely,

NANCY DOBEREINER.

TRIVOLI, IL,
September 12, 1991.

DEAR SENATOR: I am writing to inquire about any available scholarships that you

may be aware of. I am currently a second semester sophomore attending Illinois Central College (ICC) in East Peoria, Illinois. My major course of study is psychology, my GPA is 3.4, and my long term career goal is to earn my doctorate in counseling psychology.

I have previously attended Millikin University in Decatur, Illinois. I was unable to return this semester due to financial problems. After this semester, I will have achieved over sixty credit hours, and I will be unable to transfer any more credits from a community college, such as ICC. Therefore, my plan is to return to Millikin for the upcoming spring semester. However, my financial status is hindering my ability to return. Last semester, Millikin gave me approximately \$6,000 in grants and a student loan of about \$2,000. Recently, my mother remarried causing my financial aid to drop. Millikin has estimated the spring semester to cost me approximately \$3,500. I live with my grandparents, and neither my mother nor my father give me financial support of any kind.

Not so long ago when I was in Jr. high and high school, I had no choice, I was forced to attend school. Now, I desire nothing more than to attend college and earn my degree, and money is the only thing holding me back.

Any information or assistance you could give would be greatly appreciated. I have the desire and the will to learn, therefore I know I would be a good candidate for a scholarship. Furthering my college education would give me the chance to experience life and push my self to the limit, giving me the opportunity to reach the goals I have set for myself.

Thank you for your concern and understanding!

Very truly yours,

TRACY GLEASON.

BELLEVILLE, IL,
August 12, 1991.

Hon. PAUL SIMON,
Senate Office Building, Washington, DC.

DEAR SENATOR SIMON: I am in between a rock and a hard place.

I am looking for some way to finish college. I am 27 years old, and I support myself by working three jobs. One is a full time position with the City of Belleville, one part time position is with the Circuit Clerk's Office for St. Clair County, and the third position is part time at a Ford Truck Dealership. I've held two positions for three years and three positions for two years.

Here is the rock; at this point I have acquired 25 credit hours at Belleville Area College. I've done this by two night courses and the rest by their Telecourse classes. Here is the hard place; I tried to find out about some kind of financial assistance. As soon as I told them that my gross salary for last year was slightly under \$20,000.00 I was told that my income was too high for assistance.

You see, they fail to understand that my salary is \$20,000.00 because I work three jobs! Very rarely do I work less than 72 hours per week every week. This is accomplished by a seven day a week schedule. My only days off are National Holidays, but sometimes I work those at the Ford Dealership to help them catch up.

Now, if I quit my part time positions in order to qualify for assistance, I won't make enough money to support myself. Believe me when I tell you that I don't live the lifestyle of the rich and famous.

I desperately want to finish my education so that some day I can live on a 40 hour work

week and find out how most people live. Who knows, maybe even have the time to meet a man, that would be a treat!

If you have any suggestions for me on programs, funding, or personal ideas on this matter it would be greatly appreciated if you would share them with me.

Thank you for your time and consideration in this matter. I look forward to hearing from you.

Sincerely,

NICCY NEBELSICK.

Mr. SIMON. Mr. President, I ask unanimous consent that a summary of the bill and a list of questions and answers, as well as the bill itself, be printed in the RECORD at this point.

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

S. 1845

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 "Financial Aid for All Students Act of 1991".

TITLE I—PELL GRANT ENTITLEMENT, GRADUATE ASSISTANCE, AND EXCELLENCE SCHOLARSHIPS

SEC. 101. PELL GRANT ENTITLEMENT.

Section 411 of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1070(a)) is amended by adding at the end the following new subsections:

"(j) ENTITLEMENT TO AN ADDITIONAL \$600.—(1) Notwithstanding the provisions of subsection (g), after July 1, 1994, no student shall be denied the additional amount to which such student would be entitled if the maximum basic grant allowable pursuant to the appropriate appropriation Act were increased by \$600.

"(k) FULL ENTITLEMENT FOR ALL ELIGIBLE STUDENTS.—Notwithstanding the provisions of subsection (g), no student shall be denied the basic grant to which such student is entitled, as calculated under subsection (b), if Congress makes available for such purpose sufficient additional revenue or savings pursuant to the Budget Enforcement Act of 1990."

SEC. 102. PELL GRANT FOR FIRST-YEAR GRADUATE STUDENTS.

Subsection (c) of section 411 of the Act is amended by adding at the end the following new paragraph:

"(4) A graduate student who has not completed the full-time equivalent of 1 year of coursework following the completion of the graduate student's first undergraduate baccalaureate degree shall be eligible for a basic grant in any fiscal year if—

"(A) sufficient funds have been made available to provide the basic grant for which all eligible undergraduate students are eligible in accordance with subsection (b) to all eligible undergraduate students; and

"(B) such graduate student would be eligible for a Pell grant if such student were an undergraduate student."

SEC. 103. EXCELLENCE SCHOLARSHIPS FOR PELL GRANT RECIPIENTS.

Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended by adding at the end the following new subpart:

"Subpart 9—Excellence Scholarship Program

"SEC. 420C. (a) PURPOSE.—It is the purpose of this part to award scholarships to Pell Grant recipients who demonstrate high academic achievement, and thereby encourage

students to excel in elementary and secondary studies, enter postsecondary education, and continue to demonstrate high levels of academic achievement at the postsecondary level.

"(b) ENTITLEMENT PROGRAM.—The Secretary shall, in accordance with the provisions of this section, award scholarships to eligible students in accordance with this section. An eligible student shall be deemed to have a contractual right against the United States to receive a scholarship under this section.

"(c) ELIGIBLE STUDENT.—For the purposes of this section, the term 'eligible student' means a student that—

"(1) is enrolled on at least half-time basis in a program of study of not less than 2 academic years in length that leads to a degree or certificate;

"(2) has received a Pell Grant under subpart 1 of this part for that academic year; and

"(3) in the case of a student who will be attending such student's first year of postsecondary education—

"(A) has demonstrated academic achievement and preparation for postsecondary education by taking college preparatory level coursework equivalent to not less than 4 years of English, 3 years of science, 3 years of mathematics, 3 years of social science (including history), and 2 years of a foreign language, unless the Secretary determines that such courses were not available to the student; and

"(B) ranks in the top 10 percent, by grade point average, of the student's secondary school graduating class;

"(C) achieves at least the minimum score, as determined by the Secretary pursuant to regulations that are published in the Federal Register, on 1 of the nationally administered, standardized tests identified by the Secretary; or

"(D) has participated, for a minimum period of 36 months, in a program authorized under section 415F or under subpart 4 of this part or a similar program as determined by the Secretary;

"(2) in the case of a student who initially qualified for a scholarship as a first year student pursuant to subparagraph (c)(3)(D) of this section, participates in a student support services program described in subpart 4 or a similar program as determined by the Secretary in which such student is required to enter into an agreement to achieve certain academic milestones and the student continues to make significant progress toward those milestones; and

"(3) in the case of any other student—

"(A) ranks in the top 10 percent, by cumulative grade point average (or its equivalent, if the institution does not use a system of ranking its students by grade point averages), of the student's postsecondary education class as of the last academic year of study completed; or

"(B) meets another measure of academic achievement as determined by the Secretary.

"(d) SCHOLARSHIP AMOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of a scholarship awarded under this section for any academic year shall be \$1,000.

"(2) RELATIONSHIP WITH OTHER ASSISTANCE.—Notwithstanding the provisions of paragraph (1), the amount of a scholarship awarded under this subpart shall be reduced, by the institution of higher education that the student is or will be attending, by the amount that the scholarship—

"(A) exceeds the student's cost of attendance, as defined in section 472; or

"(B) when combined with other Federal or non-Federal grant or scholarship assistance the student receives in any academic year, exceeds the student's cost of attendance, as defined in section 472.

"(3) REDUCTION.—Notwithstanding the provisions of paragraph (1), if the Secretary projects that the total amount of scholarships to be awarded during an academic year under paragraph (1) will exceed \$500,000,000, then the Secretary shall reduce the amount of each scholarship awarded under this section on a pro rata basis such that the projected total amount will not exceed \$500,000,000.

"(e) PERIOD OF SCHOLARSHIP.—

"(1) IN GENERAL.—An eligible student may receive not more than 4 scholarships under this section, each awarded for a period of 1 academic year, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for the full-time equivalent of 5 academic years, the student may receive not more than 5 scholarships under this section.

"(2) SPECIAL RULE.—A student's eligibility for a scholarship under this section for an academic year is not dependent on whether the student received an excellence scholarship, Pell Grant, or any other aid in the previous academic year.

"(f) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations establishing the procedures by which scholarships under this section shall be awarded.

"(2) INFORMATION.—Each institution of higher education receiving a payment under this section shall provide to the Secretary such information as is required by the Secretary regarding a potential scholarship recipient's rank or test score.

"(3) INSTITUTIONAL PAYMENTS.—The Secretary shall make payments of scholarship proceeds on behalf of eligible students to the institutions of higher education at which such students are enrolled."

TITLE II—INCOME-DEPENDENT EDUCATION ASSISTANCE PROGRAM

SEC. 201. IDEA CREDIT.

(a) IN GENERAL.—Part D of title IV of the Act is amended to read as follows:

"PART D—INCOME-DEPENDENT EDUCATION ASSISTANCE CREDIT

"SEC. 451. ENTITLEMENT PROGRAM.

"(a) IN GENERAL.—The Secretary shall, in accordance with the provisions of this part—

"(1) make loans to eligible students; and

"(2) enter into an agreement with the Secretary of the Treasury for the collection of repayments on such loans in accordance with section 459.

"(b) ENTITLEMENT PROVISION.—An eligible student shall be deemed to have a contractual right against the United States to receive a loan under this part.

"(c) DEFINITIONS.—For purposes of this part—

"(1) the term 'eligible institution' has the meaning given to such term by section 435(a); and

"(2) the term 'eligible student' means a student who is eligible for assistance under this title in accordance with section 484 and is carrying at least one-half the normal full-time work load for the course of study the student is pursuing as determined by the eligible institution.

"(d) REFERENCES.—A loan pursuant to this part may be referred to as an 'IDEA' loan.

"SEC. 452. ELIGIBILITY; USE OF LOANS.

"(a) ELIGIBILITY.—An eligible student shall not be eligible for a loan under this part unless—

"(1) in the case of an independent student with an adjusted gross income in the applicable year of less than \$40,000 (or an appropriate amount determined by the Secretary), the eligible student has applied for need-based assistance under this title;

"(2) in the case of a dependent student with a family income in the applicable year of less than \$60,000 (or an appropriate amount determined by the Secretary), the eligible student has applied for need-based assistance under this title;

"(3) in the case of a dependent student with an expected family contribution (excluding the student's own contribution) exceeding \$2,000 (or an appropriate amount determined by the Secretary), the head of household has been notified of such person's eligibility for a loan under section 428B; and

"(4) such eligible student understands and signs directly beneath the following statement: 'I understand that taking this loan will increase the income taxes I owe each year until the loan is paid in full, with interest.'

"(b) USE OF LOAN.—Each eligible student receiving an IDEA loan shall use the proceeds of such loan only to attend an eligible institution.

"SEC. 453. DISTRIBUTION TO ELIGIBLE INSTITUTIONS AND STUDENTS.

"The Secretary shall prescribe by regulation a process for the distribution of funds authorized by this part to eligible institutions and eligible students. To the extent that the distribution process would be simpler and would improve program accountability, the process shall be similar to the procedure under paragraphs (1) and (2) of section 411(a).

"SEC. 454. AMOUNT AND TERMS OF LOANS.

"(a) ELIGIBLE AMOUNTS.—

"(1) ANNUAL LIMITS.—Any individual who is determined by an eligible institution to be an eligible student for any academic year shall be eligible to receive an IDEA loan for such academic year in an amount which is not less than \$500 or when combined with other Federal student assistance received by the student is not more than the cost of attendance at such institution for the academic year 1991-1992, determined in accordance with section 472. Notwithstanding the preceding sentence, the amount of such loan shall not exceed—

"(A) \$6,500 in the case of any eligible student who has not completed the second year of undergraduate study;

"(B) \$8,000 in the case of any eligible student who has completed such second year but who has not completed such student's course of undergraduate study;

"(C) \$20,000 in the case of any eligible student who is enrolled in a medical or other high-cost doctoral degree program as determined by the Secretary;

"(D) \$30,000 in the case of any eligible student who is enrolled in an extraordinarily high-cost graduate degree program as determined by the Secretary; or

"(E) \$11,000 in the case of an eligible student who is enrolled in any other graduate degree program.

"(2) LIMITATION ON BORROWING CAPACITY.—No individual may receive any amount in an additional IDEA loan if the sum of the original principal amounts of all IDEA loans to such individual (including the pending additional loan) would equal or exceed—

"(A) \$70,000, minus

"(B) the product of—

"(1) the number of years by which the borrower's age (as of the close of the preceding calendar year) exceeds 40; and

"(ii) one-twentieth of the amount specified in subparagraph (A), as adjusted pursuant to paragraph (3).

"(3) EXCEPTIONS TO BORROWING CAPACITY LIMITS FOR CERTAIN GRADUATE STUDENTS.—For a student who is—

"(A) a student described in paragraph (1)(C), paragraph (2) shall be applied by substituting "\$100,000" for "\$70,000"; or

"(B) a student described in paragraph (1)(D), paragraph (2) shall be applied by substituting "\$120,000" for "\$70,000".

"(4) COMPUTATION OF OUTSTANDING LOAN OBLIGATIONS.—For the purposes of this subsection, any loan obligations of an individual under student loan programs under this title or title VII of the Public Health Service Act shall be counted toward IDEA loan annual and aggregate borrowing capacity limits. For purposes of annual and aggregate loan limits under any such student loan program, IDEA loans shall be counted as loans under such student loan program.

"(5) ADJUSTMENTS OF ANNUAL LIMITS FOR LESS THAN FULL-TIME STUDENTS.—For any eligible student who is enrolled on a less than full-time basis, loan amounts for which such student shall be eligible for any academic year under this subsection shall be reduced in accordance with regulations prescribed by the Secretary.

"(b) DURATION OF ELIGIBILITY.—An eligible student shall not be eligible to receive an IDEA loan for more than a total of the full-time equivalent of 9 academic years, of which not more than the full-time equivalent of 5 academic years shall be as an undergraduate student and not more than the full-time equivalent of 5 academic years shall be as a graduate student.

"(c) TERMS OF LOANS.—Each eligible student applying for a loan under this title shall sign a written agreement which—

"(1) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by such student would not, under the applicable law, create a binding obligation, endorsement may be required;

"(2) provides that such student will repay the principal amount of the loan and any interest or additional charges thereon in accordance with section 459;

"(3) provides that the interest on the loan will accrue in accordance with section 456;

"(4) certifies that the student has received and read a notice of the student's obligations and responsibilities under the loan, including the statement described in section 452(a)(4); and

"(5) contains such additional terms and conditions as the Secretary may prescribe by regulation.

"SEC. 455. APPLICATION.

"Each eligible student desiring an IDEA loan shall submit an application to the eligible institution which such student plans to attend. Each such application shall contain sufficient information to enable such institution to determine such student's eligibility to receive an IDEA loan.

"SEC. 456. INTEREST CHARGES.

"Interest charges on IDEA loans made shall be added to the recipient's obligation account at the end of each calendar year. Such interest charges shall be based upon an interest rate equal to the lesser of—

"(1) the sum of the average bond equivalent rates of 91-day Treasury bills auctioned during that calendar year, plus 2 percentage

points, rounded to the next higher one-eighth of 1 percent; or

"(2) 10 percent.

"SEC. 457. CONVERSION AND CONSOLIDATION OF OTHER LOANS.

"(a) IN GENERAL.—The Secretary may, upon request of a borrower who has received a federally insured or guaranteed loan under this title or under title VII of the Public Health Service Act, make a loan to such borrower in an amount equal to the sum of the unpaid principal on loans made under this title or title VII of the Public Health Service Act. The proceeds of the new loan shall be used to discharge the liability on loans made under this title or title VII of the Public Health Service Act. Except as provided in subsection (b), any loan made under this subsection shall be made on the same terms and conditions as any other loan under this part and shall be considered a new IDEA loan for purposes of this part.

"(b) CONVERSION REGULATIONS.—The Secretary shall prescribe regulations concerning the methods and calculations required for conversion to IDEA loans under subsection (a). Such regulations shall provide appropriate adjustments in the determination of the principal and interest owed on the IDEA loan in order to—

"(1) secure payments to the Federal Government commensurate with the amounts the Federal Government would have received had the original loans been IDEA loans;

"(2) fairly credit the borrower for principal and interest payments made on such original loans and for origination fees deducted from such original loans; and

"(3) prevent borrowers from evading their obligations or otherwise taking unfair advantage of the conversion option provided under this section.

"(c) MANDATORY CONVERSION OF DEFAULTED LOANS.—Any loan which is—

"(1) made, insured, or guaranteed under part B of this title or title VII of the Public Health Service Act after the date of enactment of this Act; and

"(2) assigned to the Secretary or the Secretary of Health and Human Services for collection after a default by the borrower in repayment of such loan, shall, in accordance with regulations prescribed by the Secretary and the Secretary of Health and Human Services, be treated for purposes of collection as if such loan had been converted to an IDEA loan under subsections (a) and (b) of this section.

"SEC. 458. STUDY; REPORT; AND UPDATING.

"(a) STUDY.—The Secretary shall conduct a study of the effects of—

"(1) the loan program assisted under this part on—

"(A) the tuition rates of eligible institutions participating in such program; and

"(B) the accrediting and licensure standards of such institutions; and

"(2) inflation on—

"(A) the loan limits described in section 454;

"(B) the progressivity factor described in section 459(b)(3); and

"(C) the cost of attendance at an eligible institution.

"(b) REPORT.—

"(1) IN GENERAL.—The Secretary shall prepare and submit a report to Congress, including recommendations, on the results of the study conducted pursuant to subsection (a).

"(2) DATE.—The report described in paragraph (1) shall be submitted on or before December 31, 1995.

"(c) UPDATING.—For any academic year after academic year 1996-1997, the Secretary

is authorized, after consultation with the appropriate Congressional committees, to make adjustments to increase—

"(1) the loan limits described in section 454;

"(2) the adjusted gross income levels used to determine the progressivity factor described in section 459(b)(3); and

"(3) the cost of attendance determination described in section 454(a)(1).

"SEC. 459. COLLECTION OF INCOME-DEPENDENT EDUCATION ASSISTANCE LOANS.

"(a) NOTICE TO BORROWER.—

"(1) IN GENERAL.—During January of each calendar year, the Secretary shall furnish to each borrower of an IDEA loan notice as to—

"(A) whether the records of the Secretary indicate that such borrower is in repayment status;

"(B) the maximum account balance of such borrower;

"(C) the account balance of such borrower as of the close of the preceding calendar year; and

"(D) the procedure for computing the amount of repayment owing for the taxable year beginning in the preceding calendar year.

"(2) FORM, ETC.—The notice described in paragraph (1) shall be in such form as the Secretary may by regulation prescribe and shall be sent by mail to the individual's last known address or shall be left at the dwelling or usual place of business of such individual.

"(b) COMPUTATION OF ANNUAL REPAYMENT AMOUNT.—

"(1) IN GENERAL.—(A) The annual amount payable under this section by the taxpayer for any taxable year shall be the lesser of—

"(i) the product of—

"(I) the base amortization amount, and

"(II) the progressivity factor for the taxpayer for such taxable year, or

"(ii) 20 percent of the excess of—

"(I) the modified adjusted gross income of the taxpayer for such taxable year, over

"(II) the sum of the standard deduction and any exemption amount applicable to such taxpayer's income tax return for the taxable year.

"(B) For purposes of subparagraph (A)(ii)(I)—

"(i) the term 'standard deduction' has the meaning given such term by section 63(c) of the Internal Revenue Code of 1986; and

"(ii) the term 'exemption amount' has the meaning given such term by section 151(d) of such Code.

"(2) BASE AMORTIZATION AMOUNT.—

"(A) IN GENERAL.—For purposes of this section, the term 'base amortization amount' means the amount which, if paid at the close of each year for a period of 12 consecutive years, would fully repay (with interest) at the close of such period the maximum account balance of the borrower. For purposes of the preceding sentence, an 8-percent annual rate of interest shall be assumed.

"(B) JOINT RETURNS.—In the case of a joint return where each spouse has an account balance and is in repayment status, the amount determined under subparagraph (A) shall be the sum of the base amortization amounts of each spouse.

"(3) PROGRESSIVITY FACTOR.—

"(A) IN GENERAL.—For purposes of this section, the term 'progressivity factor' means the number determined under tables prescribed by the Secretary which is based on the following tables for the circumstances specified:

"(1) JOINT RETURNS; SURVIVING SPOUSES.—In the case of a taxpayer to whom section 1(a)

of the Internal Revenue Code of 1986 applies—

If the taxpayer's modified adjusted gross income is:	The progressivity factor is:
Not over \$7,860	0.429
11,700	0.500
16,740	0.571
21,720	0.643
26,880	0.786
32,700	0.893
39,060	1.000
48,600	1.000
63,480	1.152
87,360	1.272
117,000	1.364
163,080	1.485
240,000 and over	2.000

“(ii) HEADS OF HOUSEHOLDS.—In the case of a taxpayer to whom section 1(b) of the Internal Revenue Code of 1986 applies—

If the taxpayer's modified adjusted gross income is:	The progressivity factor is:
Not over \$6,540	0.429
10,320	0.500
12,300	0.607
16,080	0.643
19,920	0.714
25,020	0.857
31,380	1.000
37,740	1.000
47,280	1.094
63,180	1.313
85,440	1.406
114,060	1.500
204,000 and over	2.000

“(iii) UNMARRIED INDIVIDUALS, ETC.—In the case of a taxpayer to whom section 1(c) of the Internal Revenue Code of 1986 applies—

If the taxpayer's modified adjusted gross income is:	The progressivity factor is:
Not over \$6,540	0.467
9,000	0.500
11,580	0.533
14,220	0.600
16,740	0.667
19,920	0.767
25,020	0.867
31,380	1.000
37,740	1.000
45,360	1.118
58,080	1.235
82,260	1.412
94,320	1.500
168,000 and over	2.000

“(iv) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a taxpayer to whom section 1(d) of the Internal Revenue Code of 1986 applies—

If the taxpayer's modified adjusted gross income is:	The progressivity factor is:
Not over \$3,930	0.483
5,850	0.552
8,370	0.655
10,860	0.759
13,440	0.862
16,350	1.000
19,530	1.000
24,300	1.182
31,740	1.333
43,680	1.485
84,000 and over	2.000

“(B) RATABLE CHANGES.—The tables prescribed by the Secretary under subparagraph (A) shall provide for ratable increases (rounded to the nearest 1/1,000) in the progressivity factors between the amounts of modified adjusted gross income contained in the tables.

“(4) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term

‘modified adjusted gross income’ means adjusted gross income for the taxable year, modified as the Secretary determines is necessary to carry out the purposes of this part.

“(c) TERMINATION OF BORROWER'S REPAYMENT OBLIGATION.—

“(1) IN GENERAL.—The repayment obligation of a borrower of an IDEA loan shall terminate only if there is repaid with respect to such loan an amount equal to the principal amount of the loan plus interest computed at the rates applicable to the loan.

“(2) NO REPAYMENT REQUIRED AFTER 25 YEARS IN REPAYMENT STATUS.—No amount shall be required to be repaid under this section with respect to any loan for any taxable year after the 25th year for which the borrower is in repayment status with respect to such loan.

“(3) DETERMINATION OF YEARS IN REPAYMENT STATUS.—For purposes of paragraphs (1)(A) and (2), the number of years in which a borrower is in repayment status with respect to any IDEA loan shall be determined without regard to any year before the most recent year in which the borrower received an IDEA loan.

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

“(1) MAXIMUM ACCOUNT BALANCE.—The term ‘maximum account balance’ means the highest amount (as of the close of any calendar year) of unpaid principal and unpaid accrued interest on all IDEA loan obligations of a borrower.

“(2) CURRENT ACCOUNT BALANCE.—The term ‘current account balance’ means the amount (as of the close of a calendar year) of unpaid principal and unpaid accrued interest on all IDEA loans of a borrower.

“(3) REPAYMENT STATUS.—A borrower is in repayment status for any taxable year unless—

“(A) such borrower was, during at least 7 months of such year, an eligible student; or

“(B) such taxable year was the first year in which the borrower was such an eligible student and the borrower was such an eligible student during the last 3 months of such taxable year.

“(e) LOANS OF DECEASED AND PERMANENTLY DISABLED BORROWERS; DISCHARGE BY SECRETARY.—

“(1) DISCHARGE IN THE EVENT OF DEATH.—If a borrower of an IDEA loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan.

“(2) LIMITATION ON DISCHARGE.—The discharge of the liability of an individual under this subsection shall not discharge the liability of any spouse with respect to any IDEA loan made to such spouse.

“(f) CREDITING OF COLLECTIONS; SPECIAL RULES.—

“(1) CREDITING OF AMOUNTS PAID ON A JOINT RETURN.—Amounts collected under this section on a joint return from a husband and wife both of whom are in repayment status shall be credited to the accounts of such spouses in the following order:

“(A) First to repayment of interest added to each account at the end of the preceding calendar year in proportion to the interest so added to the respective accounts of the spouses.

“(B) Then to repayment of unpaid principal, and unpaid interest accrued before such preceding calendar year, in proportion to the respective maximum account balances of the spouses.

“(2) COMPUTATION OF ALTERNATIVE ANNUAL PAYMENT FOR INDIVIDUALS WHO HAVE AT-

TAINED AGE 55.—In the case of an individual who attains age 55 before the close of the calendar year ending in the taxable year, or of an individual filing a joint return whose spouse attains age 55 before the close of such calendar year, the progressivity factor applicable to the base amortization amount of such individual for such taxable year shall not be less than 1.0.

“(3) RULES RELATING TO BANKRUPTCY.—

“(A) IN GENERAL.—An IDEA loan shall not be dischargeable in a case under title 11 of the United States Code.

“(B) CERTAIN AMOUNTS MAY BE POSTPONED.—If any individual receives a discharge in a case under title 11 of the United States Code, the Secretary may postpone any amount of the portion of the liability of such individual on any IDEA loan which is attributable to amounts required to be paid on such loan for periods preceding the date of such discharge.

“(4) PAYMENTS IN EXCESS OF AMOUNT PAYABLE.—Nothing in this part shall be interpreted to prohibit a borrower from paying an amount in excess of the amount required to be repaid under this part.”.

(b) APPLICATION OF ESTIMATED TAX.—Subsection (f) of section 6654 of the Internal Revenue Code of 1986 (relating to failure by individual to pay estimated income tax) is amended by—

(1) striking ‘minus’ at the end of paragraph (2) and inserting ‘plus’;

(2) redesignating paragraph (3) as paragraph (4); and

(3) inserting after paragraph (2) the following new paragraph:

“(3) the amount required to be repaid under section 6306 (relating to collection of income-dependent education assistance loans), minus”.

(c) FILING REQUIREMENT.—Subsection (a) of section 6012 of the Internal Revenue Code of 1986 (relating to persons required to make returns of income) is amended by inserting after paragraph (9) the following new paragraph:

“(10) Every individual required to make a payment for the taxable year under section 6306 (relating to collection of income-dependent education assistance loans).”.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 64 of such Code is amended by adding at the end thereof the following new item:

“Sec. 6306. Collection of income-dependent education assistance loans.”.

SEC. 202. REPAYMENTS USING INCOME TAX COLLECTION SYSTEM.

(a) Subchapter A of chapter 64 of the Internal Revenue Code of 1986 (relating to collection) is amended by adding at the end the following new section:

“SEC. 6306. COLLECTION OF INCOME-DEPENDENT EDUCATION ASSISTANCE LOANS.

“The Secretary of the Treasury shall enter into an agreement with the Secretary of Education to provide for the collection of payments due pursuant to part D of title IV of the Higher Education Act of 1965. The Secretary shall assess and collect such payments in the same manner, with the same powers, and subject to the same limitations applicable to a tax imposed by subtitle C the collection of which would be jeopardized by delay.”.

TITLE III—EARLY INTERVENTION PROGRAM

SEC. 301. STATE DREAM FUNDS.

Subpart 3 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070c et seq.) is amended by adding at the end thereof the following new section:

"SEC. 415F. EARLY INTERVENTION PROGRAM.**"(a) FINDINGS AND PURPOSE.—**

"(1) FINDINGS.—The Congress finds that at-risk students who do not receive some form of intervention early in their educational careers (in most cases by junior high school) are more likely to drop out of school and not pursue gainful educational or employment opportunities as adults.

"(2) STATEMENT OF PURPOSE.—It is the purpose of this section to make incentive grants to States to enable States to conduct early intervention programs that—

"(A) raise the awareness of eligible students about the advantages of obtaining a postsecondary education; and

"(B) prepare students for postsecondary education; and

"(C) qualify students for scholarship assistance pursuant to subpart 9.

"(b) EARLY INTERVENTION PROGRAM ESTABLISHED.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall make payments to States in accordance with paragraph (2).

"(2) AMOUNT OF PAYMENTS.—Except as provided in paragraph 3, for any fiscal year, the Secretary shall pay to each State an amount which bears the same ratio to \$100,000,000 as the number of eligible students in such State bears to the total number of eligible students in all the States.

"(3) ENTITLEMENT.—Except as provided in paragraph 5, each State shall be entitled to receive the payment described in paragraph (2) in each fiscal year. Each State shall be deemed to have a contractual right against the United States to receive a payment in accordance with the provisions of this part.

"(4) REALLOTMENT.—If in any fiscal year the Secretary determines that any amount of a State's payment under paragraph (2) or (3) will not be required for such fiscal year for early intervention programs of that State or will be available as a result of the State's failure to comply with subsection (c), then such amount shall be available to make payments from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original payment to such States under such paragraphs for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use such year for carrying out the State plan. The total of such reductions shall be similarly paid among the States whose proportionate amounts were not so reduced. Any amount paid to a State under this paragraph shall be deemed part of its payment under paragraph (3).

"(5) PAYMENT SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for early intervention programs only to States which continue to meet the requirements of subsection (c).

"(6) DEFINITIONS.—For the purpose of this section—

"(A) the term 'eligible institution' has the same meaning provided such term in section 435(a); and

"(B) the term 'eligible student' means a student eligible—

"(i) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

"(ii) for assistance pursuant to the National School Lunch Act; or

"(iii) for assistance pursuant to part A of title IV of the Social Security Act (Aid to Families with Dependent Children).

"(c) USE OF PAYMENTS.—

"(1) IN GENERAL.—A State shall use payments received under this section to conduct an early intervention program that—

"(A) provides eligible students in any of the grades pre-school through 12 with a continuing system of mentoring and advising that—

"(i) is coordinated with the Federal and State community service initiatives;

"(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, and academic counseling; and

"(iii) may be provided by service providers such as community-based organizations, schools, eligible institutions, and public and private agencies, particularly institutions and agencies sponsoring programs authorized under subpart 4;

"(B) requires each student to enter into an agreement with the State under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress as described in section 484(c), in exchange for receiving a scholarship pursuant to subpart 9;

"(C) contains an incentive system to encourage greater collaboration between elementary and secondary schools and institutions of higher education through the creation of new linkage structures and programs; and

"(D) contains an evaluation component that allows service providers to track eligible student progress during the period such students are participating in the program assisted under this section.

"(2) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in paragraph (1)(E). Such standards shall—

"(A) provide for input from States and service providers; and

"(B) ensure that data protocols and procedures are consistent and uniform.

"(d) STATE PLAN.—

"(1) IN GENERAL.—Each State desiring a payment under this section shall submit a State plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each State plan submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought;

"(B) contain assurances that the State will provide matching funds to help pay the cost of activities assisted under this part in an amount equal to the Federal payment received under this part; and

"(C) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this section.

"(3) APPROVAL.—The Secretary shall approve a State plan submitted pursuant to paragraph (1) within 6 months of receipt of the plan unless the plan fails to comply with the provisions of this section.

"(e) EVALUATION AND REPORT.—

"(1) EVALUATION.—Each State receiving a payment under this section shall annually evaluate the early intervention program assisted under this section in accordance with the standards described in subsection (c)(3) and shall submit to the Secretary a copy of such evaluation.

"(2) REPORT.—The Secretary shall annually report to the Congress on the activities assisted under this section and the evaluations conducted pursuant to paragraph (1)."

SEC. 302. CONFORMING AMENDMENT.

Section 415(a) of the Higher Education Act of 1965 (20 U.S.C. 1070c(a)) is amended by adding the following new sentence at the end thereof: "It is also the purpose of this part to make payments to States to enable States to conduct early intervention programs described in section 415F."

TITLE IV—GUARANTEED STUDENT LOAN PROGRAMS**SEC. 401. TERMINATION OF ALL LOAN PROGRAMS EXCEPT THE PLUS LOAN PROGRAM.**

(a) STAFFORD LOANS, SUPPLEMENTAL LOANS AND PLUS LOANS.—Notwithstanding any other provision of law, no new loans shall be made insured or guaranteed pursuant to part B of title IV of the Higher Education Act of 1965 after June 30, 1994, except loans made, insured or guaranteed pursuant to section 428B of such Act.

(c) ADMINISTRATION.—The provisions of this section shall not affect the administration of the loans described in subsections (a) and (b) made on or before June 30, 1994.

FINANCIAL AID FOR ALL STUDENTS

The Simon-Durenberger proposal eliminates most of the funds that the Higher Education Act promises to banks, and instead promises funds to students. It also shifts the current in-school interest subsidy to grants. In all, about \$2.7 billion in annual entitlement spending currently in the guaranteed student loan programs are shifted into:

A new, simpler student assistance program called IDEA Credit, available to students without regard to income, with income-sensitive payback through the income tax system;

An increase in the current Pell Grant to provide more assistance to students from low-income families, and extend aid to students from moderate-income families;

"Excellence Scholarships" for students who work hard and students who do well in school; and,

Early intervention programs for at-risk youth, to help prepare them for college and to make them aware of the availability of financial aid.

All of the dollar figures below are actual, not simply authorizations. They are shifted entitlements, as allowed under the Budget Enforcement Act of 1990.

PELL GRANT ENTITLEMENT & GRADUATE ASSISTANCE

The Pell Grant maximum is increased by \$600 above the appropriated amount (in addition to any other appropriated increases), beginning with the 1994-95 academic year (it is currently at \$2400). This both increases the grant for students who already qualify, and allows eligibility to reach the current median family income and beyond. The additional amount that a student qualifies for is an entitlement to the student. A full entitlement is authorized for the entire Pell Grant program, if Congress designates additional savings or revenue for that purpose. In addition, first-year graduate students would be eligible for Pell Grants if funds are available after fully funding the authorized grants for undergraduates.

EXCELLENCE SCHOLARSHIPS

This new scholarship program would encourage Pell Grant recipients to work hard in school by providing them with a \$1000 bonus each year if they take a challenging curriculum in high school, and either rank at the top of their class, perform well on a national standardized test, or participate in an early intervention program. In order to continue receiving the scholarship at a de-

gree-granting college, recipients must demonstrate high achievement, or, for those who first qualified by participating in early intervention, continue to make progress toward their goals. (This entitlement is capped at \$500 million).

INCOME-DEPENDENT EDUCATION ASSISTANCE (IDEA CREDIT)

Beginning with the 1994-95 academic year, the current guaranteed student loan programs (except the PLUS loan for parents) would be replaced with new IDEA Credit available to all students regardless of income. A student would set up an IDEA Account and receive education assistance of up to \$6,500 per year for first- and second-year undergraduates, up to \$8,000 per year for other undergraduates, and up to \$11,000 per year for graduate students. Medical and some other doctoral students could receive up to \$20,000, or more in some circumstances. Total credit is limited to \$70,000 per student (or \$100,000 for medical and some other doctoral students, more in some circumstances).

While the student is in school, interest accrues in the IDEA Account at a rate equal to the 91 day T-bill rate plus two percentage points, up to a maximum of 10 percent; the rate projected by the Congressional Budget Office, 8%, is lower than all of the current guaranteed student loan programs (Stafford increases to 10% after four years). While there is no in-school interest subsidy as there is in the Stafford program, there would be no origination or insurance fees (an average 6.6% levy, sometimes as high as 8%, is currently charged to Stafford borrowers, and is being considered for the other programs).

After the student finishes school and finds work, he or she will begin to make payments to the IDEA Account though increased income tax withholding by the employer. The amount of the payments depends on annual income (according to a progressive schedule), but unlike some income-contingent programs, no borrower would pay back more than the principal and interest in his or her account. In addition, a certain amount of income (depending on family size) is protected, so that the payments do not drive anyone who is already low income even deeper into poverty. Further, no payment can exceed 20% of the difference between actual income and the protected income, and anyone with amounts still due 25 years after finishing school will have the slate wiped clean, so that those who remain low income relative to their debt are not indebted for life.

EARLY INTERVENTION

To encourage more early intervention programs, the bill would also provide \$100 million in matching funds to states to establish programs modeled on the "I Have a Dream" effort started by Eugene Lang in New York. The funds would be used to run programs of mentoring, advising, and tutoring for at-risk youth. Youth participating in these programs would be eligible for Excellence Scholarships.

QUESTIONS AND ANSWERS ABOUT THE FINANCIAL AID FOR ALL STUDENTS ACT

1. Where does the money come from that will go into the Pell Grant entitlement, the Excellence Scholarships, and the state early intervention programs?

Replacing the current guaranteed student loan programs with IDEA Credit saves about \$2.7 billion, which is shifted into the new programs. By getting the capital for the program directly instead of paying banks to do it, the federal government saves up to \$1.4 billion (according to a new report from the U.S. General Accounting Office). Additional

savings come from simpler collection through the income tax system, and reduced defaults. Also, the in-school interest payments that the federal government now makes for Stafford borrowers would, in effect, become part of the increased Pell Grant and new Excellence Scholarships under this program.

2. Doesn't IDEA Credit just increase the federal deficit?

No. IDEA Credit is designed to break even. The Congressional Budget Office has analyzed the proposal on which IDEA Credit is based (H.R. 2336, Petri-Gejdenson) and determined that participants who remain low income after college would, on the average, receive a slight subsidy in the program, while those who are middle and higher income provide a small profit to the government because the interest rate is slightly higher than the federal cost of money. (The government borrows at the T-bill rate, and provides for funds at T+2%. In passing the Credit Reform Act of 1990, Congress recognized that providing capital directly at market rates can be more efficient and less costly than guaranteeing capital at a politically-determined interest rate).

3. Will there be problems getting capital for this program, like in the Perkins (or National Direct Student Loan) program?

No. The Perkins program is under-funded only because it is not an entitlement. IDEA Credit is an entitlement to the student. There is nothing inherently more stable about guarantees as a funding source as opposed to direct loans. In fact, there have been shortages in the GSL program in the past (because of banks' unwillingness to lend) and the current HEAL program for medical students is an example of a guaranteed program with a limit on the overall capital.

4. Will the Department of Education be able to run this program?

Right now, the Department tries to keep track of the thousands of institutions, millions of students, 10,000 lenders, 35 secondary markets, and 45 guaranty agencies. Because of all the players, it takes years for the Department to know how many students at which institutions took out how much money in loans (on the most recent list of defaulted loans, the Department often listed the guaranty agency as "unknown"). IDEA, instead, would be run like the Pell Grant Program. Schools would determine eligibility, draw down funds, and then reconcile the accounts. The Department only has to worry about schools and students.

5. Won't this open up the program to more abuse?

There is no question that, whatever changes are made in the student aid programs, fraud and abuse needs to be addressed. IDEA would improve accountability in two ways. First, as in the Pell Grant program, no school could draw down more than its previous year's allocation without providing additional justification. The current finger-pointing by banks, schools, guaranty agencies and the Department of Education will end. In the loan programs now, the Department can't tell if a school has an unusual increase in loan volume—until it's too late. Second, defaults will be virtually eliminated, since payments are collected through payroll deductions in the income tax system.

6. Will this be more work for the schools? No, less. Right now, schools have to process individual applications, receive separate checks at various times (often to different offices on campus) from different banks for each student, get the student's signature on

the check, and process a check for the remainder after tuition and fees are paid. Under IDEA, the school would still process applications and get a signature (on a promissory note) from each student, but the funds would come in one lump-sum payment to the school for all of the IDEA applicants, and the school would disburse to the students any funds remaining after tuition and fees are paid.

7. Will this subject schools to more liability?

Schools continue to be responsible for errors they make, just as in the current programs. But due to the reduced number of players, schools have greater control over the process, and the possibility of mistakes is reduced. Furthermore, most of the errors that banks make in the current program are in complying with the "due diligence" requirements in the collection of payments on loans. With IDEA Credit, collection is the responsibility of the federal government, through the IRS.

8. Will student loans still be available over the next two years until IDEA Credit becomes available?

Yes. The current programs stay in place until the new programs begin. A recent study by the Department of Education found that guaranteed student loans are among the most profitable and least risky for the lenders. Even after IDEA starts, lenders will continue to get the guaranteed interest rate on outstanding loans. To take advantage of economies of scale, the industry will likely consolidate as the volume of loans to be collected decreases.

9. Who is better off, and who is worse off with the Durenberger-Simon proposal?

Some bankers will be worse off. But more students will get Pell Grants, low-income students will get larger grants and will have to borrow less, and any student who needs a loan for school will be eligible, regardless of family income. While the benefits and costs of this proposal will vary depending on a student's individual circumstances, no student will have to worry that a drop in income, whether expected or not, will lead to overwhelming debt or default.

10. Didn't Reagan and Bennett propose something like this, and it was not well received?

Yes and no. They did propose an income contingent loan (ICL) program, but it was part of a \$600 million cut in campus-based grants and loans, and most people in the education community opposed it on that basis. Both the New York Times and the Washington Post endorsed the ICL concept while opposing the aid cut that went along with it. The Simon-Durenberger proposal includes a significant increase in grant aid.

11. But isn't the ICL demonstration program, which came out of the fight over the Reagan-Bennett proposal, a failure?

By most accounts, yes. But none of the problems with the demonstration program apply to IDEA:

The ICL demonstration program is an administrative nightmare for schools. ICL requires schools to collect copies of income tax forms to determine the students' payments, and the school does the collection. With IDEA, the IRS is responsible for collection (as columnist William Raspberry suggested in 1986).

Some ICL borrowers will be indebted for life. Negative amortization (payments which are less than the interest during any particular period) can lead to someone never being able to repay a loan if he or she remains relatively low income. IDEA addresses this

problem by forgiving any amount that is owned after someone is in repayment for 25 years (the duration of current consolidation loans) and capping the interest rate at 10%.

ICL has no minimum income protection. This means that, under ICL, people who make so little that they don't even file a tax form must file anyway, then pay a percentage. With IDEA, those under the filing threshold would owe nothing.

12. Do high income borrowers have to subsidize low income borrowers by paying more than they owe?

No. No one pays more than the loan principal plus interest.

13. If there's no high income penalty, then how can this program be self-funding?

The interest rate of T-bill plus 2% is higher than the federal cost of borrowing. This profit to the government is used to protect low-income borrowers. The enormous costs of the current guaranteed student loan programs—defaults and interest subsidies—are eliminated.

14. Shouldn't parents take more responsibility for funding their children's education, instead of forcing debt on the young?

Parents should continue to be the first line of responsibility in financing higher education. But most parents are doing what they can, and are struggling in the current system. The proposal encourages parents to pay their share by requiring that they be notified of their ability to borrow in the PLUS program before a dependent student can take IDEA Credit.

15. Society benefits from the higher education and job training that students receive. Shouldn't society pay, instead of students?

Both society and the students benefit, and both take some responsibility for paying. At age 25-34, those with associate degrees make on the average 40% more than those with just a high school education. With a bachelor's degree, they make 63% more. With a professional degree, they make three times as much.

16. Will this lead to higher tuition? Are the dollar amounts indexed for inflation?

To reduce any incentive to raise tuition, the loan amounts are limited to the cost of attendance in 1991-92, and there is no automatic indexing. After the program starts, the Secretary of Education will report to Congress on the effects of the program on tuition, if any, and the effects of inflation on the loan amounts and repayment provisions. The Secretary, in consultation with Congress, will make adjustments after the first two years of the program.

17. Won't the fear of debt deter low-income students?

Low-income students will be provided with more aid in the Pell Grant program. Also, low-income students fear debt because they do not know if they will make enough money to make payments. IDEA Credit addresses this problem by making payments sensitive to income.

18. Why create the Excellence Scholarships and early intervention program as entitlements?

Under the Budget Enforcement Act of 1990, entitlement funds can only be shifted into other entitlements. The Excellence Scholarships and the early intervention program are "capped" at \$500 million and \$100 million, respectively, so that they will not result in the same kind of unexpected spending that other types of entitlements (such as Medicare) can entail.

Mr. SIMON. Mr. President, I see my colleague is on the floor. I think Sen-

ator BOND was here before the Senator. But let me yield to Senator DURENBERGER at this point to fill in some of the details, and then, if my colleague from Missouri will yield after that, I may have just a comment or two and then, believe it or not, we will yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank my colleague from Illinois and I express my appreciation to our colleague from Missouri for permitting me time to speak to this issue, even though he came to the floor to speak on another issue before I did.

Mr. President, it is a particular pleasure for me to join my distinguished colleague from Illinois in introducing the Financial Aid to All Students Act of 1991.

As Senator SIMON has already stated, this legislation builds on a proposal that I previously introduced, authorizing a new student loan program called IDEA—a student loan program that is available to any American up to age 55.

As he appropriately indicated, there are a number of people in this body on the other side of the aisle that have been thinking about what is happening in America today as it becomes more difficult for the family to finance higher education with recent changes in economics and changes in the cost of living.

The old notion that "I could work my way through college" graduated into "I can work my way through college with the help of my parents borrowing against their home equity" or "Maybe I can get a student loan." That is an uneven proposition to the point where today parents looking at children who will be going into higher education do not see either the child's capacity to finance his or her education or their own because of the other demands that are being made on people.

So the time has come to think about financing education from the standpoint of what the student can do with that education and how the purpose of education enables a person to finance his or her education—not how you judge your ability on the past record of your parents—but on the future potential to use that education to finance the repayment of the money advanced to you.

I must say that the acting President today, Senator AKAKA, who has just come to this body from the House, is one of the people who is working on any income-based loan proposal. How do we deal with the realities of what is going on in America and be able to put in place a national system which treats all young and older people alike, as they approach the challenge of using higher education for their own benefit and the benefit of the country?

The IDEA Program is simple, it is efficient—it offers flexibility in avoiding

needless defaults for graduates when their incomes rise and fall, which is the current problem with the current loan program.

Above all—and I suppose this is why the Senator from Illinois and I have come together on this issue—the savings that come from this new income-related loan program can be channeled back to students. It can be used for that other very important part of the access for all students—the current needs-based Pell grant.

So the first principle that is recognized in the realities of higher education today is that the National Government does have an obligation to help assure financial access to higher education to every American who can benefit from the rich rewards that higher education can offer.

I think it was just last week, the College Board released its annual report on average tuition and fees at public and private universities. I think, despite relatively low overall inflation, this fall's increase marked the first double-digit jump in college charges in almost a decade.

Perhaps most sobering, Mr. President, tuition and fees were up 12 percent at public 4-years institutions. It was up 13 percent at 2-year public universities, the fastest growing sector of higher education.

It is clear from the budgetary realities in my own State of Minnesota—and in many others—that this is not a 1-year aberration in statistics.

It is a very real trend that is most likely to continue, a trend that threatens to price middle-income Americans out of higher education at the same time economic realities are demanding an even better educated work force.

At the same time, the other reality I think we have to deal with is that the current system of financing higher education desperately needs reform.

Those twin realities lead to a second principle, Mr. President, that meeting this challenge will require fundamental changes in a system of financing higher education that is badly in need of reform.

It is a system that is unnecessarily bureaucratic and complex;

It is a system that largely neglects the needs of middle-income students and their families;

It is a system that spends billions of dollars a year on overhead and redtape, and ways in which people are excluded from the system;

It is a system that is vulnerable to administrative and financial problems best documented by last year's collapse of the Higher Education Assistance Foundation;

It is a system that is limiting institutional, career, and family-related choices for a growing number of America's students; and

It is a system that is burdening millions of students with inflexible loan

payments and a growing level of debt that last year produced \$2.4 billion in student loan defaults. And that is an indictment that we need to do something about.

The Senator from Hawaii knows this very well because he has introduced his own approach to this problem. The Senator from Illinois and I have now collaborated on a combination program which also deals both with the Pell grant enhancement, and a new reward to those who will engage in enrichment programs preparing people for college, so colleges do not become the repair shops for higher education in this country.

There are so many people thinking about it, it cannot be that revolutionary. It is, perhaps, logical more than it is anything else.

Under the proposal that we are introducing today, Federal student loans will be available to all students—all students. If your parent happens to own a farm that is worth \$1 million, but it is not making it under current prices, under the current system you cannot get a loan. The assumption is your parents will borrow. Parents used to do that, and then they get money with higher interest rates, and out of business they go. It is just one example of how the current system has been working. But with this one, all students will be eligible. Loan payments will be flexible based on income after graduation.

During the course of this year's Higher Education Act reauthorization, both my colleague from Illinois and I heard some very sobering stories of how our current system of financing higher education is affecting America's students and their families. It is also the realities of the current job market and the consequence that has for repayment.

The proposal in this bill will restructure the Federal student loan system so we link financing of higher education to a student's future earnings rather than to parents' income at the time of the loan.

The second major feature of the legislation taps the savings from the IDEA Loan Program to expand the Pell Grant Program, targeting those students most in need. Again, my colleague has well articulated—and certainly will well articulate—the needs that young people have, particularly those from low-income families.

So, finally, Mr. President, the Simon-Durenberger proposal promotes the belief that Federal funding should reward quality and excellence by providing additional assistance to students based on merit—with merit defined in ways that promote college readiness and promote academic excellence.

This bill provides an additional \$1,000 Pell grant to individuals who have demonstrated excellence and achievement, either in high school or in college.

One criticism of past proposals aimed at rewarding merit, Mr. President, has been that they are too inflexible in defining merit, and that they have unfairly hindered participation of disadvantaged or low-income students.

This bill, Mr. President, addresses that concern by including a qualifying category of students participating in TRIO programs—or TRIO-like programs—and by including a new early intervention program aimed at reaching these students while they are still in high school.

There are values here; I say to my Republican colleagues, I understand the administration does not think direct loans are a great idea. But, let's just talk about values that I think are Republican values, and I would like to believe are Democratic values as well.

The first one, Mr. President, focuses on individual responsibility. By retaining and improving the loan concept, but converting it to the notion of a credit—converting it to the notion of a credit—we focus on primary responsibility for financing education at the individual level, not the Government.

The second important value is fiscal responsibility.

Unlike some other proposals for Pell grant expansion, this proposal carries with it a revenue source that makes Simon-Durenberger deficit neutral.

It shifts an existing Federal commitment to higher education from overhead and defaults to students. It is a good example of how fundamental reform must be used to free up resources that are now being unwisely spent.

A third underlying value, Mr. President, is the need to focus public resources where they are needed the most.

The Pell Grant Program is income tested. And, no one—Republican or Democrat—can doubt the need to increase funding for the Pell Program in light of what is happening to the cost of today's higher education.

Fourth, is the value of rewarding excellence.

The \$1,000 per year academic excellence scholarships authorized by this legislation will go to students on the basis of merit. That is an important principle in the administration's approach to Federal involvement in higher education and one which a lot of congressional Republicans subscribe to, as well.

And, finally, Mr. President is the value of encouraging sound preparation for college.

That is a factor in determining eligibility for the excellence scholarships we are proposing. And, it is also the goal of the early intervention program this bill authorizes.

Just like we need more attention to school readiness for very young children, Mr. President, we need more attention to college readiness during high school and in advance of college.

That is a goal highly consistent with the President's America 2000 initiative.

Properly implemented, this part of our proposal offers an important incentive to secondary schools to improve the quality of their college prep courses.

And, properly communicated, it offers a good incentive to lower-income students to take college prep courses while they are still in high school.

Mr. President, Senator SIMON and I have introduced legislation that we believe should be part of this year's reauthorization of the Higher Education Act.

We realize these are far-reaching proposals. They are controversial. They confront powerful special interests. They challenge deep-seated ideology.

But, the system we have now, Mr. President, will not serve Americans into the 21st century. The system we have now must be fundamentally changed.

Mr. President, my distinguished colleague from Illinois has already explained—in some detail—what this proposal does, and how this proposal will affect students who use it.

I will not attempt to repeat what Senator SIMON has said, except to point again to the chart he used that shows so graphically the tangled web of bureaucracy in the current system—compared to the chart outlining the much simpler IDEA credit proposal we're introducing here today.

It's no wonder, Mr. President, that there are billions of dollars in savings to be realized in moving from one of these programs to the other.

Those savings, Mr. President, must be realized. Those savings, Mr. President, must be used to assure access, regardless of income, to promote quality and academic excellence, to encourage college readiness and sound academic performance.

Mr. President, the Financial Aid for all Students Act offers a solid commitment to ensuring access to higher education for all Americans. I urge your support.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I know I used my time, but I ask unanimous consent to proceed for just 2 minutes.

First, I want to commend my colleague from Minnesota for his leadership. I am hopeful, frankly, we can persuade the administration to come aboard because in the long term it saves money, both in reducing the defaults and obviously increasing the revenue so tens of thousands of students will be able to go to college. So I hope we can have a meeting with Dick Darman and some others and say let us take a good look at this thing.

For those who want to know what we are talking about more specifically, let me just mention, we are talking about loan limits of \$6,500 a year for freshmen

and sophomores; \$8,000 a year for juniors and seniors; \$11,000 a year for graduate students; and then in some exceptional cases more—\$70,000 total aggregate.

You would pay it back. Your income, basically, up to the poverty level—we do not use that specific criterion—but your basic income up to that point would be excluded. Then you would have to pay above that an extra percentage, until your loan is paid out or until 25 years. And the interest is charged on Treasury bill plus 2 percent.

So that, ultimately, not only will there not be a default, there should be some small amount of income for the Federal Government.

I think it is a sound program. It increases Pell grants by \$600 a year. I think it moves this country in the direction that we have to go.

Again, I thank my colleague from Minnesota, and I thank my patient colleague from Missouri, who has had to listen to both of us.

By Mr. BRADLEY:

S. 1846. A bill to modify the tax and budget priorities of the United States, and for other purposes; to the Committee on Finance.

FAMILY TAX RELIEF ACT OF 1991

• Mr. BRADLEY. Mr. President, every night, across this country, there are families who sit around their kitchen tables trying to figure out how to make ends meet. It isn't easy, because costs are going up and incomes aren't. Maybe both parents are working but they're still just getting by, and whether it's health care, college tuition, home mortgages, insurance, or taxes, somebody—everybody—seems to want more money from them.

A woman in New Jersey recently wrote me the following letter:

My husband and I jointly earn \$55,000 and believe me, we are struggling. Paul earns \$30,000 per year, we have two children, and a mortgage of \$1,100 per month. When you add up our other expenses, food, etc., there is no way he could support us by himself. I earn \$25,000, and a good bit of that is eaten up by nursery school and babysitter costs. Our car insurance premium is obscene, our property taxes have gone through the roof (rising over \$1,400 in the 5 years we have owned our house and is still climbing), and any raise we get from our employers is dwarfed by the yearly increases we get hit with. . . . I would love to think that the elected officials who represent me really care about the middle class. It seems we are always the ones who get dumped on and it isn't fair. My husband and I are struggling right now to make ends meet and I see no end in sight. There has got to be relief for us somewhere. . . . Does it ever get fair? I don't expect to make out better than anyone else—all I want is a fair shake. I want someone to look out for my interests once in a while. Will you be that person? Please give the middle guy a break.

Another New Jersey woman wrote me the following:

I work very hard to support myself and my children. I must work overtime to make ends meet. I often drive to work and back (54

miles/day) with less than \$5 in my pocket. I got caught in a storm recently with an almost empty tank of gas, because it was the day before payday.

Mr. President, the middle class squeeze of the late 1980's has become the economic vise of the 1990's, and families are the victims. Even as the Federal Government spends less on programs for children, families have less to spend on their children.

Today I am proposing that one of those groups that keeps asking for more from families give some of it back. I am introducing legislation that would establish a refundable \$350 tax credit per child for all American families, paid for by cuts in Government spending. Simply put, Government spends less so that families can have more.

I'm not proposing we pay for this by accounting tricks, growth estimates, or eliminating some unspecified waste, fraud, and abuse. The cuts are specific—in military spending that is no longer necessary given the collapse of the Soviet Union, and on domestic programs that don't do what they're intended to, have outlived their usefulness, or serve only narrow interests.

The kitchen table should be a place where families talk about where to go on vacation, not whether they can afford one; where children decide what college to attend, not whether they can afford the college of their choice; and where families decide what color to paint their house, not whether they have to sell it. With the collapse of the Soviet Union, we have an opportunity to help with a little of the burden by cutting unnecessary Government spending and giving it back to the people who bear the brunt of the tax burden.

Mr. President, in July of 1990, President Bush refused to believe there was a recession. In July 1991, he said the recession was over. Here we are in October, and we still haven't seen any leadership or understanding from the President about the problems American families are facing economically. I believe my proposal is a good place to start. It asks that a few narrow interests bear a little pain for the gain of the next generation. It doesn't raise taxes, and it cuts both domestic and military spending. It's time to do this, for the sake of those families out there who are trying desperately to make ends meet.

I ask unanimous consent that a short as well as a detailed summary of my bill be printed in the RECORD at this point.

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

SHORT SUMMARY OF BRADLEY PROPOSAL TAX CUTS FOR FAMILIES

Senator Bill Bradley is proposing a new \$350 per child refundable tax credit for all American families. The \$350 per child tax

credit would be available for each dependent child up to the age of 18. This will provide \$116 billion in tax relief for American families over the next 5 years. Approximately 32 million American households would benefit directly from the proposal.

The average American family has two children and thus would realize a tax savings of \$700 in the first year of the plan. The credit is indexed to inflation and therefore would grow in size over time; by 1995, the tax credit would equal about \$400 per child.

CUTS IN FEDERAL SPENDING

The children's tax credit is "paid for" through a broad-based cut in federal spending. Targeting both domestic and defense outlays, these spending cuts would make the proposal revenue-neutral. Essentially, the government would return \$116 billion to American families.

The proposal reflects the need to make tough choices about cutting long-standing federal programs. The government can't afford everything, and must be able to establish priorities about what is essential for the general population. Both defense and domestic spending would be reduced. Realignment of the U.S. defense budget would save \$80 billion over the next 5 years, while cutting unnecessary domestic spending would save \$38 billion.

The proposal calls for fewer expensive new weapons, reorganization of manpower needs, and a reduction of military hardware. Several systems would be eliminated, including the B-2, MX, and Midgetman, with sizable reductions in SDI. Active duty personnel will be reduced from 1.6 million to 1.35 million by the middle of the decade, and weapons procurement will be scaled back accordingly.

In proposing to reduce federal domestic spending by \$38 billion over the next 5 years, programs are targeted which are wasteful, which primarily serve narrow interests, or which have outlived their usefulness. This includes the elimination of the SBA, the space station, the ExImbank and the SSC, as well as reforms in student loans, energy R&D, and agriculture and postal subsidies.

Tax relief for families with children—5 year cost

	Billion
Provide \$350 tax credit per child	\$116
Realign Defense budget	-80
Reduced Need for New Weapons	-40
Reorganized and Reduced Troop Strength	-35
Reduced Military Hardware	-15
New Priorities	+10
Domestic budget cuts	-38
Superconducting super collider	-2.5
Space station	-10.5
Postal Service subsidies	-2.0
Energy R&D	-6.0
Small Business Administration	-2.0
Impact Aid B Program	-0.6
Agriculture subsidies	-5.0
Agriculture export promotion programs	-2.7
Student Loan Program default crackdown	-2.0
Eximbank	-1.3
Welfare savings	-3.0

DETAILED SUMMARY OF THE BRADLEY PROPOSAL

1. SUMMARY OF CHILDRENS' CREDIT

Senator Bradley proposes a \$350 per child (up to age 18) refundable tax credit for families. This proposal would directly benefit the 32 million households in the United States with dependent children. Since the average family in the United States has 2 children, the average family would receive a \$700 credit to their federal income tax.

The credit is indexed to inflation and therefore would grow in size over time. By 1995, the credit would equal about \$400 per child. The cost of this proposal is \$116 billion over 5 years.

The credit is universal—for all families, regardless of income. The Federal income tax threshold next year for a family with two children is about \$15,000. If the credit was nonrefundable, families below this income level—about a quarter of all families—would receive nothing. And another 10-15 percent of all families would receive only a partial credit.

Targeted to Families

The Bradley proposal targets tax relief to the households in the United States with children. All families are under stress, but the plight of families with children is particularly severe. Measured by average post-tax per capita income, families with children are the lowest income group in the United States; their average post-tax income is below that of elderly households, single persons and couples without children.

Traditionally, the code has provided tax relief for activities deemed central to the basic fabric of American society—costs of owning a home, charitable contributions, costs of raising a family, etc. But the code doesn't always work as it should. Over the past few decades, the tax system has forced families with children to bear a larger share of the total tax burden.

The root cause of the anti-family bias in the code is the eroding value of the dependents' exemption—the exemption designed to assist families with children. Years ago, our Tax Code provided real relief for families with children. The dependents' exemption was \$600 in 1948 and is only \$2,050 under current law. If the deduction had kept pace with inflation and per capita income growth, the exemption would now be almost \$8,000. If it had simply kept up with inflation, it would be set at \$3,400.

The Tax Code needs to be reformed to help families with children. The \$350 credit is a big step in the direction of restoring a "pro-family" bias to the Tax Code.

2. SUMMARY OF REALIGNED DEFENSE BUDGET

Reduced need for new weapons—Five-year savings, \$40 billion

The dissolution of the U.S.S.R. has left the United States with radically changed military requirements. Notably, the threat of a massive, sudden nuclear assault from a military peer has greatly diminished. Accordingly, it is appropriate to stop procurement of new strategic weapons—the B-2, MX, the Single ICBM (Midgetman)—as well as to reorient and scale back the Strategic Defense Initiative to deal with a limited threat.

In addition, it is appropriate to delay the development and production of new weapons systems. While research should continue at a healthy pace, the emphasis should remain on continued production and upgrading of existing proven systems. The Air Force's advanced Tactical Fighter, the Aerospace Plane, the Milstar Satellite, the Navy's A-12, the V-22, and the Army's Light Helicopter program are all programs that should not be put into full development or procurement until after a complete reevaluation of the U.S. force structure and potential threats.

This plan does not call for a reduction, however, of the Trident II upgrade program. The modernization of the submarine strategic force should continue as before until nuclear weapons reductions are agreed to internationally.

Reorganized and reduced troop strength—Five year savings, \$35 billion

The recent changes in the world political and military order permit a new vision of the U.S. force structure. Since last year's budget agreement, the possibility of a sudden super-conflict in Europe involving ground forces has become remote. This new reality allows for accelerated and increased cuts in European-stationed ground forces and air support.

Additionally, there are lessons to be learned from the Iraq conflict. First, the Iraq war demonstrated the potential for the successful coordination of an international military force. Second, the possibility and threat of one neighbor pitted against a smaller, poorly defended neighbor in an inter-regional conflict has been realized. The United States needs to pursue opportunities for new "home-porting" of United States and international forces, as these ports represent the best options for a quickly deployed but low-cost defensive force.

A reorganized military would permit the shift of two Army heavy divisions to reserve status, and the reduction of two Army light divisions. The Air Force would cut an additional six tactical wings. But the heaviest cuts would fall on the Navy. An additional 2 carrier groups would be mothballed, leaving an active carrier force of 10. Lastly, marine manpower would be cut by 15 per cent.

Total active military personnel would decrease from a planned 1.6 million men and women by an additional 250,000 under this proposal.

Reduced military hardware—Five year savings, \$15 billion

Clearly, the reorganized military will have different and new needs for equipment. Certain of these costs are included in the above estimates of savings from reductions in manpower. Additionally, it will be appropriate to slow procurement of existing major weapons systems to minimum levels. While it is necessary still to maintain sufficient industrial infrastructure to counter new threats, procurement is a low priority for the next few years.

Minimum procurement is appropriate for the SSN-21 "Seawolf" submarine, the M-1 tank, the Navy's F/A-18, helicopters and the Air Force's F16 and F14.

On the other hand, modernization of the carrier force and defenses should continue. The reduction in carrier groups is premised on a better prepared and protected naval force. One lesson, however, that should be learned from the Iraq War is that a nuclear navy has its drawbacks. All six carriers deployed to the Persian Gulf were non-nuclear. As long as there is concern about the environmental risks associated with a nuclear carrier deployment during hostilities, the Navy should retain a non-nuclear capability.

New priorities—Five year cost, \$10 billion

While the above changes will result in a "leaner" military force, it does not have to be a less capable one. Upgrades in existing hardware will result in increased firepower and compensate for force reductions.

However, there are some budget additions that need to be factored in. First, the above calls for a policy of foreign "home-porting." New bases are not cheap, although there is long-term savings. Second, we need to invest in increased sea-lift capability. To counter a perception of a less effective and smaller armed force, we should augment our ability to move soldiers and material. Third, we need to design our strategic defenses to handle, to the extent possible, a limited or

"rogue" attack. Even with a recommended 50 percent cut in SDI spending, there should be adequate funding for this emphasis. However, additional funding will be needed to enhance and maintain anti-submarine warfare capabilities.

3. SUMMARY OF DOMESTIC BUDGET CUTS

The superconducting super collider—FY 92-6 savings, \$2.5 billion

The SSC is the latest generation of particle accelerators designed to investigate the nature of matter and the origins of the universe through physics research. When the SSC was first proposed in 1988, its projected cost was \$4 billion, with at least \$1 billion to be cost-sharing by foreign nations. Today, the cost estimate exceeds \$8 billion, with foreign partners less and less likely to contribute. A Department of Energy audit group is putting the likely price tag even higher, at between \$11 and \$12 billion.

The SSC represents perhaps good science, but at too great a price tag. While we plan our \$10 billion SSC, a European consortium is moving forward with a \$2 billion accelerator which—through not as powerful as the SSC—will be the most powerful ever built. We should participate in this effort and shift our basic science priorities back to smaller, cooperative research efforts with industry and universities.

The space station—FY 92-6 savings; \$10.5 billion

In 1984, NASA selected a space station design that was to be assembled by 1994 at an estimated development cost of \$12.2 billion. By 1991, the estimate reached almost \$40 billion. In response to these cost pressures, NASA has drastically scaled back the design and mission of the space station. Yet in a May, 1991, GAO report, the cost of the redesigned station was projected to be about \$40 billion to launch and almost \$80 billion to keep the station operational through its lifetime.

The Space Station only makes sense in a future of extensive manned space exploration. Such a future can only occur with the greatest level of international cooperation, including the fullest participation of the U.S.S.R. A largely independent, very costly endeavor like the space station is inappropriate. News reports last month indicated that the struggling, but effective, Soviet space agency was prepared to supply and launch a copy of their MIR space station for a \$600 to \$700 million price tag. A more imaginative space policy is in order in our post-cold war world.

Postal Service subsidies—FY 92-6 savings; \$2.0 billion

The taxpayer subsidizes certain charitable organizations for their third-class bulk mailing costs through a subsidy to the U.S. Postal Service to give those organizations special rates that cover about 70 percent of the cost of mailing. The government pays about 3.1 cents of the 11 cent cost of mailing each letter. These subsidies have caused non-profit third-class mail volume to nearly triple since 1972, to more than 12 billion or 125 pieces of mail per household. Almost half of this mail is to raise funds, and 13 percent to sell goods and services, rather than providing information.

The postal subsidy for non-profit organizations should be eliminated. Non-profits should not be given an incentive to deluge households with mail. They should bear the full cost of their mailings, and should be encouraged to target their mailings and use their funds more effectively. Special rates for the blind, libraries, and for overseas voting would be retained at minimal cost.

Limit energy research to basic science—FY 92-6 savings, \$6 billion

The Department of Energy supports efforts to make commercial various technologies that use conventional fuels. DOE's fossil and nuclear energy budgets (including the Clean Coal program) total in excess of \$1.2 billion annually. The programs continue to fund technologies that are perpetually on the border of economic viability but, in reality, are unlikely to be supported by the private sector without extensive federal subsidies. Other funds are furnished to projects that probably would be pursued by the private sector regardless of government involvement.

Large amounts of taxpayer funding support such areas as coal litigation, coal gasification, magnetohydrodynamics, high temperature gas nuclear reactors, oil shale development, etc. The government should not be paying one company to secure a NRC license for its own reactor design. Such efforts to provide federal subsidies to "near commercial" ventures should be abandoned.

Small Business Administration—FY 92-6 savings, \$2.0 billion

The SBA was established several decades ago to aid America's small businesspeople and give them a voice in government. Today the SBA tries to achieve this mainly by providing direct loans and guarantees to small businesses and by providing advice through branch offices and small business development centers.

The SBA has outlived its usefulness. It is an agency caught in a web of bureaucratic inefficiency and scandal. The majority of Americans now work for small businesses; we no longer need special loan guarantee programs to help small businesses or a separate agency to provide advice to help people establish small businesses.

The programs that still perform an important function would be shifted to other federal agencies (disaster loans to FEMA and the 8-A contracting program to DOD and the Commerce Department), with the balance of the agency scrapped.

Impact aid "B" program—FY 92-6 savings, \$0.6 billion

Federal Impact Aid is a \$770 million/year Education Dept. program to pay for the education of schoolchildren whose parents live or work on federal facilities. Most of the money for impact aid goes to the "a" program, which goes to schools whose students live and work on federal property; where school districts are required to educate kids whose parents live and work on federal property, and therefore pay no local taxes, the federal government has a legitimate obligation to reimburse the district that is "impacted" by federal activity. However, under the Impact Aid "b" program, about \$100 million/year is provided for the education of children whose parents live or work on federal property.

This "b" aid should be eliminated, except for a small portion that is designated for children who live in Section 8 federally financed housing. School district operations do not generally depend on "b" payments, which constitute less than half of 1 percent to total expenditures in over half of the districts receiving them. The parents of "b" children also pay state and local taxes, which fund educational expenditures, at almost the same rate as the parents of children who are not federally connected.

Agriculture subsidies—FY 92-6 savings, \$6 billion

Deficiency payments are the primary form of direct government payments to farmers.

This legislation would make those individuals with adjusted gross incomes in excess of \$100,000 ineligible for such payments. In addition, target prices which are used to calculate deficiency payments would be scaled back. In the 1990 Farm Bill, target prices are held fixed for five years. By reducing target prices by 1.5 percent per year, government payments are lowered substantially.

Such an action would send a positive signal around the world that the United States is serious about reducing subsidies and will be able to deliver on international trade proposals to reduce subsidies worldwide.

Agriculture export promotion programs—FY 92-6 savings, \$2.7 billion

Two programs that promote agriculture subsidies should be eliminated. The first program, the Export Enhancement Program (EEP), subsidizes U.S. agricultural exports. American exporters who claim unfair competition from subsidized grain exporting nations can get certificates for grain that the USDA buys from American farmers to support prices and income.

There are several reasons why EEP should be eliminated. First, subsidies distort trade and make agricultural exports a political, not an economic activity that encourage other countries to subsidize their exports. Second, the main beneficiaries of the program are the exporters and the nations that buy the subsidized grain. Since the program began, 26 percent of the EEP subsidized wheat has gone to the U.S.S.R., 25 percent to China—bypassing American trade restrictions. Third, American farmers do not benefit from EEP—only the giant agricultural exporters do.

The second agriculture export program, the Market Promotion Program (MPP), is a program through which trade associations and private producers can get support for their marketing efforts abroad in order to encourage agricultural exports. MPP should be eliminated because it is a direct payment to private producers of branded goods, channeled through trade associations. Only agribusiness gets paid by the U.S. government to engage in activities that directly improve profits; activities promoting exports of non-agriculture goods do not receive similar support.

Student loans—FY 92-6 savings, \$12.5 billion

In the current system of guaranteed student loans, almost as much money goes to lenders, defaulters, and fraudulent institutions as to education. To make the Federal investment in education go further, we should eliminate obsolete loan programs, and make students, lenders, and institutions take more responsibility to use the capital they receive through loans more efficiently.

Saving \$2.5 billion in taxpayers' money on student loans and grants requires three reforms:

Require institutions to pay a 2.5-percent coorigination fee on loans, with higher fees for institutions with high default rates.

Cut the federal payments to lenders (banks) by one-half of one percentage point. Lenders would still be insured a return on Guaranteed Student Loans equal to 2.75 percentage points above the T-bill rate.

Extend IRS refund offset on defaulters. The provision permitting the IRS to garnish the personal income tax refund of defaulters is scheduled to expire in 1994. It has been a very effective initiative and should be extended.

Eximbank—FY 92-6 savings, \$1.3 billion

The Export-Import Bank (Eximbank) attempts to increase U.S. exports by providing

credit to foreign purchases of U.S. manufactured products. Exim does three things: It extends direct loans to American exporters, it guarantees loans by banks to exporters, and it provides exporters with insurance against defaults.

There is no strong evidence that the price of financing is a significant factor in the competitiveness of exports; reducing the price of financing would have little impact on the level of exports. Also, concessionary financing for one industry creates a competitive disadvantage for other industries, resulting in an inefficient allocation of resources. The government loan guarantees and direct loans are subsidies to the industries that can afford to lobby the federal government. Most importantly, Ex-Im programs make it harder to establish mutually beneficial trade and economic relations. Rather than opening up trade, these subsidies enter the United States into a downward cycle of trade wars with other export subsidizers.

Welfare savings—FY 92-6 savings, \$3.0 billion

The children's credit is universal—it is available for all families. That means that families with children who do not owe federal taxes will receive back from the government a check for \$350 per child per year. Of the 32 million households in the United States, about 4 million receive AFDC welfare benefits. These welfare families will benefit from the credit.

The Bradley child credit proposal requires that half of the tax credit be counted as income for purposes of determining welfare payment levels. Therefore, the welfare family with two children will receive a \$700 refundable credit, but will receive \$350 less in welfare benefits.

Budget process reforms

Current budget rules allow increases or decreases in taxes or entitlements to be "paid for" through increases or decreases in other taxes or entitlement programs. Defense savings and non-defense discretionary savings can only be "used" for deficit reduction; these savings cannot be used for reductions in taxes. The Bradley bill reforms the budget process to enable tax cuts to be financed by cuts in defense and domestic discretionary spending.●

By Mr. METZENBAUM (for himself and Mr. GLENN):

S. 1847. A bill to direct the Secretary of the Interior to construct a National Training Center at the National Afro-American Museum and Cultural Center, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL TRAINING CENTER FOR AFRO-AMERICAN MUSEUM PROFESSIONALS ACT

● Mr. METZENBAUM. Mr. President, I am today introducing the National Training Center for Afro-American Museum Professionals Act, a bill to help train museum professionals in the field of Afro-American history and culture. This legislation is identical to H.R. 1960, a measure introduced in the House of Representatives by my friend and colleague Representative LOUIS STOKES, and cosponsored by 37 other Members of the House.

This measure builds on legislation enacted in 1980, which created the National Afro-American Museum and Cultural Center at Wilberforce, OH. The

museum, which opened to the public in 1988, has truly exceeded all early expectations of its success. In the number of visitors and the quality of its exhibits, the museum is unsurpassed in its field. It is a dynamic, living institution serving all Americans by promoting a better understanding of, and respect for, the African-American heritage.

During consideration of the 1980 legislation, it was the intent of Congress to accomplish a second objective in creating Afro-American Museum and Cultural Center at Wilberforce. That objective was to establish an educational program for the training of African-American Museum professionals. No university or museum establishment in the country currently has a curriculum leading to a degree in Afro-American museum studies. As a result, we have a serious dearth of professionals observing, cataloging, and collecting the artifacts of Afro-American history and culture in this country. This legislation would help to correct that deficiency.

In addition, when Congress established the museum and cultural center in 1980, the project was intended to be a partnership between the Federal Government, the State of Ohio and private benefactors interested in preserving and protecting a significant aspect of our history and culture. So far, however, the State of Ohio has assumed almost exclusive financial responsibility for building and operating the center with no financial support from Congress. At this point, the State has gone about as far as it can in terms of providing additional funds for capital construction.

Mr. President, enactment of this legislation will fulfill the original intent of Congress. It authorizes funds for construction of the national training center, and the development and implementation of a program of Afro-American professional museum studies. I believe this is important legislation, and I urge my colleagues to support it. We must do all we can to preserve this fundamental aspect of our common national heritage.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1847

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 "National Training Center for Afro-American Museum Professionals Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) By a law enacted in 1980, the National Afro-American History and Culture Commission was established to develop plans for the construction and operation of the National Center for the Study of Afro-American History and Culture (now known as the National

Afro-American Museum and Cultural Center and hereinafter referred to as the "Museum").

(2) The Museum was constructed at Wilberforce, Ohio, and opened to the public in April 1988.

(3) It was the intent of Congress, and the understanding of the State of Ohio, that the Federal Government would assist the State by providing funds for construction and development of the Museum, yet this partnership was not clarified in the original legislation.

(4) The State of Ohio has assumed almost exclusive financial responsibility for the Museum thus far.

(5) There is a gross underrepresentation of Afro-American museum professionals in our Nation's museums, which results in the failure to preserve important pieces of Afro-American historical and cultural artifacts.

(6) The State of Ohio has gone as far as it can without tangible Federal assistance, and needs Federal funds for construction of a center at the Museum to be used to train Afro-American museum professionals for our Nation's museums.

(7) If the charge of the original legislation is to be met, it is the responsibility of the Federal Government to authorize and appropriate funds for construction and maintenance of the National Training Center at the National Afro-American Museum and Cultural Center at Wilberforce, Ohio.

SEC. 3. NATIONAL TRAINING CENTER AND OPERATIONS AND MAINTENANCE.

(a) CONSTRUCTION AND OPERATIONS AND MAINTENANCE.—The Secretary of the Interior, acting through the National Park Service, shall—

(1) construct a National Training Center at the National Afro-American Museum and Cultural Center which will prepare professionals for our Nation's museums, and

(2) provide for the operation and maintenance of the National Afro-American Museum and Cultural Center and provide for technical assistance to the Museum.

(b) AUTHORIZATION.—There is authorized to be appropriated to the Secretary of Interior such sums as may be necessary for the Secretary to carry out subsection (a).

SEC. 4. AFRO-AMERICAN PROFESSIONAL MUSEUM STUDIES.

(a) STUDIES AND STUDENT ASSISTANCE.—The Secretary of Education, acting through the National Afro-American Museum and Cultural Center, shall—

(1) contract with a consortium of institutions of higher education to implement a program of Afro-American professional museum studies at the National Training Center of the National Afro-American Museum and Cultural Center, and

(2) provide scholarships and loans for students in the studies established under paragraph (1).

(b) AUTHORIZATION.—There is authorized to be appropriated to the Secretary of Education such sums as may be necessary for the Secretary to carry out subsection (a).

SEC. 5. COMMISSION TERMINATION.

The National Afro-American Museum and Cultural Commission established by the National Center for the Study of Afro-American Museum and Cultural Act (20 U.S.C. 3701) shall terminate 30 days after the date of the enactment of this Act.

SEC. 6. GOVERNANCE OF MUSEUM.

Ultimate governance of the Afro-American Museum and Cultural Center shall rest with a Board of Governors established by Congress in consultation with the State of Ohio.●

● Mr. GLENN. Mr. President, I rise today to join Senator METZENBAUM in introducing the National Training Center for Afro-American Museum Professionals Act, a bill that will help train professionals in Afro-American history and culture for our Nation's museums.

Mr. President, minorities have been historically underrepresented among museum professionals, an area in which there is currently a pressing need. This legislation will assist in training minority professionals. Furthermore, this bill will provide information about various cultures to enrich museum exhibits and displays. Through this act, we as Americans will help portray the involvement of all groups who have had a part in making this country great.

Representative LOUIS STOKES has introduced a similar bill in the House of Representatives, which has enjoyed bipartisan support. The original plan for this act was included in Public Law 96-430, which established the National Afro-American Museum and Cultural Center at Wilberforce, OH. As one who was very involved in the creation of this center, I am proud to support the completion of phases II and III of this center through this legislation.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. PELL, Mrs. KASSEBAUM, Mr. ADAMS, Mr. BRADLEY, Mr. LAUTENBERG, Mr. WALLOP, Mr. WIRTH, and Mr. HEFLIN):

S. 1848. A bill to restore the authority of the Secretary of Education to make certain preliminary payments to local educational agencies, and for other purposes; to the Committee on Labor and Human Resources.

DROPOUT PREVENTION TECHNICAL CORRECTION AMENDMENT OF 1991

Mr. KENNEDY. Mr. President, I am introducing this legislation to correct a problem in the Impact Aid Program that urgently needs attention. I am introducing this legislation on behalf of myself and Senators HATCH, PELL, KASSEBAUM, ADAMS, BRADLEY, LAUTENBERG, WALLOP, WIRTH, and HEFLIN.

Under normal circumstances, eligible school district submit applications to the U.S. Department of Education for impact aid by January 31. Since some school districts are heavily dependent on the funds they receive from impact aid, the authorizing statute formerly authorized the Department to make section 3 preliminary payments of up to 75 percent of a district's prior-year payment at the request of the district. This provision enabled districts to maintain their cash flow until final payments based on current-year data were made after the January 31 application deadline.

For fiscal year 1992, the administration proposed a modification to the authorizing statute that would allow impact aid section 3 payments to be made

based on prior-year data. The intent of this change was to allow school districts to be paid much earlier in the school year, possibly as early as Thanksgiving if appropriations were available at the beginning of the fiscal year. The administration's proposal also included a provision to eliminate the authorization for preliminary payments, which would no longer be needed under the prior-year data system.

Prior to its enactment into law, H.R. 2313, the dropout bill, at one time included the amendments proposed by the administration to authorize section 3 payments based on prior-year data. Shortly before the bill was enacted into law, most of these prior-year data provisions were deleted. However, section 402 of the bill continued to contain the provision that eliminated the statutory authority for preliminary payments. On August 17, 1991, the dropout bill was signed into law as Public Law 102-103, eliminating the authority to make preliminary payments.

As my colleagues well know, some school districts are exceptionally dependent on the funds they receive from impact aid. These districts are very short of cash now, and since preliminary payments cannot be made, they are facing very severe financial problems. This bill, which was drafted with the assistance of the Department of Education, would restore the Department of Education's authority to make section 3 preliminary payments.

I urge my colleagues to join me in passing this urgently needed legislation so that school districts may receive impact aid payments as soon as possible.

By Mr. HELMS:

S. 1849. A bill to provide for the full settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

SETTLEMENT OF CLAIMS OF SWAIN COUNTY, NC

Mr. HELMS. Mr. President, today I feel obligated to renew my efforts to fulfill a commitment to the people of Swain County in the far western part of North Carolina. I told those citizens that I would do everything in my power to require the Federal Government to keep a commitment it made to them back in 1943, nearly a half-century ago.

On July 12, I wrote to a committee of concerned citizens in Swain County to advise that I would again introduce legislation to bring the Government in full compliance with the 1943 agreement. This legislation—the Swain County Settlement Act of 1991—directs the Secretary of the Interior to fully honor the 1943 contract between the people of western North Carolina and the Federal Government.

Mr. President, at the outset I make this point: At issue here is whether the

U.S. Government will keep its word, and live up to a very clear commitment made 48 years ago in exchange for the Federal Government being given the right to flood thousands of acres of Swain County land to create the Fontana Lake. The integrity of the Federal Government, and those of us who serve in Congress today, will be decided by what we do, or fail to do, in the minds of people who have been waiting for 48 years.

The Helms legislation proposes three things: First, it orders the Secretary of the Interior to build the road promised by the Federal Government in 1943; second, it directs the Secretary of the Treasury to pay Swain County, NC, the sum of \$16 million to compensate the county for the destruction of North Carolina Highway 288; and third, it orders the Park Service to erect a historical marker at Soco Gap to honor the contributions of the Cherokee Nation to the people of North Carolina and to the United States.

Senators should be aware of what happened 48 years ago to understand why I so vigorously support full settlement of this matter. In 1943 the Federal Government and the Tennessee Valley Authority decided they needed to flood land from the farmers in Swain County, in order to generate hydroelectric power. Literally thousands of Swain County residents packed up and left their homes because the Federal Government needed their land. The Government did not relocate them, nor did Government give North Carolina families additional land. The Government merely offered a few dollars for the land, but Swain County citizens have told me that they never received even a dime for their land.

I don't have to remind Senators, Mr. President, that in 1943, World War II was raging in Europe and the Pacific. Many of the men from the Swain County area were overseas fighting for their country's freedom—at the very time their land back home was being taken by the Federal Government.

When the Government took the 44,400 acres of land north of Fontana Lake, the Government: First, to reimburse Swain County for an existing highway that would be flooded in order to create Fontana Lake; and second, to build an around-the-park road to, among other things, provide access to gravesites left behind when the people were forced off the land.

With respect to the around-the-park road, the written agreement states:

*** the Department agrees that, as soon as funds are made available for that purpose by Congress after the cessation of the hostilities in which the United States is now engaged, the Department will construct or cause to be constructed the following described sections of road, all of said sections being hereinafter collectively referred to as the "Park Road":

(a) A section of road beginning at a point on the Fontana Dam Access Road near the

crossing of Fox Branch and extending to a point on the western boundary of the land identified on Exhibit A as the property of North Carolina Exploration Company.

(b) A section of road beginning at the eastern boundary of said North Carolina Exploration Company land and extending to the eastern boundary of the Park as extended hereunder.

(c) A section of road across said North Carolina Exploration Company land connecting the ends of the sections of road described in paragraphs (a) and (b) above.

(d) A section of road beginning at a point in the road described in paragraph (a) above, and extending in a generally southerly direction to the west abutment of Fontana Dam.

Provided, however, that in lieu of the sections of road described in paragraphs (a), (b), and (c) above, the Department may at its election construct or cause to be constructed, as a part of the Park Road, a continuous section of road beginning at a point on the Fontana Dam Access Road near the crossing of Fox Branch and extending around the aforesaid property of the North Carolina Exploration Company (through existing Park lands) to the eastern boundary of the Park as extended hereunder.

Building the road was contingent on appropriations by Congress. However, it was clear that the Government assumed that the road would be built shortly after the war.

In July 1943, shortly after the agreement was signed, a Tennessee Valley Authority supervisor wrote the families about gravesite removal. The letter stated:

The construction of Fontana Dam necessitates the flooding of the road leading to the Proctor Cemetery located in Swain County, NC, and to reach this cemetery in the future will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery, which is proposed to be completed after the war has ended. We are informed that you are the nearest surviving relative of a deceased who is buried in this cemetery.

Because of the understanding mentioned in this letter—that the road would be completed shortly after the war—families agreed to leave their deceased relatives on the land taken by the Federal Government.

Mr. President, documents dating back to 1943 show that the Government did fulfill its promise to pay for Highway 288. In 1943 the Government paid to the State of North Carolina approximately \$400,000, an amount which represents the principal which Swain County owed on outstanding bonds.

According to my information, the Federal Government paid that amount to the State of North Carolina as trustee. A letter dated November 22, 1943, from the Treasurer of the Tennessee Valley Authority to the Treasurer of the State of North Carolina confirms that payment was made.

The money never reached Swain County, however, and the county continued to pay for the road until the late 1970's.

But, and let me emphasize this, the Federal Government never fulfilled its obligation to build the road. There

were a few false starts, though. In 1963, the Federal Government built 2.5 miles of the road; in 1965 it built 2.1 miles; and in 1969 it built one additional mile and a 1,200-foot long tunnel. Then the environmentalists got into the act and the project was shutdown. Now you can visit one of western North Carolina's best-known sites, the "Road to Nowhere." It is a travesty—a monument a broken promise by the U.S. Government.

Legislation already introduced by the junior Senator from North Carolina however would be a surrender, a guarantee that the U.S. Government's commitment will never be honored, and that the "Road to Nowhere" will go nowhere in perpetuity.

With all due respect to my friend and colleague, this is an abject surrender to the Wilderness Society, the Sierra Club, the National Park Service, and a handful of politicians in Swain County.

In fact, the last time this issue was considered by the Senate—September 19 of this year—Senator SANFORD quoted a letter from the Swain County Commissioners saying that those who want the road are a few small special interests. In response, I brought to the floor—and showed Senators and reporters from North Carolina—about 7,000 letters from current and former residents of Swain County who had written to me supporting the construction of the road when Senator SANFORD first attempted in 1987 to vitiate the agreement between the United States and Swain County.

I cannot, and will not, agree that 7,000 citizens of western North Carolina are "a small special interest."

It is my information, and my colleague can correct me if I'm wrong, but he has not met with the citizens of Swain County since he left the Governor's Mansion in January 1965. He has only met with a few politicians who are eager to get their hands on the quick, easy 16 million Federal dollars, which the junior Senator has offered them in return for their support of his efforts.

As North Carolina's Gov. Jim Martin's representative testified in June 1987—when hearings were held on Senator SANFORD's first Swain County bill:

When TVA acquired the communities and lands necessary to build Fontana Lake in the 1940's the Federal Government promised the residents a road so that they would be able to visit the gravesites of their ancestors. Senator HELMS' bill honors this longstanding promise to the Swain County residents and their heirs. I support this approach because I feel that government must keep the promises it makes to its citizens. Credibility and trust in government are essential in our democratic system of government.

The Governor of North Carolina, as recently as September 18, has restated that position.

Senator SANFORD suggests that Swain County has not been able to grow because it has not received the

payment of \$16 million—which the Federal Government owes the county for destroying NC Hwy 288 in 1943. I disagree. Swain County and most of western North Carolina have suffered economic distress because—I repeat: because—as each year goes by more and more land in North Carolina is taken off the tax rolls and placed off limits.

Mr. President, over the years, North Carolinians in western North Carolina have watched the Federal Government seize their land for one purpose or another. They have very little industry. They have no tax base. The unemployment rate is high.

No one can fully appreciate how the Government has crippled the economy in western North Carolina until he or she looks at how much land the Federal Government has actually seized. In Swain County alone, out of 345,715 acres, the Federal Government has taken 276,577 acres. Nearby Graham County has the same problem. Of the 193,216 acres in that county, the Federal Government has taken 138,813 acres. Of the 353,452 acres in Haywood County, the Federal Government has taken 131,111 acres.

I mention all this to emphasize the frustration in western North Carolina. Meanwhile, in the four Tennessee counties bordering the Great Smoky Mountains National Park for instance, the Federal Government owns less than two-fifths of the land. I have no quarrel with our friends in Tennessee but facts are facts.

Another aspect of this story was omitted from Senator SANFORD's statement in support of his legislation. Although the Great Smoky Mountains National Park is the most visited national park in the country, few tourists who travel through the Smokies have a place to pause on the North Carolina side of the park. The road in Swain County, promised over 48 years ago, would change that. It would attract industry and tourists, not to the detriment of the scenic beauty of the Smokies but for the betterment of the citizens of western North Carolina.

Senator SANFORD also stated that the Department of the Interior regulations and so-called environmental guidelines prevent the construction of the road and, for that reason he would not support full compliance with the 1943 agreement. The Helms legislation should ease Senator SANFORD's concerns because it orders, notwithstanding any other provision of law, the Secretary of the Interior to build the road.

As Paul Harvey would say, "now you know the rest of the story."

The narrow special interests want to stop all progress, and if they achieve their goal of persuading the Federal Government to abandon Swain County they will move closer to their goal. In effect Senator SANFORD appears to favor enjoyment of the land for a minority at the expense of the majority.

There has been too much of that already in western North Carolina.

Make no mistake about it, the radical environmentalists will not be satisfied until all of western North Carolina is locked up and the key is thrown away. They have opposed my efforts to achieve fairness for western North Carolina.

I have tried to compromise with the environmentalists and with Senator SANFORD. I have introduced legislation in the 98th, the 99th, and the 100th Congresses. I agreed to place approximately 200,000 acres of North Carolina land into wilderness in exchange for three things: First, reimbursement for Highway 288 and a farmers home loan; second, exclusion of 44,000 acres of North Carolina land from wilderness; and third, the authorization of money for a primitive road to be built to the cemeteries north of Fontana Lake.

Mr. President, nothing has happened.

I made a commitment to the people of western North Carolina years ago. I promised to fight for their interest. If I lose, Senator SANFORD and the Federal Government will lose the respect and confidence of thousands of North Carolinians.

I challenge my able colleague to go with me to Swain County and talk to the real people who have repeatedly told me their concerns and their needs through the years. I have already discussed the prospect of field hearings with the Energy and Natural Resources Committee with the distinguished ranking member, Senator WALLOP, and the distinguished chairman of the Senate Republican Policy Committee, Senator NICKLES. They are willing to go to Swain County. I trust the junior Senator from North Carolina do likewise.

Finally, Mr. President, I hope my able colleague will join me, Governor Martin, the people of Swain County, the Eastern Band of Cherokee Indians, and all of the other citizens of western North Carolina in supporting my effort to get Swain County moving toward a more prosperous future.

Mr. President, I ask unanimous consent that a letter from the Governor of North Carolina, a history of the North Carolina Shore Road-Wilderness controversy, a letter I wrote to the Fontana Agreement Bi-Partisan Committee on July 12, 1991, a copy of the 1943 agreement, and an article from the Winston-Salem Journal, be placed in the RECORD at the conclusion of my remarks.

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

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, NC, September 18, 1991.

Hon. JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR JESSE: I understand that an amendment to the Interior Appropriations regarding payment to Swain County, North Caro-

lina in lieu of a road on the north shore of Fontana Lake is expected to be offered by Senator Terry Sanford. I would like to voice my opposition to that amendment.

The North Shore Road was promised to the people of Swain County in 1943, when the Tennessee Valley Authority flooded their lands and an existing road to create what is now Fontana Lake. The 1943 agreement required that a new road be built so that the people of Swain County would have access to ancestral lands and cemeteries that are now part of the Great Smoky Mountains National Park. In the ensuing years, the lack of federal action in carrying out the agreement has engendered a deep distrust of the federal government on the part of the people of Swain County. Only construction of the road would show that the federal government is true to its word and help alleviate that mistrust.

There are some who believe that the federal government should discharge its 1943 obligation via a \$16 million cash payment to the Swain County government in lieu of building the promised road. That would, in effect, compensate a third party instead of keeping the promise to the first party. I oppose this travesty, but urge that no such resolution be authorized without a referendum to show the will of the people of Swain County.

Thank you for your attention to this matter.

Sincerely,

JAMES G. MARTIN.

U.S. SENATE,
Washington, DC, July 12, 1991.

The Fontana Agreement Bi-Partisan Committee,
Bryson City, NC.

DEAR FRIENDS: Many thanks for your letter of July 3, requesting my opinion of the legislation by Senator Sanford, authorizing the payment of \$16 million as a final settlement for the federal government's failure to keep its 1943 promise to the people of Swain County.

While I sincerely appreciate Senator Sanford's efforts to settle this matter, I must be frank with you: I cannot support any proposal which does not require the United States Government to honor its full and complete pledge—and that means the construction of the road.

Literally thousands of people who have written to me during the last five years feel the same way, and it is not my intent to turn my back on them. To me a commitment is a commitment, whether it is made by one person or the United States Government.

You also asked if I think that a two lane paved road will be built in the future. My answer to that must also be frank. The only way this road will be constructed is for the entire North Carolina congressional delegation to stand together and demand that the 1943 agreement be upheld.

For too long this issue has been dominated by special interest groups outside our state. These groups have promoted divisions among us—and you see the result. Our elected leadership can no longer permit these outside forces to dictate the economic future of a splendid section of Western North Carolina.

I will soon offer an alternative to Senator Sanford's legislation designed to bring the United States Government in full compliance with its 1943 commitment. This is not time to back down and compromise what was clearly promised to us.

I stand ready to work with you, Senator Sanford, and the Department of the Interior,

to help Swain County and all of Western North Carolina move toward a prosperous future as we approach the 21st century.

Kindest regards.

Sincerely,

JESSE HELMS.

THE GREAT SMOKY MOUNTAINS WILDERNESS
CONTROVERSY: THE REAL STORY
(By Charlene Hogue Triplett)

Hardy pioneers, mostly Scotch-Irish, English and German, settled the mountains of Western North Carolina (WNC) in the 1800s. By the late 1800s, the area was very prosperous; unemployment was an unknown thing. The area was rich in natural resources, there were lumber companies, copper mines, farms, orchards, and prosperous towns with their own theatres, churches, and businesses. This was a time when a man's word was his bond and a handshake was sufficient for a contractual agreement.

The Great Smoky Mountains National Park (GSMNP) was authorized in 1927. The first land was purchased for the Park in 1928, and the original GSMNP was dedicated in 1934 by President Roosevelt. The mountain people in the region were proud that their beautiful homeland had been chosen to be a National Park "for the enjoyment of all people"; even the school children raised money to help pay for the land, which was largely owned by huge lumber companies. Park land was paid for not only by donations from private citizens, but also towns, the States of North Carolina and Tennessee; and a large grant from J.D. Rockefeller.

The GSMNP lies between North Carolina and Tennessee; the majority in North Carolina. One mountain county of North Carolina, Swain, sacrificed more of its land than any other county to be included in the GSMNP. The total acreage held by the Park today within Swain County is 217,565 acres, or 65 percent of the county. More than 40 percent of the Park is in Swain County.¹

Prior to the early 1940s, there was one area of Swain County which was originally intended for inclusion in the Park, an area lying south of the original Park boundary and north of the Little Tennessee River. Originally, this strip of land was not purchased, partly because of lack of funds but also because the people who lived in that area vigorously refused to sell their land. But this area was later taken in the early 40s in another federal project.

As early as 1920, Alcoa, (Aluminum Corporation of America), a large corporation in neighboring Tennessee, began buying water rights and power plants in WNC. Later, when the Tennessee Valley Authority (TVA) was created, it became partners with Alcoa in many projects. With the onset of World War II, the United States' industrial sector began operating at full production, and TVA was called upon to produce more electric power to expedite the production of war materials. The eastern Tennessee region was a leader in the production of aluminum and war munitions, and more electricity was needed in this area for those existing industries. Alcoa already had plans to construct a dam on the Tennessee River in the region to provide more hydroelectric power. Therefore a deal was made between TVA and Alcoa, in which Alcoa transferred to TVA the land which it had already purchased, as well as other rights and interests in the Fontana Project and other Little Tennessee River projects; and TVA would pay Alcoa with electric power.²

Congress authorized construction of Fontana Dam on December 17, 1941, as part of

TVA's third wartime emergency program. The Fontana project was the biggest ever to be undertaken by TVA. Hydroelectricity from the dam was to be used primarily to produce aluminum for airplanes in the big factories in eastern Tennessee. On completion, the dam was to be 480 feet high, the highest dam East of the Rockies and the fourth highest in the world at the time. Construction on the dam began January 1, 1942, and was completed by round the clock construction in record time. The closure of the dam occurred on November 7, 1944, and it began generating power January 20, 1945, "... in time to be of considerable value in the closing phases of the war."³

The creation of Fontana Reservoir necessitated the acquisition of 11,800 acres of prime land in WNC, for the dam site and reservoir. The reservoir would also flood a State Highway, 288, leaving approximately 44,400 acres on the north shore of the planned reservoir isolated. (This area has been termed the "North Shore".) The land area acquired for the Project, which could have been about 12,000 acres, finally totaled 68,291 acres.⁴

The official TVA document which recorded the project, The Fontana Project, gives us an account by which the land was acquired:

"Prices to be paid for the land were fixed by TVA's appraisal staff. No price-trading was permitted to enter into the negotiations and the property was either purchased at the appraised price or condemned ... TVA's governing price policy is to purchase land and rights required at prices which will enable owners to relocate or re-establish themselves on properties at least equal in value to those they previously owned."⁵

TVA has its account of how the land was taken; the natives of the North Shore area also have their account:

"I might say a few things that I really do not like to say about the U.S. Government, but I believe I lost part of my heritage when it was taken over by the U.S. Government. My grandfather, Andrew J. Posey, owned 300-plus acres of land on Pilkey's Creek. [Which is on the North Shore.] He was not asked if he could sell it. He wasn't asked what he would take for it. He was told that he would get \$2,000 for it. Then when he refused to sign a deed, he was forced to watch a judge sign a deed for him," thus states Joyce Posey Breedlove at a Senate Subcommittee Hearing.⁶

Obviously "TVA's governing price policy" was not used or taken into account in buying land for this project. Taylor Kirkland, a native of the North Shore, also testified at this March 14, 1984 field hearing held in Bryson City, NC, by the Senate Subcommittee on Public Lands and Reserved Waters, stating: "We had 99.9 acres of property. We were given \$1,435. . . . We came up here and relocated about 2 and 1/2 miles north of Bryson City, and we got 12 acres for \$1,300."⁷

Reverend Buford Woodard of the Deep Creek Baptist Church in Bryson City, NC, also testified at the hearing. He remembers how the TVA came and took his family's land:

"My mother was a widow. My father passed away in 1935 . . . and she was left with six children. At the time that the TVA came, of course, to take over the property, she had four children left. . . . She would never sign the deed because she felt that 600 acres was the inheritance of her family that she had worked hard to rear. But it was carried to the court . . . and there in the court of this country the deed was made to the TVA and \$5,000 put in the Bryson City Bank. . . . \$5,000 for 600 acres, 3 houses, 350 fruit-bearing trees."⁸

Countless testimonies at this 1984 Senate hearing clearly show that these people were not given fair market value for their land and homes. Some people's land was taken for county back taxes they owed. Others claim that they were never given a cent for their land. These testimonies question the constitutionality of how the TVA took the people's land.

Most private citizens were usually only given about six dollars an acre for their land. Mining property and developed industrial property brought the average price up to \$37.76 an acre, still the second lowest price in TVA history. (The lowest price paid by TVA was for a reservoir which did not affect any towns or communities, nor did it contain rich copper mines or a prosperous industrial sector, as the Fontana Project did.) TVA tried to justify these low averages by stating that they "... reflect the mountainous character and remoteness of the reservoir settings."⁹

But to the people who had chosen to live there, the land was invaluable. A price could not be placed on land which had been in one's family for generations. The mountain people recognized the land then, for what the "preservationists" (so called environmentalists) are proclaiming it today: as "crown jewels."

It is no wonder these people, who had been taken advantage of, are bitter and mistrustful of the United States Government. Reverend Buford Woodard's story tells of how he was drafted into the armed service a year after his family's land was taken: "... I received greetings from the President of the United States, saying that 'You have been selected to honor your country.' I had a hard time dealing with that, because I had just gone through the trauma and the experience of seeing the Nation that called upon me to bear arms and defend its freedom take my own mother's home and take my inheritance ..."¹⁰

Not only were these mountain people cheated out of their land; they were misled by TVA officials. The Fontana Project reports that, of the land "... secured for the project, 88.4 percent [was acquired] by voluntary sell ... [the rest] by condemnation."¹¹ These figures probably would have been reversed if the people affected had realized how they were being taken advantage of.

The TVA officials told the people almost anything which would appeal and get them to agree to give up their land.

This was a time when feelings of patriotism were high and everyone was trying to help in the war effort. Many of the husbands and sons were overseas fighting the war. TVA officials played on the feelings of these patriotic people, telling them that, if they did not move off the land, thousands more American boys would lose their lives in the war; or that the war would be over much more quickly if they would sell their land and make way for the project.

Everyone was assured, by TVA officials personally, and by official TVA letters, that as soon as the war was over and more resources were available, a road would be built back into the area. Some people were told that they could return to their land if it was not flooded. Millie Vickery once lived in Possum Hollow on the North Shore. "When the TVA came to take the land they told me and my husband that a road would be built which would allow us to come back and move our house, if we wanted to," she stated at the March, 1984 Senate Hearing.¹² But when the people moved out, practically all the homes

and buildings which were left were torched. In preparing land to be flooded for a dam reservoir, the proper method is to clear away everything which would be underwater. However, the land on the North Shore was above the high water mark; it was not necessary to burn existing buildings, especially since the people were promised they could return. Natives and descendants of the North Shore believe this was done to ensure they would never try to come back home to live.

Another major aspect of the TVA deception concerns the ancestral cemeteries in the area. Several cemeteries and graves in the planned reservoir area were moved either above the high water mark on the North Shore or to other areas in WNC, most in Swain County. Over 1,000 graves were left in the 28-plus cemeteries on the North Shore which was to be isolated. The people there were strongly encouraged by the TVA, which was trying to minimize grave relocation costs, not to move these cemeteries, as the new road would provide access back into the area.

As a July 1943 official TVA letter to Mr. L.B. Cook of Marion, NC, reads:

"The construction of Fontana Dam necessitates the flooding of the road leading to the Proctor Cemetery located in Swain County, NC, and to reach this cemetery in the future will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery, which is proposed to be completed after the war has ended."¹³

In 1943 a four-party agreement was signed among Swain County, the State of North Carolina, the TVA, and the Department of the Interior, in which TVA transferred the land on the north shore of Fontana Lake to the Department of the Interior to be added to the GSMNP. In turn, the Park Service agreed to build a road "... when constructed shall as a minimum standard be finished throughout its length with a dustless surface not less than twenty (20) feet in width ..." from Bryson City to Fontana Dam to link up with Deal's Gap, Tennessee.¹⁴ Swain County assumed the bond debt of State Highway 288, and the interest of this debt, a total sum of \$694,000. The State of North Carolina would contribute \$100,000 to assist in TVA's acquisition of the North Shore. TVA would contribute \$400,000 to the State of North Carolina to be held in trust for Swain County to help pay off the bond debt for Highway 288. North Carolina would construct a road from Bryson City to the Park Boundary line to connect with the new Park highway.¹⁵

The Bryson City Times, a local paper, reports of the contract, termed the 1943 Agreement, on August 5, 1943:

"* * * it would appear that Swain County came out on the losing end of the deal. But happily, this isn't the case. ... The National Park Service says that as soon as money is made available after the war it will build a modern highway along the shores of Fontana Lake connecting Bryson City with the TVA access highway at Fontana Dam. ... Anyone with the smallest amount of imagination can visualize what a road of this kind will mean to Bryson City ... there is nothing that can keep Bryson City from becoming the tourist center of Eastern America."¹⁶

The 1943 Agreement reflects the schemes of high United States Government officials to take the North Shore and make it a part of the GSMNP. According to The Fontana Project: "In the Fontana Reservoir vicinity ... there was a strip of mountainous land

[the North Shore] ... which had not been acquired by the Department of the Interior because of lack of funds."¹⁷ The reason that Swain County agreed to accept the bond debt "... was influenced by the fact that the National Park Service desired to acquire this land lying between existing park boundary and the river and to build a park highway paralleling the river from Fontana Dam to near Bryson City as soon as the necessary funds were available."¹⁸

The land on the North Shore was taken under false pretense by TVA officials who told the people the land was needed for the dam project when actually it was being taken for inclusion in the Park. Due to the speed of removal of the people and the lack of communication in the early 1940s, the vast majority of people did not know that their vacated land was going to be transferred to the Park Service. Many actually thought they were going to be allowed to return and live on the land.

To add insult to injury, the Department of the Interior has failed to live up to its end of the agreement; the promised Park Highway which was supposed to compensate so much, has not been constructed to this date. The Department of the Interior has tried to get out of building the road because the terminology in the 1943 Agreement reads, "If and when funds are made available by the Congress ..." the road will be built.¹⁹

However, the Department's own actions have clearly proven that they have a legal responsibility to construct the road. The State of North Carolina fulfilled its part of the contract; the road from Bryson City to the Park boundary was completed in 1959. The National Park Service then started construction on this "New Fontana Highway," completed almost nine miles of road into the Park, at which point construction was stopped due to outcry from "environmental" or preservationist groups.²⁰ Swain County also fulfilled its end of the bargain; the flooded Highway 288 was finally paid off in 1974. Not only did Swain County pay a huge amount of money for this flooded road, it also sacrificed financially when the excessive amount of land was taken from its tax rolls.

In return for these sacrifices, Swain County has received nothing but so-far broken promises.

The people who were living on what is now the North Shore of Fontana Lake would never have peacefully agreed to leave their homes and cemeteries had they envisioned a future of broken promises and no access back. Over the years few trips were made back across the lake to the North Shore; these trips were made by individuals in private boats. After several trips over a period of years, it became obvious that the National Park Service was neglecting the upkeep of the cemeteries. After people began protesting, this care was started. Finally, in 1977, the North Shore Cemetery Association was organized by former residents. They organized homecomings and scheduled annual visits to the cemeteries by pooling resources and renting boats. A couple of years later, the Park Service started helping with access and later, providing yearly access. Today this access consists of a boat ride across Fontana Lake, then a bumpy ride on the back of a truck, on hay bales, in jeeps, or in Suburbans. The transportation is insufficient and slow. This bittersweet journey is an arduous ordeal for the elderly and many are physically unable to continue to make the trip. But the religious tradition of cemetery visitation as well as the bitterness toward the Federal Government is passed on to

children and grandchildren who still insist that the Park Service build the promised road.

Road construction was stopped by cries of "environmental damage" by "environmental groups" which had gained public recognition and political power in the 60s. Costly studies were then conducted by the Park Service, heavily influenced by preservationist sentiments, which found that further road construction "... would result in extreme cuts and fills and unstable conditions would cause environmental damage..."²¹ Another argument used by the preservationists is that further damage would be done by Anakeesta rock which would be uncovered by road construction. This is a type of rock in which the surface emits acid when exposed to air and water. Senator Al Gore, debating on the Senate Floor, stated of Anakeesta rock: "... when uncovered by road builders this acidic material washes into nearby streams and kills them."²² Other environmentalists, using this argument, have said that all the fish in Fontana Lake would be killed when the acid "leaches" down into the lake. Users of such arguments either have not done their research or are deliberately misleading the public.

Anakeesta rock is commonly found by WNC road builders and methods have been developed to deal with it. A federal geological survey states that the banks of Fontana Lake are lined with this acidic rock. Also, a recent federal study has found that acid rain is more acidic than Anakeesta rock. If the Anakeesta rock argument was true, the fish in Fontana would have all died long ago; instead, the fish population is thriving.

Tales of environmental damage road construction would cause are greatly exaggerated and often false. Joseph E. Beck, a professor of Environmental Health Sciences at Western Carolina University has written: "Arguments that this . . . road could not be constructed without serious environmental damage makes a mockery of our technological abilities."²³

In the late 1960s, the road construction issue became complicated by talk of Federal Wilderness by environmental groups. These preservationists worked to pass the Wilderness Act of 1964, which placed repressive restrictions on National Forests and Parks. The highest level of preservation given land by law is Wilderness designation.

Ron Arnold is the Executive Director of the Center for the Defense of Free Enterprise, in Bellevue, Washington; he is also a writer and a Wilderness expert. In his book, *Ecology Wars: Environmentalism as if People Mattered*, Arnold discusses Wilderness:

"Wilderness, at first blush, has a wholesome ring in modern America . . . A 1978 survey by Opinion Research, Inc., found that more than 75 percent of all Americans still didn't realize the difference between just any woody recreation spot and officially designated wilderness. The difference is monumental. The Wilderness Act of 1964, which created the National Wilderness Preservation System, mandated that wilderness is an area of at least 5,000 federally-owned acres and defined it thus:

'A Wilderness, in contrast to those areas where man and his works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.' In practical terms, that means no roads, no buildings, no watershed management, severely restricted fire, insect, disease, and wildlife management, and in most places, not even toilets.

It's the law. But the average American never even heard of it."²⁴

When land is designated as a wilderness area, it is made inaccessible to a large majority of American Citizens. Because of the "no roads" language in the Wilderness Act, the only people who can enjoy the land are those who have access to it, and who have the time, money, and physical capability to explore a "wilderness." The Wilderness Act is clearly discriminatory in this way.

According to expert Grant Gerber, founder of the Wilderness Impact Research Foundation in Elko, Nevada, when land is designated Wilderness, restrictions are placed on any kind of activity within. This activity can include such things as hunting, livestock grazing, and access to water. In many cases landowners adjacent to the Wilderness Area are affected with the establishment of "buffer zones", or restricted zones outside the Wilderness boundary.²⁵

The Wilderness Act of 1964 contained a directive for all federal land agencies to study all units under their jurisdiction and recommend which units were suitable for Wilderness designation. Units so recommended were/are then managed as Wilderness until Congress passed legislation officially designating those units Federal Wilderness or releasing them from Wilderness management.

In 1975 the GSMNP was recommended for inclusion in the Wilderness Preservation System, therefore, any road construction would have been in direct conflict with the Wilderness management plan of the Park.²⁶

In 1980, after several proposals on how to resolve the North Shore road issue, the Secretary of the Interior supported a cash settlement being paid to Swain County in lieu of completing the road. Under this plan, the Park Service, would provide cemetery access to the North Shore Cemetery Association.²⁷ This proposal was exactly what the environmental groups wanted; once the road issue was settled, the Department of the Interior would be relieved of their legal obligation which would expedite the passage of a Great Smoky Mountain Bill. But the North Shore Association and Swain County people, who had been fighting for the road for years, were not satisfied with this proposal.

The North Shore of Fontana Lake contains a few old cabins, which were missed by the TVA, several building foundations, other historical structures, many old relics, old roads and trails, not to mention some 28-pub cemeteries. The area does not even meet the criteria for Wilderness designation; according to the Wilderness Act, a Wilderness is an area "untrammelled by man." The people from the area are very concerned that the Park Service will slowly remove all "signs of man" from the area, wiping out the remains of their heritage. Reportedly, the Park Service has been seen destroying non-native plants such as rose bushes; and rainbow trout, which is also not native to the Smokies. In effect, the Park Service may be trying to "recreate" an area suitable for Federal Wilderness designation, where none exists.

Concerned people have asked that at minimum the North Shore be exempt from Wilderness designation. However, top preservationist groups such as the Sierra Club have said, in effect, that all the Park be designated Wilderness, or the county will not receive the monetary settlement for the road. In effect, this amounts to blackmail, considering the power such groups have in Congress. Swain County is legally and morally owed a road and was promised other tourism-related developments by the Park

Service prior to the signing of the 1943 agreement. Environmental groups, which were not party to this agreement, should have no place in negotiating proposals.

Various Wilderness bills have been sponsored since 1975, usually by Tennessee Senators, but none have passed. Senator Jesse Helms has led the fight against these bills. Helms promised that as long as he was in the United States Senate, he would do his best to see that the Government kept its word to Swain County people.

The most recent battle over Wilderness for the Smokies started in 1987 with the introduction of more Wilderness Bills. At this point a group of concerned property owners adjacent to the GSMNP organized to form "Non-Partisan Citizens Against Wilderness in Western North Carolina". Their primary goal was to block a Wilderness Bill which would affect the entire Park, including the North Shore.

On a current membership form, the Citizens group clearly lists their guiding philosophies:

"We are for multiple use of Public Land. We are for private ownership of land. We are for the fulfillment of the 1943 Agreement. We actively oppose any Wilderness legislation. We seek to elect officials who represent us, regardless of party affiliation. We work to educate the public concerning these issues."²⁸

In 1987 and 1988, this group sent a total of over 11,000 petitions and letters to Washington, DC. In July of 1988, when a Great Smoky Mountains Wilderness Bill was being debated on the Senate floor, the group distributed hundreds of "Action Alerts" which asked people to telephone targeted Senators and listed their phone numbers. The group has also secured several resolutions against Wilderness designations and for the fulfillment of the 1943 agreement. Resolutions were secured from: the Swain County Board of Commissioners, the Graham County Commissioners, the Bryson City Board of Aldermen, The Swain County Chamber of Commerce, The Swain County Board of Education, the Swain County Coonhunters Club, The Republican Party of Swain County, the Democrat Men's Club (of Swain County), and several Democratic Precincts in Swain County. Swain, a county in which the Democrat to Republican ratio is 3 to 1, strongly supports the efforts of Senator Jesse Helms, a conservative Republican leader.

Additionally, the local Veterans of Foreign Wars Post voted to support the National VFW Resolution against any further Wilderness designation nationally. The Eastern and Western Cherokee Indian Nations also passed resolutions against Wilderness. Also, approximately 95 percent of the businesses in Bryson City signed a petition calling for the completion of the road as called for in the 1943 Agreement. All these efforts would have been in vain had it not been for Senator Jesse Helms, who courageously stood up for the people of WNC and blocked passage of the Wilderness Bill in the summer of 1988. In the following January, (1989), a Jesse Helms Appreciation Day was named, and Citizens Against Wilderness sponsored a dinner at which the Senator was the honored guest speaker.

The North Shore Road was intended to be much more than a cemetery access road. It was intended to secure Swain County's future. The proposed cash settlement for the road, (which totaled 15 million in 1988), is nothing compared to what Swain County could have been making through tourism, had the road been completed, along with

promised National Park Service developments constructed on the North Carolina side of the Park.

According to The Fontana Project, the North Shore road was planned to diffuse heavy tourist traffic in the Park to Swain County and provide a better Eastern entrance to the Park. When the 1943 agreement was in the negotiating stages, much talk was about developing tourism opportunities in Swain County and along Fontana lake. This tourism industry was supposed to compensate Swain for all the land which had been removed from its tax rolls.

It is easy to understand why Tennessee members of Congress always sponsor Great Smoky Mountain Wilderness Bills. They want to make it impossible for the North Shore Road to be built; this would divert tourists from Tennessee. Tennessee does not want to share their rich tourist industry with North Carolina. In 1983 \$150 million was reaped from tourists in Gatlinburg, Tennessee while Swain County generally averages less than one-fifth that amount.²⁹

As a direct result of the Government failing to fulfill its agreements, and because of excessive Federal ownership of land, Swain is one of the poorest counties in North Carolina, and consistently has the highest unemployment rate in (non-tourist) winter months. Excessive concern by preservationist groups for a near-pristine environment on private land has caused developers and industry to go elsewhere with their jobs and opportunities.

Swain County is currently 86 percent Federal land, containing parts of land from the GSMNP, TVA, the Cherokee Indian Reservation, Nantahala National Forest, and the Blue Ridge Parkway.

Despite this fact, Swain is still targeted for even more federal "protection" by preservationist groups, which, according to several members of Congress, "undoubtedly are the most powerful lobby in Washington, DC."³⁰

Because of these factors, Citizens Against Wilderness plan to become a permanent "watchdog" for private property in Western North Carolina. The group has gained support nationwide, and has become politically effective. At the 1988 National Wilderness Conference in Reno, Nevada, Linda G. Hogue, co-founder and chairman of the Citizens group, was a guest speaker, and was honored with the "Most Effective Grassroots Organization Leader of the Year Award."

Hogue has vowed to continue pushing for the Federal Government to fulfill its agreement to the people of Swain County. "They should either build the road or give the land back," she has stated.³¹

* * * * *

The story of the people displaced by the Fontana Project is among the saddest in American history. What is even more tragic is that perhaps one day this story might be forgotten; these people's "Trail of Tears" is not recorded in history books. These patriotic people made huge sacrifices during a time when their country was at war and should not be overlooked. Many North Shore descendants and Swain County people would like to see this history included among the educational features at Fontana Dam. They also feel that the Park Service should build a museum dedicated to the lost communities and their way of life. The Park Service should construct this museum in Swain County along the completed North Shore Road. These WNC people deserve special recognition as well as the fulfillment of so far broken promises; not to have the old relics

and cultural heritage permanently destroyed by the Park Service. The people do not deserve the atrocious treatment aimed at them by environmental groups, some who go as far as to call the North Shore people selfish for even wanting a primitive jeep road back to their homelands and cemeteries.

In addition, comprehensive plans to construct once-planned tourism related developments on the North Carolina side of the Park should be completed. Currently, the Tennessee side of the Park has more than twice the development as does North Carolina, even though most of the Park is in North Carolina.

Perhaps if these things were done, some of the harsh feelings Swain County and North Shore people have for the Federal Government might be changed, and a continuing controversy put to rest.

FOOTNOTES

¹ Gibson, Jennifer; Donald Guge, and Chad Killebrew. Testimonies before the Senate Subcommittee on Public Lands and Reserved Waters, concerning Senate Bills S. 1947 and S. 2183. Bryson City, NC. March 16, 1984. (Hereafter the March 16, 1984 Senate Subcommittee Hearing.)

² United States. Tennessee Valley Authority. The Fontana Project: A Comprehensive Report on the Planning, Design, Construction, and Initial Operation of the Fontana Project: Technical Report No. 12. Washington: GPO, 1950. pp. 1-13. (Hereafter The Fontana Project.)

³ The Fontana Project. pp. 1-13.

⁴ The Fontana Project. p. 478.

⁵ The Fontana Project. p. 478.

⁶ Breedlove, Joyce Posey. Testimony at the March 16, 1984 Senate Subcommittee Hearing.

⁷ Kirkland, Taylor. Testimony at the March 16, 1984 Senate Subcommittee Hearing.

⁸ Woodard, Rev. Buford. Testimony at the March 16, 1984 Senate Subcommittee Hearing.

⁹ The Fontana Project. p. 479.

¹⁰ Woodard, Rev. Buford. Testimony at the March 16, 1984 Senate Subcommittee Hearing.

¹¹ The Fontana Project. p. 478.

¹² Vickery, Millie. Testimony at the March 16, 1984 Senate Subcommittee Hearing.

¹³ Turner, H. H., Supervisor, Grave Removal Section, Tennessee Valley Authority. Letter to Mr. L. B. Cook of Marion, NC. 31 July 1943.

¹⁴ United States Department of Interior, Tennessee Valley Authority, State of North Carolina, and Swain County. Contractual agreement. October 8, 1943. (Hereafter the 1943 Agreement.)

¹⁵ The 1943 Agreement.

¹⁶ The Bryson City Times, Bryson City, NC. August 5, 1943.

¹⁷ The Fontana Project. p. 475.

¹⁸ The Fontana Project. p. 43.

¹⁹ The 1943 Agreement.

²⁰ Hodel, Donald Paul, Secretary of Interior. Letter and Briefing Statement to Senator Jesse Helms. 3 June 1986.

²¹ Hodel, Donald Paul. Briefing Statement to Senator Jesse Helms. 3 June 1986.

²² Gore, Sen. Albert. Congressional Record: Proceedings and Debates of the 100th Congress, Second Session: Vol. 134, No. 92. Washington: GPO, June 21, 1986.

²³ Beck, Joseph E., Professor of Environmental Health Sciences, Western Carolina University. Letter to Senator Jesse Helms. 13 June 1988.

²⁴ Arnold, Ron. Ecology Wars: Environmentalism as if People Mattered. Bellevue, Washington: Free Enterprise Press, 1987.

²⁵ Gerber, Grant, Executive Director, Wilderness Impact Research Foundation. Personal interviews, 1986-1989.

²⁶ Stewart, Jim, National Park Service. Telephone interview. Summer, 1989.

²⁷ Hodel, Donald Paul. Letter and Briefing Statement to Senator Jesse Helms. 3 June 1986.

²⁸ Non-Partisan Citizens Against Wilderness in Western North Carolina. Membership form. 1989.

²⁹ Carpenter, William L., Executive Director, Chamber of Commerce, Gatlinburg, Tennessee. Testimony at the March 16, 1984 Senate Subcommittee Hearing.

³⁰ Craig, Larry, Alan Simpson, Richard Stallings, Bob Stump, and Don Young, members of the United States Congress. Personal interviews. Summer, 1989.

³¹ Hogue, Linda G., Chairman, Non-Partisan Citizens Against Wilderness in Western North Carolina.

Public statements and personal interviews. 1986-1989.

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Other source: Personal knowledge.

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Robbinsville, NC., Mr. David Monteith of Bryson City, NC., Mrs. Willa Mae Hall Smathers of Waynesville, NC., and Mr. & Mrs. Frank and Maisie Young of Bryson City, NC.

All the many North Shore natives and descendants who have provided me with their countless stories over the years.

APPENDIX A

THE 1943 AGREEMENT

(Memorandum of agreement of October 8, 1943 between the Department of the Interior and the Tennessee Valley Authority relating to the acquisition and transfer of certain lands in Fontana Dam area for use as part of Great Smoky Mountains National Park)

This agreement, made and entered into as of the 30th day of July 1943, by and between Tennessee Valley Authority (hereinafter called the "Authority"), a corporation created by an Act of Congress known as the Tennessee Valley Authority Act of 1933; the State of North Carolina (hereinafter called the "State"), acting by and through its Governor, its Council of State, and its State Highway and Public Works Commission; Swain County (hereinafter called the "County"), a political subdivision of the State of North Carolina, acting by and through the Board of Commissioners for the County of Swain; and United States Department of the Interior (hereinafter called the "Department"), acting herein for the use and benefit of the National Park Service of said Department.

Witnesseth:

Whereas, the Authority pursuant to the powers vested in it by the Tennessee Valley Authority Act of 1933, is engaged in the construction of a hydroelectric development, known as the Fontana Project, consisting of a dam and reservoir on the Little Tennessee River in North Carolina, said dam being located approximately ten (10) miles upstream from the Tennessee-North Carolina State line; and

Whereas, the Forney Creek Road District has heretofore issued bonds for and constructed on road or highway extending from Deals Gap on the west to Bryson City on the east, said road following a course north of the Little Tennessee and Tuckasegee rivers and south of the present southern boundary of the Great Smoky Mountains National Park (hereinafter referred to as the "Park"); and

Whereas, the County has heretofore assumed full liability for all principal of and interest on the bonds issued for the construction of said road as aforesaid, and in 1940 issued its own refunding bonds (and interest funding bonds) in the place of all such bonds then outstanding and unpaid; and

Whereas, the State has heretofore assumed jurisdiction and control of said Deals Gap-Bryson City road, which is now known as North Carolina State Highway No. 288, and of all other public road connecting therewith; and

Whereas, the reservoir to be constructed and operated by the Authority as a part of said Fontana Project will submerge, flood, or otherwise adversely affect a substantial portion of said Highway 288 east of the site of the Fontana Dam, together with other public roads connecting with said Highway 288; and

Whereas, the War Production Board has indicated that it would not approve or permit the reconstruction or relocation of said Highway 288 so long as the present war emergency and the shortage of labor, materials, and equipment resulting therefrom continue to exist; and

Whereas, said Highway 288 as now constructed does not furnish or afford a high standard of service, and it is recognized by the parties hereto that the reconstruction or relocation of said road on an equivalent basis after the war emergency or at any other future time would not constitute a wise or efficient expenditure of public funds; and

Whereas, there are now held in private ownership certain lands (hereinafter described in section 1 of this agreement) aggregating approximately forty-four thousand four hundred (44,400) acres in area, located within the limits of the County south of the present southern boundary of the Park and north of the Little Tennessee and Tuckasegee rivers, all of which acreage (along with certain other acreage now in private ownership) was originally proposed for inclusion with the boundaries of the Park; and

Whereas, the acquisition of said land described in section 1 hereof by the United States of America and in the inclusion thereof within the boundaries of the Park would serve to extend said boundaries substantially as originally contemplated, and would also establish a basis for the construction by the Department of a park standard road over and across said land; and

Whereas, the Department regards a park standard road connection between Deals Gap and Bryson City as an important link in a planned "around the Park" road, has included the same as a part of a Master Plan for the development of the park (extended as aforesaid), and subject to inclusion of the aforesaid additional acreage within the Park area, is agreeable to initiating construction of the Park portion of such a road as soon after the present war as funds are made available therefor by Congress; and

Whereas, the parties hereto desire to provide for and agree upon the extension of the Park boundaries as aforesaid, the closing and ultimate replacement of Highway 288, and the immediate and final settlement and disposition of all claims which the State and the County may at any time have against the Authority or the United States of America by reason of the flooding, taking, or closing of said Highway 288 and the other roads hereinafter described or referred to, all in the manner and upon the terms and conditions hereinafter specified, and all to the end and purpose of avoiding unwise and inefficient expenditures of public funds and of capturing certain benefits for the region affected and the public generally;

Now, therefore, in consideration of the premises and of the mutual covenants and promises hereinafter contained, it is hereby mutually agreed by and between the parties hereto as follows:

1. Promptly upon the execution of this agreement, the Authority shall, to the extent it has not already done so, in the name of the United States of America, commence and thereafter prosecute in a systematic, orderly, and diligent manner the acquisition by purchase, the exercise of eminent domain, or otherwise, of the land identified on the map attached to and hereby made a part of this agreement as Exhibit A¹ as "Land Proposed for Transfer to U. S. Department of the Interior," the land to be so acquired being more particularly described as follows:

All that land, except that part hereinafter excluded, lying in Swain County, North Carolina, on the north side of the Little Tennessee and Tuckasegee rivers, and south of the Great Smoky Mountains National Park,

extending from Twenty Mile Ridge on the West to the divide between Lands Creek and Peachtree Creek on the East, the east boundary of the area being approximately 2 miles west of Bryson City, North Carolina, the said area being bounded as follows:

1. On the west and north by the present boundary line of the Great Smoky Mountains National Park;

On the east by the divide between Lands Creek and Peachtree Creek (the nearest property line being the true boundary) but including the two tracts along the Tuckasegee River formerly owned by A. E. Lowe and A. L. and W. C. Nichols and acquired by the Authority from Nantahala Power and Light Company under tract designations FR-262 and FR-264;

3. On the south by proposed Fontana Lake (1710 contour) from the east boundary to a point on the edge of the lake approximately 3600 feet as measured along the shore (1710 contour) in a northerly direction from the axis of Fontana Dam; thence first with the north boundaries thence the west boundary of two tracts of land acquired by the Authority from Nantahala Power and Light Company and Carolina Aluminum Company, respectively, under tract designations FR-438 and FR-16 to a point 150 feet north of the center line of the principal access road to Fontana Dam and approximately 100 feet west of Lewellyn Branch; thence along a line parallel to and 150 feet north of said center line in a general westerly direction to an intersection with the boundary line of the Great Smoky Mountains National Park on the south end of Twenty Mile Ridge and east of Twenty Mile Creek.

Excepting and excluding from the area above defined (1) all those lands owned by the North Carolina Exploration Company, consisting of some three or four tracts of land situated in the Eagle Creek and Myers Branch watersheds and containing approximately 1,920 acres, more or less, and (2) all land upstream from Fontana Dam having the elevation of its present ground surface below the plane of the 1710-foot (m.s.l.) contour.

The above described land contains a net total of approximately 44,400 acres, more or less.

Provided, however, that the Authority may at its election postpone the acquisition of the taking of any steps in connection with the acquisition of all or any part of or interest in the following property:

The tract of land owned by the North Carolina Mining Corporation situated on the north side of the Sugar Fork tributary of Hazel Creek approximately 2 miles north of Proctor and being the tract of land conveyed by Walter S. Adams and Wife, Melinda, to the North Carolina Mining Corporation by deed dated March 29, 1901, and recorded in the Office of the Register of Deeds of Swain County, North Carolina, in Deed Book 29, page 238, the said tract containing 196 acres, more or less.

until a date six months after the cessation of the hostilities in which the United States is now engaged, it being recognized by the parties hereto that the mining of said tract of land and the removal of such minerals as may be contained therein may be of importance to the prosecution of the war.

It is recognized and agreed that any or all of the lands acquired by the Authority under this section may be subject to outstanding rights of way, easements, and/or mineral rights; that any of said lands acquired from the Aluminum Company of America or any of its subsidiaries may be subject to rights of way one hundred fifty (150) feet in width for

¹ On file in the Washington office.

any transmission line or lines of any of said companies which may be constructed to interconnect any of the plants of said companies with the power system of the Authority, the location of such rights of way to be as agreed upon from time to time by said companies or any of them and the Authority; and that any of said lands acquired from Carolina Aluminum Company may be subject to any or all of the following perpetual rights, easements, and privileges in favor of Carolina Aluminum Company, its successors and assigns, as the owner or owners of the dam site of the Cheoah Development and as appurtenant thereto:

a. The right at all times without limitation or restriction to flood by the waters of the reservoir impounded by the Cheoah Dam or any other dam erected on or near the site thereof, the said properties to an elevation of 1276.63 feet above mean sea level and to flood said properties to such additional elevations as may result from wave action, floods, and other high water conditions.

b. The right is the discretion of Carolina Aluminum Company, its successors or assigns, to remove from the shore of Cheoah Reservoir and the land under said reservoir and to destroy or otherwise dispose of silt, drift, timber, vegetation, and other matter, and to use said shore and land for such purposes and any other purpose reasonably connected with the maintenance and operation of the Cheoah Development together with the right of ingress, egress, and regress for such purposes * * * tools, vehicles, and equipment egress said properties.

It is further understood and agreed that in the purchase or other acquisition of the aforesaid land as herein provided, the Authority shall be privileged to follow and abide by its standard policies and procedures, as the same may be varied or amended from time to time pertaining to the acquisition of lands or interests therein. The Authority shall not be responsible and shall incur no liability under this section for any delay or delays in the acquisition of title to any of said land caused or attributable to title searches or other studies, condemnation proceedings or other litigation, or caused by or attributable to any act or circumstance which is incident to or reasonably related to such acquisition or which is beyond the Authority's control, it being the intention of the parties that Authority shall incur no liability for any delays in the acquisition of any land under this section resulting from any cause whatsoever other than the willful failure or refusal of the Authority to take any step necessary to effect such acquisition.

2. Immediately following its acquisition in accordance with Section 1 hereof of all of the land described in said section, the Authority shall assign and transfer to the Department, for the use and benefit of the National Park Service and for inclusion as a part of the Park, the right of possession and all other right, title, and interest which the Authority may have in and to said land, and shall also grant to the Department, its agents, servants and invitees the right of access to any use of all lands of the United States in the Authority's custody lying upstream from Fontana Dam between the land to be transferred to the Department hereunder and low watermark on Fontana Lake, together with the right of access to and the use of the waters of said lake, for the purpose of constructing and maintaining thereon boating and recreational facilities, piers, docks, and related xxx and of performing all other acts which may be reasonable necessary to the administration and use, as a part of the

Park, of the lands to be transferred to the Department under this section 2; provided, however, that said assignment, transfer, and grant shall be effected by an agreement of transfer between the Authority and the Department substantially in the form attached to and made a part hereof as Exhibit B² and shall be subject to all of the terms, conditions, provisions, exceptions, exclusions, and reservations contained in said Exhibit B, and shall also be subject to all those rights, easements, and interests (whether or not now listed or specified in said Exhibit B) which have been or may be reserved or left outstanding at the time of Authority's acquisition of the lands described in Section 1, as permitted or contemplated by said Section 1; provided further that, prior to the execution of said transfer agreement, a metes and bounds description of the lands to be transferred to the Department thereunder shall be incorporated therein in substitution for the description of said lands not contained in Exhibit B; and provided further that if the Authority shall at any time have acquired all of the land described in Section 1, with the exception of all or any part of or interest in the North Carolina Mining Corporation tract separately described in said Section 1, the Authority and the Department shall then enter into an agreement of transfer, as aforesaid, with respect to so much of the land described in Section 1 as the Authority shall then have acquired, and in such case said North Carolina Mining Corporation Tract, or the part thereof or interest therein not initially transferred by the Authority to the Department, shall be the subject of a separate and subsequent agreement of transfer between the Authority and the Department, such subsequent agreement of transfer to be consistent with the provisions of this agreement and substantially in the form attached hereto as Exhibit B, and to be executed immediately following the Authority's acquisition of the part of or interest in said tract not covered by the initial agreement of transfer.

The parties recognize and agree that, as an incident to the construction, maintenance, and operation of the Fontana Project, the Authority will acquire certain lands and rights and interests in land in addition to those specified to be acquired under Section 1 hereof and to be transferred under this Section 2. The acquisition of such additional lands and rights and interests in land shall not give rise to any obligation on the part of the Authority to transfer the same, or any part thereof or interest therein, to the Department, and the Authority's sold obligation under Sections 1 and 2 of this agreement shall be to effect the acquisition of the lands specified in Section 1 and to transfer the possession and control of said lands to the Department along with the additional rights of access and use specified in the preceding paragraph, all as herein specifically provided.

3. The Department agrees to enter into an agreement or agreements of transfer with the Authority as provided by Section 2 hereof, and pursuant to and subject to the provisions of such agreement or agreements, to accept an assignment and transfer of the lands described in Section 1 hereof, together with the additional rights of access and use specified in Section 2. The Department further agrees that, forthwith upon the execution and delivery of such an agreement of transfer, it will extend the present boundaries of the park to embrace and include the land transferred thereby.

²On file in the Washington Office.

4. The Department represents and states that it has evolved a Master Plan for the development of the Park as extended by the addition of the lands described in Section 1 hereof, and that said Master Plan includes an "around the park" road, of which the Park section of a project road between Deals Gap and Bryson City constitutes an important link. Subject to the transfer by the Authority to the Department of the land described in Section 1 as herein provided, the Department agrees that, as soon as funds are made available for that purpose by Congress after the cessation of the hostilities in which the United States is now engaged, the Department will construct or cause to be constructed the following described sections of road, all of said sections being hereinafter collectively referred to as the "Park Road":

a. A section of road beginning at a point on the Fontana Dam access Road near the crossing of Fax Branch, and extending to a point on the western boundary of the land identified on Exhibit A as the property of North Carolina Exploration Company.

b. A section of road beginning at the eastern boundary of said North Carolina Exploration Company land and extending to the eastern boundary of the Park as extended hereunder.

c. A section of road across said North Carolina Exploration Company land connecting the ends of the sections of road described in paragraphs a. and b. above.

d. A section of road beginning at a point in the road described in paragraph a. above, and extending in a generally southerly direction to the west abutment of Fontana Dam.

Provided, however, that in lieu of the sections of road described in paragraphs a., b., and c. above, the Department may at its election construct or cause to be constructed, as a part of the Park Road, a continuous section or road beginning at a point on the Fontana Dam Access Road near the crossing of Fax Branch and extending around the aforesaid property of the North Carolina Exploration Company (through existing Park lands) to the eastern boundary of the Park as extended hereunder. In the event of such election on the part of the Department, the Department shall nevertheless construct or cause to be constructed, as a part of the Park Road, the section of road described in paragraph d. above, which section shall in such case commence on said alternative section of Park Road at a point west of the lands identified on Exhibit A as the property of North Carolina Exploration Company. Upon commencement of construction of the Park Road, the Authority shall transfer and assign to the Department its right of possession, and all its other right, title, and interest in and to the land required for the right of way of that portion of the road described in paragraph d. above which lies within the boundaries of Fontana Dam Reservation. The Department shall secure and provide for itself all such easements and rights of way as may be necessary for the construction and maintenance of any portion of the Park Road which may be located upon or across any of said North Carolina Exploration Company property.

If and when funds are made available by the Congress for said Park Road as aforesaid, the location and type of said road, the method and manner of construction the same, and all standards and specifications therefor shall be determined by the Department in its sole discretion; provided, however, the said Park Road when constructed shall as a minimum standard be finished throughout its length with a dustless surface not less than

twenty (20) feet in width; and provided, further that said Park Road shall connect at the eastern boundary of the Park, as extended hereunder, at a point to be selected by the Department, with the road which is to be constructed by the State in accordance with and subject to the provisions of Section 6 hereof.

The obligation of the Department, to construct or provide for the construction of a Park Road as defined in this Section 4 shall be XXX and contingent in all respects under the appropriation by Congress of all funds necessary for such construction, and failure on the part of Congress for any reason to make such appropriations shall not constitute a breach or violation of this agreement by the Department or any other party hereto.

5. Following completion of the Park Road to be constructed by the Department subject to the provisions of Section 4, the Department may in its discretion bar said road to commercial use, and restrict the same solely to pleasure and tourist traffic.

6. At such time as the Department shall commence the construction of the Park Road pursuant to Section 4 hereof, the State shall forthwith proceed to acquire good and sufficient easements and rights of way for and shall construct, a road commencing at a point on U.S. Highway 19 in Bryson City, North Carolina, and extending to a point on the eastern boundary of the Park (as extending hereunder) to be selected and designated by the Department, the point so designated by the Department to be such as to provide for the connection of the State road provided for in this section with the Park Road described in Section 4. The easements and rights of way to be acquired by the State for said Bryson City-Park Boundary Road shall be not less than two hundred (200) feet in width outside the corporate limits of Bryson City. In all other respects, except for the termini thereof as above provided, the location and type of said road, the method and manner of constructing the same, and all standards and specifications therefore shall be determined by the State in its sole discretion; provided, however, that said road when constructed by the State shall as a minimum standard be finished throughout its length with a dustless surface not less than twenty (20) feet in width.

7. Following completion of the construction of the Fontana Project by the Authority, the Authority, on its own behalf and as agent of the United States of America, shall quitclaim to the State all of the right, title, and interest which it or the United States of America may have in and to the so-called Fontana Access Road heretofore constructed by the Authority from U.S. Highway 129 near Deals Gap to the left (east) abutment of the Fontana Dam, including all bridges, culvert, and other facilities constituting a part of the transfer of said access road to the State as aforesaid, the Authority shall also:

a. Transfer and quitclaim or cause to be transferred and quitclaimed to the State all easements and rights of way acquired by the Authority as agent of the United States appurtenant to those portions or sections of said access road which may be located outside the limits of land of the United States in the custody of the Authority, together with such land as the Authority, as agent of the United States, may hold or acquire in fee west of a point on the north right of way line of said access road approximately one hundred (100) feet west of Lewellyn Branch, and between said north right of way line and the Cheoah Reservoir of Carolina Aluminum

Company. For the purposes hereof, the north right of way line of said access road west of said point approximately one hundred (100) feet west of Lewellyn Branch shall be deemed to a line parallel to and one hundred fifty (150) feet north of the center line of said access road.

b. Grant and quitclaim or cause to be granted and quitclaimed to the State suitable easements and rights of way for the maintenance of all of the portions of said access road which are located on land of the United States in the custody of the Authority, where such land is not included in the land to be transferred and quitclaimed to the States under paragraph a. immediately preceding.

c. Transfer and assign or cause to be transferred and assigned to the State an agreement between the Authority and Carolina Aluminum Company dated May 5, 1943, relating to an easement for the construction and maintenance of the bridge located on said Fontana Access Road across the Little Tennessee River, together with all rights, privileges, and interests of the Authority and the United States in, to, and under said agreement.

The State agrees that it will, by formal agreement with the Authority and Carolina Aluminum Company, accept an assignment of the aforesaid agreement of May 5, 1943, and assume all of the duties and obligations of the Authority and the United States of America thereunder, so as to effect the substitution of the State for the Authority and the United States of America for all of the purposes of said agreement as contemplated by Section 3 thereof. The State further agrees that, forthwith upon the transfer of said access road as aforesaid, it will open and thereafter maintain said access road for public travel, take over at the expense of the State the maintenance, repair, and upkeep thereof, and thereafter hold the Authority and the United States of America harmless on account of any loss, damage, or injury sustained by any person or persons using the same; provided, however, that in transferring said access road to the State as aforesaid, the Authority may reserve the right, but shall have no obligation to maintain, flatten, plant grass or shrubbery upon, or otherwise modify the slopes of cuts and embankments adjacent to any portion or portions of said access road between the south end of the Little Tennessee River Bridge and the left (east) abutment of Fontana Dam.

8. Forthwith upon the execution of this agreement, the State, as a means of cooperating with and assisting the Authority in the purchase of the land described in Section 1 hereof, and in the settlement of the problems incident or related thereto, shall pay to the Authority the sum of One Hundred Thousand Dollars (\$100,000), such payment to be made for the purposes of and pursuant to the authority contained in S. B. 198 enacted at the 1943 Session of the North Carolina Legislature and approved March 5, 1943.

9. Promptly upon the execution of this agreement, the Authority shall pay to the State Treasurer of North Carolina, Treasurer ex officio of the North Carolina Local Government Commission, in trust for the County, the sum of Four Hundred Thousand Dollars (\$400,000), said State Treasurer of North Carolina being hereby designated by the County to receive and receipt for said sum on the County's behalf.

Prior to or simultaneously with the payment of said sum to said State Treasurer of North Carolina, the County shall enter into a trust agreement governing the manage-

ment and disbursement of said trust fund. Said trust agreement shall be subject to the approval of the North Carolina Local Government Commission, and shall provide that said sum shall be applied by the trustee exclusively to the payment of the principal of road bonds of the County which are now outstanding and unpaid. The County agrees that said trust agreements, once entered into with the approval of the North Carolina Local Government Commission, shall not be amended, revoked, or supplemented except with the written consent and approval of said Local Government Commission.

Delivery to said State Treasurer, as Treasurer ex officio of the North Carolina Local Government Commission, of the Authority's check in the amount of Four Hundred Thousand Dollars (\$400,000), payable to his order as trustee for the County, shall operate as a complete fulfillment and discharge of all obligations of the Authority under this Section 9.

10. The State and the County hereby agree that they will, forthwith upon receipt of a request from the Authority so to do, by instrument or instruments in form suitable for recording, transfer, assign, convey, and quitclaim unto the Authority and the United States of America all right, title, and interest which they and the public may have in and to that portion or section of existing North Carolina State Highway 288 between Fax Branch and Watkins Branch, in and to all other roads or portions for sections of road (irrespective of elevation) located upon or across any of the land described in Section 1 hereof and/or any of the land identified on Exhibit A hereto as the property of North Carolina Exploration Company, and in and to all other roads or portions or sections of road in the County lying north of the Little Tennessee and Tuckasee rivers east of Fontana Dam below elevation 1716 (m.s.l.), including all bridges, culverts, and other facilities constituting a part of any of said roads or portions or sections of road, together with all easements and rights of way appurtenant thereto. The State and the County further agree that they will, forthwith upon receipt of a request from the Authority to so, take or procure the taking of any and all action which may be necessary and appropriate to vacate and abandon all of the roads and portions or sections of road to be conveyed and quitclaimed as provided in this paragraph, and to close the same to the use of the public. Until such time as the Authority shall request the conveyance and the vacation, abandonment, and closing of the roads or portions or sections of road referred to in this paragraph, all such roads or portions or sections of road shall retain their present status and continue to be used and maintained as public roads or highways.

In consideration of the premises and of the covenants and promises of the Authority and the Department in and under this agreement, the State and the County, for themselves, their respective successors, representatives, and assigns, shall and do hereby, jointly and severally, release, acquit, and discharge the Authority, its successors and assigns, and its agents and employees, and the United States of America, of and from all obligations, liability, claims and demands of every nature, character, or description, whether now or hereafter existing, arising out of or in any way connected with the inundation, closing, or taking, under or as the result of this agreement or as the result of the construction, maintenance, or operation of Fontana Dam or Fontana Reservoir, of North Carolina State Highway 288, or any

portion or section thereof, wheresoever located, or of any other road or roads or section or sections of road (irrespective of elevation) located wholly or partially upon or across any of the land described in Section 1 hereof or any of the land identified on Exhibit A hereto as the property of North Carolina Exploration Company, or of any road or roads or section or sections of road lying north of the Little Tennessee and Tuckasee Rivers below elevation 1715 (m.s.l.), together with all obligations, liability, claims, and demands arising out of or in any way connected with any impairment of the efficiency, value, usability, or convenience of any portion (irrespective of elevation or location) of said Highway 288 or of any of said other roads or sections of road, not so inundated, closed, or taken; and the State and the County expressly agree that they will not, jointly or severally, maintain or attempt to maintain any suit or cause of action against the Authority, its agents or employees, or the United States of America based upon or arising out of any such inundation, closing, taking, or impairment, it being in the intention hereof that the covenants and promises of the Authority and the Department herein contained shall constitute and effect and be accepted as an immediate, complete, and final payment and discharge of all such obligations, liability, claims and demands; provided, however, that nothing herein contained shall apply to or preclude any action by the State or the County to enforce compliance or to recover damages for noncompliance by the Authority or the Department with their respective covenants and promises herein made.

11. Anything in Section 10 to the contrary notwithstanding the State does not release or waive or agree not to enforce any claim, demand, or "action over" which it may now or hereafter have against the Authority or the United States, and which is based upon an obligation or liability which the State may have or incur to any landowner by reason of his being deprived of access to land owned by him in Swain County, North Carolina, where such obligation or liability on the part of the State arises out of the inundation, flooding, closing, or other impairment, under or as the result of this agreement or as the result of the construction, maintenance, or operation of Fontana Dam or Fontana Reservoir, of existing North Carolina State Highway 288 between Fax Branch and Watkins Branch; and the Authority hereby expressly agrees to indemnify the State against and save it harmless from any such obligation or liability; provided, however, that whenever such obligation or liability exists or is alleged or claimed to exist on the part of the State in favor of any landowner, the State shall not, except pursuant to a judicial judgment or decree, pay, compromise, settle, or otherwise dispose of such obligation or liability or any claim, demand, suit, or action based thereon without the written consent of the authority; provided further that the Authority shall at times have and exercise full control over the defense, settlement, and disposition of all claims, demands, suits, and action filed with or against the State in respect of any such obligation or liability, and may compromise, settle, or dispose of the same in any manner or by any method or procedure which it may see fit to adopt in its sole discretion.

Whenever any claim, demand, suit, or action is made or filed with or against the State in respect of an actual or alleged obligation or liability on the part of the State of the kind referred to in the preceding para-

graph of this section, the State shall promptly, and in any event within ten (10) days after receipt of formal written notice thereof by the State or summons issued by any court and served on the State, give the Authority written notice of the making or filing of such claim, demand, action, or suit, so as to permit the Authority to defend, compromise, settle, or otherwise dispose of the same as herein contemplated. In the event of failure by the State to give the Authority written notice of any such claim, demand, action, or suit as herein provided, or if the State shall, otherwise than pursuant to judicial judgment or decree, pay, compromise, settle, or otherwise dispose of any such claim, demand, action, or suit without the written consent of the Authority, then and in either or any of such events, the Authority shall be relieved and discharged of any obligation to indemnify the State against or save it harmless from any obligation or liability in respect of such claim, demand, suit, action, or any renewal thereof.

12. This agreement may be simultaneously executed and delivered in any number of counterparts, and each such counterpart shall be deemed an original.

In witness whereof, the parties hereto have caused this agreement to be executed by their proper representatives thereunto duly authorized as of the day and year first above written.

Swain County, North Carolina Tennessee Valley Authority

By the Board of Commissioners for the County of Swain

(SGD) R.D. ESTES,
Chairman.

Date: October 8, 1943.

United States Department of the Interior:

(SGD) HAROLD L. ICKES,
Secretary.

(SGD) ARTHUR S. JANDREY,
Acting General Manager

State of North Carolina:

(SGD) J. MELVILLE
BROUGHTON
Governor.

And by Council of State:

(SGD) J. MELVILLE
BROUGHTON,
Chairman.

And by State Highway & Public Works Commission:

(SGD) D.B. MCCRARY,
Acting Chairman.

SWAIN COUNTY STILL WAITS FOR PROMISED
ROAD TO SOMEWHERE

(By Jon Healey)

Ruth Chandler, 71, of Waynesville is a mountain girl who doesn't mind climbing up a slope. She's not too crazy about travel by water, though, and that's why she wants the federal government to build a new road on the north shore of Fontana Lake in Swain County. Like several hundred others who have relatives buried in Swain County, Chandler must cross Fontana Lake by motor launch (a glorified barge) to reach the cemeteries on the north side of the lake.

It's bad enough that the boats only run on Sundays; what's worse is that they ride low in the water, giving Chandler the impression that she'll be looking for Davy Jones' locker someday. Still, she's braver than some of her friends.

The boats deliver visitors to 28 different cemeteries, 25 of which can be reached on foot after a hilly trek. Flatbed trucks take visitors to the other three via narrow mountain roads. Those trips have a pulse pounding

quality to them, too. Chandler has visions of the road's shoulder giving way under the weight of a fully loaded truck, sending the truck rolling down the mountain and its passengers to their deaths.

Chandler said that she doesn't care much for the trucks creature comforts—the seats are made of hay—but what really bugs her is getting on and off. This summer, the park service condemned all three bridges on the route driven by the trucks, she said, forcing the trucks to unload their passengers before driving over each one. That meant getting on and off the truck 10 times in the course of one visit, a challenge for anyone over 70, she said. These indignities were forced on folks such as Chandler by the federal government, more particularly by the Tennessee Valley Authority.

To generate more power for its customers in Tennessee, the TVA decided during World War II to build a dam on the Little Tennessee River about 8 miles inside of North Carolina, near the border of Swain and Graham counties. The resulting 20-mile-long lake, called Fontana Lake, flooded a road that the county had just built, cutting off access to the cemeteries.

The government signed an agreement in 1943 to pay for the road that was wiped out and to replace it with a two-lane paved road on the north shore. The new road was delayed for more than a decade, then abandoned after less than one-third of the route was built. The state's maps mark the road with a blue line leading from Bryson City to one edge of the lake, signifying that it literally is a road to nowhere.

Everyone agrees that the federal government has done wrong by Swain County, breaking the promise it made when it flooded the original road. There is sharp, even bitter, division over how to make things right, however.

The side represented by Chandler, which includes the North Shore Cemetery Association and the Fontana Agreement Committee, argues that the government has a moral obligation to build a new road from Bryson to Deals Gap, Tenn. The road is much more to them than just an easier way to reach the cemeteries, it is a chance to tap into tourist dollars that flow into the Great Smoky Mountains National Park, dollars now spent in Tennessee.

Linda Hogue, a spokesman for the Fontana Agreement Committee, said, "Tennessee is getting rich off of the park. . . . Our side is virtually undeveloped." The pro-road forces envision the new road being as breathtaking as the Blue Ridge Parkway, and as lucrative.

On the other side are the National Park Service, the county commissioners and environmental groups, all of whom want the county to accept a \$16 million settlement from the government in lieu of a new road. In a letter written last week, the three commissioners said, "We as elected officials are convinced there will never be a road built in Swain County as agreed to in the 1943 agreement. . . . A \$16 million settlement would provide payment of school bond debts, allow us to address our economic problems, (and) provide the much-needed services to our citizens. Thirty-five percent of our citizens are living at or below the federal poverty level."

Sen. Jesse A. Helms, R-N.C., sides with the pro-road forces. Sen. Terry Sanford, D-N.C., sides with the pro-settlement forces. Because they both are supported by their colleagues from their own political parties, they have been able to block each other. That happened again on Thursday, with Helms stopping Sanford. For Swain County, that means no money and no road.

The odd thing is, Helms and Sanford aren't far apart on the issue. Sanford has given up the idea of designating wilderness in Swain County, which Helms opposed. Sanford's bill also would allow the county to use the \$16 million to build a road on the north shore, if the county's residents voted to do so. The language about voting comes from the bill that Helms introduced four years ago. The county couldn't build much of a road for \$16 million, through—the estimated cost of a paved road on the rocky north shore is \$91 million, according to one of Sanford's aides.

Helms plans to introduce a bill soon calling for the government to pay Swain County for the road it flooded and to build a "primitive" road on the north shore of the lake. The only real difference between the two senators' approaches is the underlying assumption: Helms believes that the county's residents want a road, and Sanford believes that they'd rather have more money. You'd think that the two politicians could have solved that dispute already with a poll.

The Swain County commissioners could also have tried to settle the dispute by holding a referendum to gauge the will of the people. Instead, each side is left with its assumption—Sanford's assumption based on the commissioners' position, and Helms' assumption based on the letters, form letters and petitions he has received, many from people who live outside of Swain County. Meanwhile, the people who live inside Swain County are left with a written agreement from 1943 that's not worth the paper it's printed on.

By Mr. BAUCUS (for himself and Mr. DANFORTH):

S. 1850. A bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes; to the Committee on Finance.

EXTENSION OF PERIOD FOR IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES

Mr. BAUCUS. Mr. President, I rise today to introduce an extension of the Super 301 provision of the 1988 Trade Act.

DESCRIPTION OF THE LEGISLATION

The original Super 301 provision was the heart of the 1988 Trade Act. It required the U.S. Trade Representative to annually identify the countries that maintain the most significant trade barriers to U.S. exports.

Once the countries were identified, USTR was required to initiate section 301 cases against the major trade barriers in these countries. Super 301 gave USTR 12 to 18 months to negotiate an agreement to eliminate the barrier.

If an agreement could not be reached, the Trade Representative was directed to retaliate against imports from the countries maintaining the barriers.

RECORD OF SUPER 301

In 1989, USTR identified three countries as priorities under Super 301: Japan, Brazil, and India.

In Japan, USTR identified barriers blocking United States exports of forest products, satellites, and supercomputers. In Brazil, import licenses were cited. In India, barriers to insurance sales and investment were cited.

Within 12 months, all of the 1989 cases with Japan and Brazil had been successfully concluded. New market, had been opened for U.S. exporters.

No agreement was reached with India.

In addition, to these direct successes, Super 301 had indirect benefits. To avoid being listed under Super 301, Taiwan and Korea both concluded significant agreements to open their markets to United States exports and investment.

Overall, Super 301 chalked up an impressive record of market opening.

THE ADMINISTRATION'S IMPLEMENTATION EFFORTS

But the administration did not vigorously implement Super 301. In 1990, for example, the administration declined to identify any new countries under Super 301—though there were deserving candidates.

For example, even though 19 pages of the National Trade Estimate released only a few weeks earlier were devoted to listing Japanese trade barriers, Japan was not named a priority country.

Though China had dramatically raised its trade barriers causing the bilateral deficit to swell, China was not named.

More disturbingly, the administration chose not to retaliate against India even though it refused to even negotiate with the United States to lower its trade barriers.

I believe this decision undermined the credibility of U.S. trade law in the world's eyes. If we are going to identify India's trade barriers as among the most significant in the world, we must be willing to back our words with deeds.

The administration clearly did not implement the law as Congress intended.

THE BAUCUS-DANFORTH SUPER 301 EXTENSION

Unfortunately, the 1988 Trade Act authorized Super 301 for only 2 years. It expired in 1990.

The legislation I am introducing today is essentially a 5-year extension of Super 301.

In addition to the extension, my legislation makes two changes in the Super 301 provision of the 1988 Trade Act.

First, the period between the date on which the National Trade Estimate is released and the date on which Super 301 determinations are made is lengthened from 1 month to 6 months. This is to allow for more negotiations market opening agreements with countries that wish to avoid being listed under Super 301.

Second, the Senate Finance Committee and the House Ways and Means Committee may file a section 301 petition by passing a resolution. This provision is identical to one included in the version of Super 301 that passed the Senate, but was dropped in conference committee.

The purpose of this provision is to give Congress recourse if the administration fails to implement the law as intended.

I am pleased to say that Senator DANFORTH is joining me in introducing this extension of Super 301. Senator Danforth is the ranking Member of the Senate Finance Committee's International Trade Subcommittee—which I chair. He is also the one of the original authors of Super 301.

I am confident that, working with our colleagues in Congress and the administration, we can soon pass this legislation.

ARTICLE 23

Many have argued that the United States should try to lower foreign trade barriers through multilateral negotiations, not unilateral actions.

In principle, I agree. Unilateral measures, like Super 301, are not a substitute for multilateral agreements.

But multilateral measures and unilateral measures are not incompatible. In fact, they complement each other.

As we work to pass this bill into law I will be working to make Super 301 work with the General Agreement on Tariffs and Trade—the GATT—the heart of the multilateral trading regime.

Under article 23 of the GATT, action can be taken against a GATT member if that nation has taken trade actions that effectively nullify or impair trade concessions made under the GATT.

As I suggested in 1987, I believe it is time to employ this GATT provision to open some of the world's closed markets.

Specifically, the United States should initiate broad article 23 actions against the priority foreign countries identified under Super 301.

The section 301 actions should also proceed in parallel with action under article 23.

In this way, the United States can bring multilateral pressure on countries, like Japan, to open their markets. But the United States can also use the deadlines set under section 301 of U.S. trade law to ensure that the proceedings are completed within a reasonable period of time.

CONCLUSION

As this year's National Trade Estimate demonstrated, other countries still maintain many unfair trade barriers. Far more than does the United States.

Japan, China, Korea, the EC, and many others all impose unreasonable trade barriers on United States exports.

Super 301 is the crowbar we need to pry open these closed foreign markets.

It also provides the stick in the closet to keep our trading partners from erecting further trade barriers.

Experience demonstrates that Super 301 is a critical addition to our trade policy arsenal.

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. 1850

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

SECTION 1. PERIOD FOR IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES EXTENDED.

Section 310(a) of the Trade Act of 1974 (19 U.S.C. 2420(a)) is amended—

(1) by striking "By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees," and inserting "By no later than September 30 of each of the calendar years 1992 through 1997,"

(2) by striking "such report" in subparagraph (B) and inserting "the most recent report submitted under section 181(b)", and

(3) by adding at the end thereof the following new subsection:

"(e) PETITIONS BY CONGRESSIONAL COMMITTEES.—If the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives determines (by a resolution adopted by such Committee) that an investigation under this chapter should be initiated with respect to any barriers and market distorting practices of any foreign country that maintains a consistent pattern of import barriers or market distorting practices, such Committee shall be eligible to file a petition under section 302(a) and shall file a petition under section 302(a) with respect to such barriers and practices."

Mr. RIEGLE. Will the Senator yield?

Mr. BAUCUS. Mr. President, I would like to yield to the Senator from Michigan.

Mr. RIEGLE. Let me just say I want to commend the Senator from Montana for his statement today and for his important initiative on this matter. There is no person in the Senate who carries a greater responsibility in the area of international trade than does the Senator from Montana and the important subcommittee which he chairs.

As one who had a hand in developing and writing Super 301 originally, I want to say how much I appreciate his proposal to now have a 5-year extension and also to put back in what we had in the Senate version originally, namely the right of the Senate Finance Committee and the House Ways and Means Committee to self-initiate a trade action in the case of blatant discrimination which is practiced against the United States.

I also want to say how much I welcome and appreciate his further comments on our ability to move against unfair trading practices with other existing areas of law where we now have the power to move on some of the trade violations that are taking place.

Finally, I just want to underscore the points that you have made with respect to two countries particularly. Obviously, looking at the growth in the

trade surplus that Japan has both with the United States and with the rest of the world, it is obvious that the pervasive pattern of predatory trading practices, both coming into this country and restricting the home market, are problems that have not gone away. In many instances, they have actually worsened.

And then also in the case of China, where this year there will be a bilateral trade deficit with China of roughly \$15 billion, estimated to go to \$20 billion next year, we know from other information that there is currency manipulation that has been practiced. Every time our trade negotiators try to have a tough, straight, factual conversation with the Chinese on these issues, they bristle and do not want to deal with those issues.

And so I want to just say again I think the statement that the Senator from Montana has made today ought to serve notice generally that there has to be an effort made to correct these trading abuses, and these are revenues that we can take. I very much want to be listed as a cosponsor of the Senator's legislative proposal.

Mr. BAUCUS. Mr. President, I thank the Senator. He makes an excellent point about the urgency of the legislation. I think we all agree that with the end of the cold war, our country must now devote its energy and its attention to the trade war, to the economic war that we now face.

It is clear to this Senator, and I know the Senator from Michigan agrees, that the administration has not undertaken this effort. We have not developed our arsenal in this front with near the determination and dedication that we must if we are going to prevail.

I am very impressed, frankly, with the degree to which countries like Japan and the European Community have forged economic policies for their benefit and sometimes to the detriment of the United States.

It is clear that if we Americans are going to maintain our standard of living, if our children are going to enjoy a high standard of living in the next century, that we have to be more aggressive.

I think we all agree, too—at least I hope we agree—and I hope the President better understands, that the definition of national security now includes economic as well as military security.

I very much hope that the President can devote the same attention to this economic war that he devoted, say, to the Persian Gulf war. It was very good that President Bush devoted the time and attention that he did to the Persian Gulf. But it is now critical that Americans, including the President of the United States, devote proportionate time and attention to the world economic struggle in which we Americans now find ourselves engaged.

Mr. RIEGLE. If the Senator will yield for one other comment, I am struck by what he has just said. It is so clear that anything we want to do in this country, whether we do it privately as citizens, or as individual families, or whether we do it as a public endeavor, depends upon our economic strength.

If we want health care, if we want to send our children to college, or have a well-housed Nation, have a national defense to mount a fight against cancer and other dread diseases, we have to have a strong economic system. Everything we want to do depends upon our ability to have the economic strength to pay for those things, to finance those things, to enable those things.

To the extent that our economy is weakened or damaged or comes in way below where it otherwise could be or should be, then we become a Nation that does fall behind internationally.

We can look around the world to see the gains other nations are making. I was struck by the census data that came out a week ago that indicated that last year the median income in the United States for a family of four had actually fallen over the 12-month period. The figure was about \$570. So that at the end of that year a family in that relatively average type situation in this country was actually worse off than they had been at the start of the year. It is partly because of the failure to really have an economic plan at work that gets the most out of our system, which means, by the way, also getting the unemployed people off the sidelines where they do not want to be, and back into jobs and into the work force where they can produce for themselves and produce for their country.

But I think the Senator is exactly right. We now face a different kind of war. It is an economic war that is being waged on a global scale. Other countries are very forceful and effective with their strategies. We need a strategy. I think what he described today helps move us in the direction of a more aggressive strategy for America.

Mr. BAUCUS. I thank the Senator. It is a very complex subject. It is a very urgent subject. I hope this bill will help give more teeth to our trade laws. Trade is a very essential, very important component of this economic war we are now discussing.

I just think it is important that this legislation pass so that it is likely that we Americans are taken advantage of by other countries. Their main purpose, not surprisingly, is to protect the interests of their own people. We must make sure that when they protect the economic interests of their own people, they do not do it unfairly or at the expense of Americans. I thank the Senator.

I yield the floor.

Mr. DANFORTH. Mr. President, I am pleased to join the Senator from Mon-

tana in sponsoring a renewal of Super 301. This provision of the 1988 Trade Act proved to be an effective tool for opening foreign markets. Unfortunately, as originally enacted, it applied only for 2 years. The time has now come to reestablish Super 301 as a key element of U.S. trade policy.

The primary objective of U.S. trade policy must be to open foreign markets for competitive American products and services. To achieve this objective, we must apply consistent and systematic pressure for change. There must be some disincentive for a foreign country to keep its market closed. The 1988 Trade Act's Super 301 provision established the formal mechanism needed to combat unfair foreign barriers in a credible, businesslike, and systematic way.

In 1989, Super 301 was effectively used to open closed markets. I can remember our U.S. Trade Representative Carla Hills telling me that the 30 days before the designation of the Super 301 priority countries in 1989 were the most productive days in the history of USTR. That first year, Super 301 enabled us to address both sectoral and systemic barriers in Japan and other countries. Ultimately, we were able to secure commitments from Japan in the areas of satellites, supercomputers, and wood products. Super 301 also was the driving force behind the administration's efforts to focus on systemic barriers in the Japanese economy through the structural impediments initiative, [SII]. While I remain skeptical about the results of the SII process, without Super 301 we would not have made it even that far.

In 1990, however, the administration failed to keep the pressure on Japan and other nations and instead focused on the Uruguay round as its top trade liberalization priority. I support the administration's efforts in the Uruguay round, but the lack of progress in those negotiations demonstrates the danger of putting all our eggs in that one basket. If we want to see real progress in our multilateral and bilateral negotiations, I believe we must demonstrate our resolve to deal systematically and consistently with unfair trade barriers. We must keep our focus on real results, in the form of sustained increases in U.S. export sales and new economic opportunities for our people. Otherwise, I am afraid we will continue to be frustrated by a lack of progress in our negotiations and a lack of results from those agreements we do reach.

The legislation being introduced today will reestablish Super 301 as an effective tool of U.S. trade policy. I urge my colleagues in the Senate to support it, and I urge the administration to embrace it as a critical tool in our common effort to open foreign markets for competitive American products and services.

By Mr. ROCKEFELLER:

S. 1851. A bill to provide for a Management Corps that would provide the expertise of United States businesses to the Republics of the Soviet Union and the Baltic States; to the Committee on Foreign Relations.

MANAGEMENT CORPS ACT OF 1991

• Mr. ROCKEFELLER. Mr. President, I am pleased today, along with Congressmen MARKEY of Massachusetts and HOUGHTON of New York, to introduce the Management Corps Act of 1991, a bill that will mobilize American talent and experience on behalf of the rapidly changing economies of the Baltic States and the Soviet Republics.

The dramatic changes in Eastern Europe and the Soviet Union pose major challenges to maintaining peace and stability. The most obvious and immediate example is, of course, in Yugoslavia where the resurgence of centuries-old ethnic conflicts are tearing apart a society while the rest of the world watches apparently powerless to help.

Yugoslavia is unlikely to be the last such case in this region, but the larger threat comes from longer term economic decline that is leaving the region impoverished and vulnerable to violent and demagogic solutions to their problems. That simple inevitability explains clearly the West's interest in ensuring that economic reforms in this part of the world succeed.

There is another, more selfish, reason. New markets and increased exports are tied to economic recovery in Eastern Europe. This is particularly important where complex high technologies are involved, and initial decisions have generations-long implications. The Russians, for example, will inevitably seek to expand and upgrade their telecommunications capabilities. If they look to America for help, we can be assured not only of immediate market opportunities but of ongoing sales and service relationships for years to come. If they look to the Germans, on the other hand, the profits will be calculated in deutsche marks instead of dollars.

For both reasons, we must find creative cost-effective ways to contribute to economic growth in Eastern Europe. One part of that puzzle concerns financial aid, either through direct foreign assistance or debt forgiveness, or both.

At the same time, however, there is a long menu of other steps we can take to address immediate needs in the region with minimal costs. One of the most pressing needs is for expertise in coping with the rigors of a market economy. Western economic experts who have already been working in Eastern Europe have discovered major knowledge, skill, and experience gaps in fundamental areas such as banking, accounting, marketing, and general management. A year ago, one expert intimately familiar with the problems of the Polish economy, suggested that

one of the most useful contributions the United States could make would be 40 volunteer accountants able to help determine the actual value of Polish enterprises and to teach Poles how to maintain adequate records in a market system.

This may seem trivial, but it is no small matter in countries where supply, costs, and prices have all been determined by the central government. Our Commerce Department has discovered this problem first hand while investigating dumping complaints against nonmarket economies. Attempting to determine the true cost of production of exported items, Commerce realized the offending producers had no idea in real terms of their costs and therefore had no way to appropriately price their goods.

These are elementary issues for people who have grown up in a capitalist system, but they can be a foreign language for those trying to break away from central planning.

This is only one example of the knowledge gap these countries face. Plagued by primitive and outdated communications and transportation systems, the situation is even worse at the technical level. Installing a new telephone system will be a critical element of competitiveness for these countries. Hungary, for example, has consistently made that one of its highest technological priorities. Yet doing that means more than simply buying equipment. It means installation, maintenance, and service; and all requiring training.

Thus it is clear that knowledge and experience are two of our most valuable commodities and two of the most useful things we can provide to economies making the transition to capitalism.

Fortunately, these commodities are embodied in one of our most mobile and reusable exports—people. We can recruit them, support them while they serve abroad, and then welcome them back when their service is done.

No doubt much exchange of experience and knowledge takes place in the normal course of business. Companies seeking a sale in the Soviet Union will generally make training and service part of their offer, if it is appropriate. Those considering an investment there will look at human resources available and include necessary training.

At the same time, however, there is a role for the U.S. Government in helping provide American people power to the Baltic States and the Soviet Republics. There is ample precedent. The Peace Corps is the longest lasting and most successful example, and the Government has, for some time, encouraged programs for retired executives to go abroad to lend their expertise to foreign businesses.

The bill we are introducing today, which is a variation on the Peace Corps

theme, will provide for Federal chartering of a private, nonprofit Management Corps that will arrange for groups of American business men and women—experts in their professions—to donate a period of their time in the Baltic States or the Soviet Republics working directly with companies there. These experts will serve without compensation, but the bill provides for appropriations of \$5 million, \$10 million, and \$20 million over the next 3 fiscal years to cover necessary expenses.

While there, the Americans will assist foreign businesses in developing management and other market skills.

Mr. President, this concept is taken from a pilot program conducted under private auspices in Latvia earlier this year, but I want to emphasize that it is not the intent of the bill that that particular program receive the support that is authorized.

I also want to make clear that, although the pilot program featured a group of Americans traveling for only a few weeks, the bill would not restrict the Management Corps to that format, which is only one of several different variations which can make a contribution to the economic crisis this region faces.

Some will say, for example, that the best approach is a fairly long stay, perhaps 6 months or a year, by individual experts working alone. Because of the length of time involved, such a program would normally consist largely of recent retirees. An alternative is shorter stays by larger groups, on the theory, that this is the only way to involve current company executives; and, because of the synergy that occurs when an entire group is traveling together and sharing its experiences. The bill is neutral on this point, although it is fair to say that the amount of money authorized is probably insufficient to support any extensive program of longer visits. In my judgment, the needs of the Soviet Union are so great and sufficiently diverse to leave room for both concepts, as well as others. I expect that hearings on the legislation will look at these alternatives in some depth.

Obviously, as I indicated, this bill deals with only a small part of the economic and political challenge we all face in Eastern Europe, but it is an important part; a part which will produce large benefits at a modest cost. In our present era of tight budget constraints, that is an important consideration.

Mr. President, I ask that the text of the bill be printed at this point in the RECORD.

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

S. 1851

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 "Management Corps Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) The Republics of the Soviet Union and the Baltic States have requested business and technical assistance from the United States in order to make the transition from a centrally planned economy to a free market economy; and

(2) the long term security of the United States and of the peoples of the Republics of the Soviet Union and the Baltic States would benefit greatly from their transformation to a fully democratic nation based on the principles of government by the people, respect for individual rights, and free market economic opportunity; and

(3) assistance from the United States to the Republics of the Soviet Union and the Baltic States should promote rather than retard this transformation; and

(4) by providing assistance to those who are trying to achieve the transformation to a market economy, the United States will be supporting the sources of democratic stability.

(b) PURPOSE.—It is the purpose of this Act to establish an organization whose purpose is to provide assistance to business enterprises in the Republics of the Soviet Union and the Baltic States through United States citizens with expertise in the management of business enterprises who donate their time and services to business enterprises in those countries.

SEC. 3. ESTABLISHMENT OF THE MANAGEMENT CORPS.

(a) DESIGNATION.—The President shall designate a private nonprofit organization which has demonstrated expertise in providing business assistance to Soviet or Baltic enterprises as eligible to receive funds under this Act, upon determining that such organization has been established for the purposes specified in section 2(b). For purposes of this Act, the organization so designated shall be referred to as the "Management Corps".

(b) CONSULTATION WITH CONGRESS.—The President shall consult with the Congress before designating an organization under subsection (a).

(c) BOARD OF DIRECTORS.—The Management Corps shall be governed by a board of directors comprised of three individuals designated by the President and three individuals designated by Congress who have demonstrated expertise in business exchanges for private sector development.

(d) ELIGIBILITY FOR GRANTS.—Grants may be made to the Management Corps under this Act only if the Corps agrees to comply with the requirements of this Act.

(e) PRIVATE CHARACTER OF THE CORPS.—Nothing in this Act shall be construed to make the Management Corps an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of the Management Corps officers or employees of the United States for the purposes of Title 5, United States Code.

SEC. 4. USE OF FUNDS.

(a) GRANTS.—Funds appropriated to the President pursuant to section 7(a) shall be granted to the Management Corps by the Secretary of State through the Agency for International Development to enable the Management Corps to carry out the purposes specified in section 2(b) and for the administrative expenses of the Management Corps.

(b) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Management Corps shall provide for the donations of services by United States citizens with expertise in the management of business enterprises to busi-

ness enterprises in the Republics of the Soviet Union and the Baltic States.

(2) ACTIVITIES OF THE CORPS.—The Management Corps may use funds granted under this Act for the following:

(A) To organize groups of United States citizens described in paragraph (1) to donate their time and expertise to business enterprises in those countries described in paragraph (1).

(B) To pay appropriate travel and other expenses incurred by individuals during their volunteer service to the Management Corps.

(C) To establish and maintain such offices as may be necessary to carry out the purposes of the Corps.

(3) VOLUNTARY NATURE OF THE CORPS.—Individuals who participate in the Management Corps by providing their services to foreign business enterprises shall receive no compensation from the Corps for such services.

SEC. 5. REQUIREMENTS OF THE MANAGEMENT CORPS.

(a) LIMITATION ON PAYMENTS TO CORPS PERSONNEL.—No part of the funds of the Management Corps shall inure to the benefit of any board member, officer, or employee of the Corps, except as salary or reasonable compensation for services.

(b) INDEPENDENT PRIVATE AUDITS.—The accounts of the Management Corps shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required in section 6.

(c) GAO AUDITS.—The financial transactions undertaken pursuant to this Act by the Management Corps may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Management Corps is in receipt of United States Government grants.

SEC. 6. ANNUAL REPORT.

The Management Corps shall publish an annual report, which shall include a comprehensive and detailed description of the Corps' operations, activities, financial condition, and accomplishments under this Act for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1993. The annual report shall be submitted to the Speaker of the House of Representatives and the President of the Senate.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—To carry out this Act, there are authorized to be appropriated to the President—

- (1) \$5,000,000 for fiscal year 1993; and
- (2) \$10,000,000 for fiscal year 1994; and
- (3) \$20,000,000 for fiscal year 1995.

(b) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated pursuant to section (a) may be made available to the Management Corps and used for the purposes of this Act notwithstanding any other provision of law. •

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1852. A bill to amend the Social Security Act with respect to Medicare to protect the wage index for an urban area in a State if such wage index is below the rural wage index for such

State for purposes of calculating payments to hospitals for inpatient hospital services, and for other purposes; to the Committee on Finance.

OPERATION OF MEDICARE GEOGRAPHIC CLASSIFICATION REVIEW BOARD

● Mr. KENNEDY. Mr. President, today I am introducing legislation with my colleague Senator KERRY to clarify the congressional intent of certain provisions of the Omnibus Budget Reconciliation Act of 1989 on the establishment and operation of the Medicare Geographic Classification Review Board. The review board was created to enable hospitals to seek reclassification from one area to another for wage index purposes.

The 1989 statute included a number of hold harmless provisions to reduce the impact on hospitals affected by decisions of the reclassification board. These provisions include protection in cases where hospitals shift from one classification area to another. Although Congress intended to include the same protection for hospitals remaining in one area after one of its hospitals joins a new area, the statutory language is unclear as to how these hospitals are to be treated. Recently, the Department of Health and Human Services, has interpreted the hold harmless language as not covering such hospitals.

This past year, one hospital in the Springfield, MA, wage area received approval for reclassification into the Hartford, CT, wage area. As a result of this change, and as a result of the Department of Health and Human Services' interpretation of the hold harmless provisions, the wage index for the hospitals that remain in Springfield fell nearly 7 percent.

As a result, it is likely that Medicare revenues for the hospitals will decline by about \$4 million a year. If the original congressional intent had applied in this situation, the hospitals would have had their Medicare wage index held harmless at the previous level, and they would have suffered no loss of revenues.

Under another provision in OBRA, the urban wage index cannot fall to a level below the rural wage index in the State as a result of the Board's reclassification decisions. But in some States, urban wage rates are lower than rural wage rates. The rural wage rate for hospitals in Massachusetts, for example, is the highest in the country. In fact, the rural index in Massachusetts is higher than nearly all of the urban wage indexes in the State.

The bill we are introducing today does not make any policy changes. It merely clarifies congressional intent with regard to each of these issues. For remaining hospitals indirectly affected when one hospital moves out of their wage area, the bill would maintain these hospitals at the fiscal year 1991 area wage rates for fiscal year 1992, and

would include such hospitals under the hold harmless language in the future. The bill also clarifies that in future years, if additional changes are brought about by Board decisions, and if the wage level for hospitals in the original urban area is already below the rural level, then the urban wage rate cannot be reduced further.

Any unintended drop in Medicare reimbursements for hospitals in Massachusetts would be especially damaging. Hospitals in the State are operating at or near capacity. As a result of the current recession, the hospitals are caring for a growing number of persons without health insurance.

The bill that I am introducing today closes loopholes in current law that are unfair to hospitals and contrary to congressional intent in the Medicare law. I want the Senate to approve this legislation as soon as possible, so that these unintended reductions in Medicare revenues can be avoided.

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. 1852

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

SECTION 1. HOLD HARMLESS PROTECTION FOR WAGE INDEX FOR AN URBAN AREA WITH A WAGE INDEX BELOW THE RURAL WAGE INDEX IN A STATE.

(a) IN GENERAL.—Section 1886(d)(8)(C)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(8)(C)(iii)) is amended by adding at the end the following new sentence: "In the case of an urban area in a State that has a wage index below the wage index for rural areas in the State, such an application or decision may not result in a reduction of that urban area's wage index."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges occurring on or after April 1, 1990.

SEC. 2. FLOOR FOR AREA WAGE INDEX FOR URBAN AREAS.

(a) IN GENERAL.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following sentence: "Notwithstanding any other provision of this section (including paragraph (8)(B)) or any decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10), no area wage index applicable under this subparagraph to hospitals in a county may be less than the area wage index applicable to hospitals located in rural areas in the State in which the county is located."

(b) CONFORMING AMENDMENT.—Section 1886(d)(8)(C) of such Act (42 U.S.C. 1395ww(d)(8)(C)) is amended by striking clause (iii).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1992, and the amendment made by subsection (b) shall take effect on that date.●

● Mr. KERRY. Mr. President, I rise today to introduce legislation with my friend and colleague, the senior Senator from Massachusetts, to correct an

unintended result of the Medicare Geographic Classification Review Board which has caused a significant reduction in payments for the Springfield wage area hospitals in Massachusetts.

The Omnibus Budget Reconciliation Act of 1989 [OBRA89] established the Medicare Geographic Classification Review Board which was given the authority to consider hospital requests to change their geographic classifications for purposes of determining the Medicare standardized payment amount. The Board responded with its first group of reclassifications on August 30 in the prospective payments systems fiscal year 1992 final rule. Anticipating potential side effects of the reclassifications, OBRA89 required a series of hold harmless rules to soften the impact on hospitals indirectly affected by the decisions of the Board.

It is the Department of Health and Human Services' interpretation of the application of these hold harmless rules which has prompted the need for this legislation. We believe that it is critical that we clarify Congress' intent with regard to the hold harmless language.

The hold harmless language states that if a decision of the Board results in a reduction in the wage index for "merged into" urban areas of 1 percentage point or less, the wage index value is determined exclusive of the wage data for the redesignated hospitals. In addition, if the wage index for merged into urban areas would fall by more than 1 percentage point, the wage index is calculated separately for each class of hospitals. Although the intent of Congress under the hold harmless rule was to include "merged out of" urban areas as well as merged into urban areas, the statute was only clear on the issue of merged into situations.

Equally unclear appears to be the OBRA89 language which provides that decisions of the Board can never result in a reduction of the wage index to a value below the wage index applicable to rural areas in the State. We believe it is important to clarify instances where a State urban wage index is already below the State rural wage index and is further reduced as a result of the Board's decisions. Massachusetts hospitals are unique in that the rural wage index is the highest in the Nation at 1.1723 and as a result is higher than nearly all our urban wage indexes.

There are 10 hospitals in the Springfield, MA/New England County Metropolitan Area [NECMA]. In fiscal year 1991, one hospital in the Springfield NECMA applied to, and received approval from, the Board to be reclassified into another NECMA and was therefore merged out of the Springfield NECMA. As a result of the reclassification and the Department's interpretation of hold harmless language, the wage index applicable to the remaining

hospitals in the Springfield NECMA fell from 1.0336 to 0.9632—a reduction of nearly 7 percent.

This resulting payment drop, which was effective October 1, means a significant loss of revenue to these hospitals, and clearly for no other reason than a statutory loophole. It comes at a time when many of these hospitals are running at or near capacity, and the State's depressed economy has meant a steady increase in the number of uninsured seeking health care. Avoiding a red ink bottom line has never been more essential for these hospitals, nor has equity in their payment system ever been more necessary to their survival.

Our legislation seeks to correct this inequity by maintaining these hospitals at the fiscal year 1991 area wage rates for fiscal year 1992 and including them under the hold harmless language in the future as would be the case for all other hospitals. The integrity of Medicare will be enhanced by the passage of this legislation and the affected Massachusetts hospitals will be treated fairly and permitted to continue their vital work.●

By Mr. BRYAN (for himself, Mr. DODD, and Mr. RIEGLE):

S. 1853. A bill to amend the Fair Credit Reporting Act to protect consumers from the use of inaccurate credit information and the misuse of credit information; to the Committee on Banking, Housing, and Urban Affairs.

FAIR CREDIT REPORTING AMENDMENTS OF 1991

Mr. BRYAN. Mr. President, today along with Senators DODD and RIEGLE, I am introducing legislation to amend the Fair Credit Reporting Act [FCRA]. The Fair Credit Reporting Act has protected consumers for 20 years by requiring consumer reporting agencies to provide accurate information when a consumer applies for credit, insurance, or a job. When the law was drafted, no one envisioned the impact computer technology would have on the distribution of information.

Credit bureaus today keep files on 150 million Americans, make 2 billion updates on consumer's credit histories each and every month, and sell 1.5 million credit reports each and every day. Credit reports have become instrumental in our high-tech economy.

Credit reports affect the businesses, careers and reputations of almost every American. They affect every consumer's ability to obtain mortgages, consumer loans and credit cards. Credit records are more than just account numbers. They represent the lives of families who can be adversely impacted by inaccurate records.

Unfortunately, credit reports are also the No. 1 subject of complaints before the Federal Trade Commission [FTC]. The FTC had over 9,000 complaints and inquiries filed each year regarding credit reports and that is a 50-percent increase over the previous year.

The credit reporting industry has taken steps to make the reports more accessible and understandable to consumers. Despite these efforts, I believe legislation is needed to increase consumer protection. According to a recent story in the Wall Street Journal, credit reports are so incomprehensible to most consumers that some credit bureaus are making hefty profits out of a service in which they sell information explaining how to more accurately understand information contained in these credit reports.

My legislation would require that consumers receive a free copy of their credit report once a year or when they have experienced an adverse decision based on their credit report. Consumers would also receive a statement containing their rights to dispute information on their credit report, which consumers believe to be inaccurate.

A person's credit report is only as accurate as the information provided for it. The expression "garbage in, garbage out" certainly applies to credit reports. Creditors, who initially collect consumer information and provide this information to credit bureaus, should be accountable for the accuracy of the information they receive and transmit to credit bureaus. My bill would require suppliers of information to be as accurate as possible and to the maximum extent possible.

This legislation would also make an individual liable for getting credit reports under false pretense and would require companies that claim they can fix an individual's credit report provide the service first before receiving compensation for the service rendered.

I believe that credit bureaus and creditors must do their utmost to ensure the maximum possible accuracy by adopting mechanisms and procedures to prevent errors and to correct them, and to prevent those errors from occurring again.

I am hopeful that Congress will enact legislation this session to improve the accuracy of credit reports and, thereby, protect consumers from mistakes that have potentially life-altering consequences.

By Mr. DASCHLE:

S. 1854. A bill to authorize the Secretary of the Interior to perform the planning studies necessary to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the Mni Wiconi rural water supply project, and for other purposes; to the Committee on Energy and Natural Resources.

WATER NEEDS OF THE ROSEBUD INDIAN RESERVATION, SOUTH DAKOTA

● Mr. DASCHLE. Mr. President, I rise today to introduce a bill to address the ongoing water problems in South Dakota. This amendment would authorize the Secretary of the Interior to per-

form a needs assessment of the Rosebud Sioux Reservation's current and future water needs and to determine the desirability, feasibility and cost of extending the Mni Wiconi water pipeline to the Rosebud Reservation.

The Mni Wiconi project was authorized in 1988 in Public Law 100-516. The goal of the project is to bring decent drinking water to areas in South Dakota where water quality and quantity are unsound, including the Pine Ridge Indian Reservation. Rosebud faces water problems similar to those in Pine Ridge and in other areas in western South Dakota. In order to address these problems, the Rosebud Tribal Council passed a resolution asking to become a part of the Mni Wiconi project. The current beneficiaries of the Mni Wiconi project, namely the Oglala Sioux Tribe and the West River and Lyman-Jones water systems, have passed similar resolutions supporting Rosebud's addition to the project.

In order to determine the wisdom of adding Rosebud to the project, which would require amending Public Law 100-516, it is essential that we better understand the water needs on the reservation, and the feasibility, both technically and financially, of amending the current law. Because Rosebud is outside the project area as defined by Public Law 100-516, the bill I am introducing today is necessary to give the Bureau of Reclamation the authority to perform the study.

This should be a noncontroversial bill, and I would hope that it could be swiftly adopted. 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. 1854

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

SECTION 1. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100-516).●

By Mr. GRASSLEY:

S. 1855. A bill to provide for greater accountability for Federal Government foreign travel; to the Committee on Governmental Affairs.

FEDERAL GOVERNMENT FOREIGN TRAVEL ACCOUNTABILITY ACT

● Mr. GRASSLEY. Mr. President, today I rise to introduce legislation to address one of the ongoing problems facing our Nation today. That problem is Government waste by an imperial Congress that too often is not accountable.

Every day it seems we hear about another scandal relating to Congress, and the American people are sick of it. If my mail tells me anything, it tells me that Iowans are tired of the wasteful, self-indulgent behavior of their Representatives and they are no longer going to tolerate it.

One of the areas of excess that I hear about is the unnecessary junkets that many Members take. I say unnecessary because some fact-finding—as opposed to fun-finding—trips are legitimate. Iowans are particularly irritated by the foreign junkets that Members take. Mr. President, I'm sure many of my constituents would like to have a job that allowed for free foreign travel, but most do not. They are busy making ends meet and don't have the financial means to take trips out of the country.

They wonder if we have such a budget shortfall, how can our Nation afford for Members to have this luxury at taxpayer expense? They think that certainly there must be better ways to spend our limited Federal dollars.

Well, Mr. President, I agree.

Today, I am introducing a bill to add greater accountability for Federal Government foreign travel. This bill applies not only to Congress, but to any employee of the United States, whether elected or appointed.

The rule that will apply for congressional travel is that it should be "accomplished by the most economical means conveniently possible." Mr. President, this is the rule used by American families every day and it is a rule that should apply to Congress and national leaders as well.

Not only does this bill require economical travel, it also requires that a report be filed that includes information on the purpose and agenda of the trip, the employees who will travel at taxpayer expense, the accomplishments of the trip, and a record of all expenses incurred.

Mr. President, I don't believe this is too much to ask when Federal Government employees travel abroad at taxpayer expense. I don't believe the American people will think so either.●

By Mr. CRANSTON (for himself, Mr. AKAKA, Mr. BURDICK, Mr. COHEN, Mr. DECONCINI, Mr. GORE, Mr. HATFIELD, Mr. JEFFORDS, Mr. KERRY, Mr. KOHL, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. PELL, Ms. MIKULSKI, Mr. PACKWOOD, Mr. SARBANES, Mr. INOUE, and Mr. BIDEN):

S. 1856. A bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

PAY EQUITY TECHNICAL ASSISTANCE ACT

● Mr. CRANSTON, Mr. President, I am pleased to be joined by 17 of my col-

leagues in reintroducing today the Pay Equity Technical Assistance Act. This legislation would require the Secretary of Labor to develop a program for the dissemination of information on the steps which employers, in both the public and private sectors, can take to eliminate wage disparities which reflect the sex, race, or national origin of employees. An identical bill was introduced in the House of Representatives as H.R. 386, by Representative MARY ROSE OAKAR, who has been a vigorous leader in the fight to achieve pay equity. Representative OAKAR and I introduced a similar measure in the last Congress.

I am pleased to note that the provisions of our proposal were included in the civil rights bill, H.R. 1, which the House passed on June 5, 1991.

A perceptive article, "Comparable Worth: It's Already Happening," appeared in *Business Week* in April 1986. It outlines how major companies across the country are quietly undertaking the job evaluations and comparisons that provide the basis for wage adjustments to achieve pay equity.

I ask unanimous consent that the text of this article from *Business Week* appear in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Similar activity has been taking place at the State and local government level. According to a study done by the National Committee for Pay Equity, all but four States have undertaken at least an initial step to address the pay equity problem. Six States have begun or are completing implementation of broad plans to correct inequities, and an additional 14 States have made or appropriated funds for pay equity adjustments to eliminate wage inequities based on sex and/or race.

The legislation I am introducing is designed to help facilitate this spread of voluntary action to eliminate pay inequities by requiring the Department of Labor to serve as a clearinghouse for the dissemination of information and research on ways various employers are dealing effectively with this problem. This bill directs the Secretary of Labor to develop and carry out a continuing program for the dissemination of information, to conduct research, and to provide technical assistance to employers seeking information on ways which they can work to eliminate wage inequities.

Mr. President, many opponents of pay equity efforts have said in the past that they do not object to voluntary efforts by employers to identify and remedy wage inequities. This bill is aimed at facilitating such voluntary activity by providing for the dissemination of information and the promotion of research into the techniques that employers seeking assistance might utilize. The bill provides that the Secretary shall establish a program for

providing appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, based on the sex, race, or national origin of the employee, rather than the work performed or other appropriate factors.

Mr. President, over a decade ago, the Federal Government had an active interest in the problem of the wage gap between male and female workers. In 1980, the Department of Labor issued guidelines, subsequently rescinded by the Reagan administration, governing Federal contractors which were aimed at helping reduce wage disparities. In 1978, the Equal Employment Opportunity Commission commissioned a study by the National Academy of Sciences into the issues surrounding the wage gap. That study, released in 1981, "Women, Work and Wages—Equal Pay for Jobs of Equal Value," found that the wage gap results from the fact that women's jobs pay less, regardless of the work entailed, and that the more a job is dominated by women, the less it pays. In the intervening years, however, the Federal Government has abdicated any role in combating wage inequities. It is time that it began, again, to play a constructive role in dealing with this problem. This bill would charge the Department of Labor with the modest task of helping employers who want to deal with wage disparity problems find out what other employers are doing, what works and what doesn't work, and perhaps stimulating some employers—through the dissemination of information—to take a hard look at their own practices.

Mr. President, wage disparities between male and female workers, and among minority workers, is a serious problem that needs to be addressed. The gap between male and female workers has remained around 65 percent for a number of years. This gap has narrowed to 71 percent but this has been attributed to the falling of male worker's wages rather than the increase in female worker's wages. Studies have shown that some portion of this wage gap can be explained by non-discriminatory factors, such as different work patterns of male and female workers. But virtually every researcher who has looked closely at the problem has concluded that some portion of the wage gap remains inexplicable and that discriminatory practices account for some portion of the gap. We ought to be doing everything we can, in both the public and private sector, to make sure that every possible effort is made to purge discrimination from the workplace and from the wage system.

I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD as well as the article from *Business Week*.

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

S. 1856

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 "Pay Equity Technical Assistance Act".

SEC. 2. STATEMENT OF PURPOSE.

Recognizing that the identification and elimination of discriminatory wage-setting practices and discriminatory wage disparities is in the public interest, the purpose of this Act is to help eliminate such practices and disparities by—

(1) providing for the development and utilization of techniques that will promote the establishment of wage rates based on the work performed and other appropriate factors, rather than the sex, race, or national origin of the employee; and

(2) providing for the public dissemination of information relating to the techniques described in paragraph (1), thereby encouraging and stimulating public and private employers, through the use of such techniques, to correct wage-setting practices and eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors.

SEC. 3. PROGRAM SPECIFICATIONS.

In order to carry out the purpose of this Act, the Secretary of Labor shall develop and carry out a continuing program under which, among other things, the Secretary shall—

(1) develop and implement a program for the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors;

(2) undertake and promote research into the development of techniques to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors; and

(3) develop and implement a program for providing appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors.

SEC. 4. DEFINITION.

For the purpose of this Act, the term "other appropriate factors" includes factors such as—

(1) the skill, effort, responsibilities, and qualification requirements for the work involved, taken in their totality;

(2) geographic location and working conditions; and

(3) seniority, merit, productivity, education, and work experience.

[From Business Week Magazine, Apr. 28, 1986]

COMPARABLE WORTH: IT'S ALREADY HAPPENING—COMPANIES ARE QUIETLY EVENING UP PAY SCALES

(By Aaron Bernstein)

Ever since the concept of comparable worth surfaced a few years ago, Corporate

America has derided the idea—which holds that women should be paid the same as men for comparable jobs as well for the same jobs. Destroys the free market, said the National Association of Manufacturers. Opens the door to unending litigation, worried the U.S. Chamber of Commerce.

Now, very quietly, major companies such as AT&T, BankAmerica, Chase Manhattan, IBM, Motorola, and Tektronix are trying forms of comparable worth. These experiments may be the first steps in a movement to raise women's pay, which averages 64¢ for each dollar men earn. Some experts say that stopping discrimination—which they say includes paying women less than men for comparable jobs—would erase half this gap. "In 10 years we'll probably have comparable worth, even though businesses will still be saying we don't," says George P. Sape of Organization Resources Counselors (ORC), a management consulting group.

SCARED TO DEATH

The latest moves have hardly ended the philosophical debate. Women's groups contend that secretaries earn less than janitors even though the skills needed for the two jobs are comparable, simply because the secretaries are women. Opponents argue that a more plentiful supply of secretaries has kept their pay down.

But pragmatism is pushing companies toward comparable worth anyway. The doctrine was dealt a blow last year when a U.S. appeals court turned down the first major case brought to trial, against the state of Washington. However, proponents are keeping up the legal pressure with dozens of suits. Some 13 states already have laws that require public and private employers to pay equally for "comparable" work. Nurses in Alaska are claiming in a test case that this means comparable worth.

Corporations fear developments in the legislative arena as well. Some 30 states have comparable worth bills pending or have commissions studying the issue. Minnesota has applied the idea to state workers since 1983. Despite its court victory, Washington State is spending \$482 million to raise the pay of women. The House of Representatives passed a bill in October that would require a comparable worth study of federal workers.

Such actions worry companies. "The bill in Congress scares employers to death: They fear it will put a stamp of approval on comparable worth," says Virginia R. Lamp, a labor relations attorney at the U.S. Chamber of Commerce.

For years many big companies have been doing the job comparisons necessary to make judgments on comparable worth, mostly for white-collar staffs. They evaluate jobs according to factors such as responsibility, skill, and physical labor. The factors are given points. "We call this method internal equity, which can be used to do comparable worth," says Lance A. Berger, a vice-president at Hay Associates Inc., a compensation firm.

EYE STRAIN

Now some companies, such as Tektronix Inc. and Motorola Inc., have started to adhere closely to internal comparisons—even when it means paying more than the market demands. "Many companies go through the exercise of doing the internal equity analysis, but then they upset these relationships if the market tells them to," says Richard A. Baker, Tektronix' corporate compensation manager. "We look at the market, but that's secondary to us." Both companies say it hasn't cost them much because their high-

tech jobs don't have a history of being dominated by one gender.

Tektronix took another step when it put in a new pay system in the 1970s: it put all workers on the same evaluation system. Blue-collar pay rates tend to follow patterns set by unions, even in unorganized companies. Many female clericals are paid less because they're lumped in at the bottom of management evaluation systems, where there are no high-paying blue-collar jobs for comparison.

Other companies are trying to ensure that the factors used to evaluate jobs aren't biased against work usually done by women. After General Electric Co. was hit by a wage discrimination lawsuit in the 1970s, it overhauled its job evaluation which now reflect comparable worth concerns.

BankAmerica Corp. went further in its new pay system by expanding the definition of physical labor used by most evaluation systems to include eye strain. This helps to measure work on video display terminals, which is usually done by women. The bank also looks at muscle strain, which lets it assess work done by tellers—also often female—who stand at bank windows all day. "This isn't the traditional evaluation method, which thinks of physical demands as lifting a box or something, as men usually do," says Dan C. Rowland, BankAmerica's director of compensation.

CATCHING DEVIATIONS

Other companies, such as International Business Machines Corp. and Control Data Corp., are looking directly at pay disparities between men and women. One approach is to find an average pay level for a series of jobs. Each employee's pay is then compared with the average. At the same time, a mathematical analysis is done to see if factors such as sex are significant predictors of pay levels. "You look to see if anybody is two or more standard deviations below the norm and hope they're not women," says one consultant. If they are, the company may raise the pay of women below the average.

Industry sources say Chase Manhattan Bank Corp. compared vice-presidents' jobs. It found that those in commercial banking, where women predominate, were paid less than those in male-dominated investment banking, although the jobs weren't that different. The bank narrowed the salary gap, in part by giving commercial bankers more responsibility and paying them more.

Some unionized companies are unwilling converts to comparable worth. The St. Louis Newspaper Guild alleged in a suit last year that the St. Louis Post-Dispatch's largely female staff of inhouse sales representatives, who sell ads over the phone, should be paid the same as its outside representatives, who are usually male. On Mar. 27, management agreed to raise in-house sales salaries by about 4.5%. "Our lawyers said the case had no merit, but we settled because of the legal fees we were running up," says Nicolas G. Peniman, publisher and general manager.

In 1980, pushed by its union, AT&T developed an evaluation system for comparing all the company's jobs with each other. The two sides didn't agree on how to implement the plan. But it's part of current bargaining aimed at reaching a new pact for 255,000 workers by May 31.

Northwestern Bell Telephone Co., which was spun off as part of U.S. West Inc. in AT&T's breakup, has gone further. Together with its unions, it developed a job evaluation system that reflects comparable worth. The two sides will use it to help set wages when they bargain over a new contract in August.

The pay gap between men and women won't shrink overnight. But as long as it persists, companies' subterranean efforts to close it will probably continue.●

By Mr. MOYNIHAN:

S. 1858. A bill to direct the Secretary of Health and Human Services to prepare an annual report to the Congress on welfare dependency; to the Committee on Labor and Human Resources.

WELFARE DEPENDENCY ACT OF 1991

● Mr. MOYNIHAN. Mr. President, I am introducing today the Welfare Dependency Act of 1991. In so doing, I hope that we can begin to generate the information needed to understand our single greatest domestic problem, the problem of welfare dependency. Mr. President, I ask unanimous consent that the text of the Welfare Dependency Act of 1991 be printed in the RECORD.

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

S. 1858

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 "Welfare Dependency Act for 1991".

SEC. 2. FINDINGS.

The Congress finds that welfare dependency has reached threatening levels;

(1) In the period since 1960 the average annual caseload of the Aid To Families With Dependent Children Program under Title IV of the Social Security Act has quintupled.

(2) In 1990 there were on average almost twice as many households receiving Aid to Families With Dependent Children payments as the number of households and individuals receiving Unemployment Compensation Benefits.

(3) Nearly one quarter of children born in the period 1967 through 1969 were dependent on welfare (AFDC) before reaching age 18. For minority children this ratio approached three quarters.

(4) At any given time one quarter of school children are from single parent families, or households with neither parent. The National Assessment of Education Progress has documented the educational losses associated with single parent or no parent households.

(5) Only one quarter of father-absent families receive full child support and over half receive none.

(6) The average Aid to Families With Dependent Children benefit has declined by more than one-third since 1960.

(7) The burden of welfare dependency is an issue of necessary concern to women who in overwhelming proportion are the heads of single parent families.

(8) The rate of welfare dependency is rising. However, the statistical basis on which to assess this national issue is wholly inadequate, much as the statistical basis for addressing issues of unemployment was inadequate prior to the Employment Act of 1946 and the creation of the annual Economic Report of the President.

SEC. 3. CONGRESSIONAL POLICY.

The Congress hereby declares:

(1) That it is the policy and responsibility of the Federal Government to reduce welfare

dependency to the lowest possible level, consistent with other essential national goals.

(2) That it is the policy of the U.S. to strengthen families, to ensure that children grow up in families that are economically self-sufficient, and to underscore the responsibility of parents to support their children.

(3) That the Federal Government should help welfare recipients as well as individuals at risk of welfare dependency to improve their education and job skills and to take such other steps as may assist them in becoming financially independent.

(4) That it is the purpose of the Welfare Dependency Act to aid in lowering welfare dependency by providing the public with generally-accepted measures of welfare dependency so that it can track dependency over time and determine whether progress is being made in reducing it, and also to determine the adequacy of welfare benefits.

SEC. 4. ANNUAL WELFARE DEPENDENCY REPORT.

(1) The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall submit an annual report on welfare dependency in the United States. The report will attempt to identify predictors of welfare dependency and trends thereof.

(2) The report shall include families and individuals receiving needs-tested benefit programs, including Aid to Families With Dependent Children, Food Stamps and Medical Assistance, as well as General Assistance programs administered by state and local governments.

(3) Not later than three years after the date of enactment of the Act, the Secretary shall submit the first annual Welfare dependency report to the Senate Committee on Finance and the House Ways and Means Committee. Such report shall set forth:

(a) current trends in the number of recipients and total expenditures for each of the means-tested welfare programs.

(b) the proportion of the total population receiving each of the means-tested programs.

(c) annual numerical goals for recipients and expenditures for each program for the calendar year in which the report is transmitted and for each of the following four calendar years. These goals will reflect the objective of reducing welfare dependency to the lowest possible level consistent with other essential national goals. Numerical goals should also be provided for significant subgroups within the population.

(d) the programs and policies the Secretary determines are necessary to meet the goals for each of the five years, together with such recommendations for legislation as the Secretary may deem necessary or desirable.

(e) the Secretary's annual reports will include interim goals for reducing the proportion of families and children who are recipients of Aid to Families With Dependent Children to ten (10) percent.

(4) The Secretary shall submit reports annually after the due date of the report described in subsection (a) to the Senate Committee on Finance and the House Ways and Means Committee. The report shall be transmitted during the first 60 days of each regular session of Congress.●

By Mr. HATFIELD (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BRADLEY, Mr. BURDICK, Mr. BURNS, Mr. COCHRAN, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. FOWLER, Mr. JEFFORDS, Mr. INOUE, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. SANFORD, Mr. SEYMOUR, Mr. STEVENS, and Mr. WOFFORD):

S.J. Res. 217. Joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian;" to the Committee on the Judiciary.

YEAR OF THE AMERICAN INDIAN

● Mr. HATFIELD. Mr. President, I rise today to introduce legislation designating 1992 as "The Year of the American Indian."

In 1492, Christopher Columbus ended his search for the East Indies by landing in the new world. Whether or not one believes Columbus was the actual discoverer of the Western continents, next year Americans will be celebrating the 500th anniversary of Europe's first coming to America. The year 1992, however, also marks the 500th anniversary of an equally important discovery in the history of our Nation—the year the native Americans discovered the great European explorers. Truly, the European discovery of our continent is a pivotal chapter in the history of the United States and the entire Western Hemisphere. Equally, the contribution to our Nation's heritage from native American cultures has profoundly reinforced the foundation upon which the American culture has been built. Amidst next year's celebrations of the 500th anniversary of the European discovery of the new world, it is appropriate to recognize and celebrate the original inhabitants of our great land—the people we now call the Indians.

My joint resolution, designating 1992 as "The Year of the American Indian," seeks to recognize the many important contributions American Indians have made to our Nation in the areas of medicine, science, agriculture, literature, governmental organization, language, music, military service, and the arts.

For instance, native American governments are responsible for assisting our Nation's Framers in developing America's founding principles of Government. Separation and balance of powers, Government by representation, and the rights of free speech and peaceable assembly were all principles incorporated into Indian government years before Columbus set sail across the Atlantic. In fact, the Iroquois Tribe of upper-east New York State, recognizing the wisdom of establishing unity and amity between separate Indian nations, formed a long-lasting union of five separate tribes sometime around

the year 1400—390 years before the signing of the U.S. Constitution.

Native Americans were also responsible for sharing their knowledge of fishing, hunting, and agriculture with the very first settlers to America—the Pilgrims. The first Thanksgiving feast was attended by the Indians and the Pilgrims together in celebration of the Pilgrims' first harvest. This harvest, if I may remind my colleagues, was possible because of the Indians' generous contributions of agricultural knowledge to the Pilgrims.

In addition to these most significant contributions is the frequently unrecognized sacrifice so many American Indians have made to the United States of America. Thousands upon thousands of native Americans have courageously served in the wars and military confrontations fought by this Nation, from the Revolutionary War to the conflict in the Persian Gulf, often serving in greater numbers, proportionately, than the population of the Nation as a whole. Many of these fighting men and women have lost their lives in the line of duty. As you know Mr. President, perhaps no one in the Senate is as outspoken as I on matters of peace and war, but as a former lieutenant in the U.S. Navy, I must express my extreme gratitude to all those of my Indian brothers and sisters who have served the United States of America in the name of peace.

Indeed, the native American cultures among us have greatly contributed to laying many of the cornerstones of our Nation. Therefore, the 500th anniversary of the discovery of the new world is the perfect opportunity to reflect on the countless contributions made to America by the Indian community. Reflections on history, however, must often include examinations of unpleasant events. We must therefore, in 1992, also reflect on a not-so-glamorous chapter in the history of the Indian people and our Nation—the Termination Act of 1954.

This ill-conceived policy attempted to assimilate and Americanize native American cultures into mainstream society. A tragic number of Indian cultures may have been lost forever under this unfortunate act of Congress, but a healing process is currently under way. In my own State of Oregon, there are currently nine federally recognized Indian tribes, all striving to regain their culture and their economic self-sufficiency which will allow them to compete and flourish in the free-enterprise world. I have, and will continue to work to the best of my abilities to correct the injustices done to the Indian nations of Oregon and the United States. It is my sincere hope that this resolution, designating 1992 as "The Year of the American Indian," will assist us in recasting a spotlight on the incredible contributions our Nation has, is, and will be privileged to experi-

ence from the American Indian nations disbursed throughout our country.

Mr. President, I ask that a copy of the joint resolution be printed in the RECORD.

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

S. J. RES 217

Whereas American Indians are the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indian governments developed the fundamental principles of freedom of speech and the separation of powers in government, and these principles form the foundation of the United States Government today;

Whereas American Indian societies exhibited a respect for the finite quality of natural resources through deep respect for the Earth, and such values continue to be widely held today;

Whereas American Indian people have served with valor in all wars that the United States has engaged in, from the Revolutionary War to the conflict in the Persian Gulf, often serving in greater numbers, proportionately, than the population of the Nation as a whole;

Whereas American Indians have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas it is fitting that American Indians be recognized for their individual contributions to American society as artists, sculptors, musicians, authors, poets, artisans, scientists, and scholars;

Whereas the 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere is an especially appropriate occasion for the people of the United States to reflect on the long history of the original inhabitants of this continent and appreciate that the "discoverees" should have as much recognition as the "discoverer";

Whereas the peoples of the world will be refocusing with special interest on the significant contributions that American Indians have made to society;

Whereas the Congress believes that such recognition of their contributions will promote self-esteem, pride, and self-awareness in American Indians young and old; and

Whereas 1992 represents the first time that American Indians will have been recognized through the commemoration of a year in their honor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1992 is designated as the "Year of the American Indian". 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 year with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 316

At the request of Mr. CRAIG, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 327

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 327, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 447

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON], the Senator from Arkansas [Mr. BUMPERS], the Senator from Virginia [Mr. WARNER], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 514

At the request of Ms. MIKULSKI, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Arizona [Mr. MCCAIN] 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. 747

At the request of Mr. PRYOR, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity

of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1010

At the request of Mr. INOUE, the names of the Senator from Illinois [Mr. SIMON], the Senator from Iowa [Mr. HARKIN], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1032

At the request of Mr. DANFORTH, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1032, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 1088

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1088, a bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes.

S. 1175

At the request of Mr. KERRY, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes.

S. 1245

At the request of Mr. DASCHLE, the names of the Senator from Wisconsin [Mr. KOHL], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1261

At the request of Mr. DOLE, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1289

At the request of Mr. BIDEN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 1289, a bill to amend the provisions of the Higher Education of 1965 relating to treatment by campus officials of sexual assault victims.

S. 1333

At the request of Mr. SASSER, the names of the Senator from Washington [Mr. ADAMS], the Senator from Michigan [Mr. RIEGLE], the Senator from Texas [Mr. BENTSEN], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1333, a bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

S. 1358

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1358, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

S. 1364

At the request of Mr. PRYOR, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1372

At the request of Mr. GORE, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of 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.

S. 1423

At the request of Mr. DODD, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1424

At the request of Mr. CONRAD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1424, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1505

At the request of Mr. DECONCINI, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1505, a bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission.

S. 1578

At the request of Mr. THURMOND, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1623

At the request of Mr. DECONCINI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1623, a bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

S. 1711

At the request of Mr. DOLE, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1711, a bill to establish a Glass Ceiling Commission and an annual award for promoting a more diverse skilled work force at the management and decisionmaking levels in business, and for other purposes.

S. 1725

At the request of Mr. DIXON, the names of the Senator from Michigan

[Mr. LEVIN] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 1725, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the first voyage to the New World by Christopher Columbus and to establish the Christopher Columbus Quincentenary Scholarship Foundation and an Endowment Fund, and for related purposes.

S. 1729

At the request of Mr. KENNEDY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1729, a bill to amend the Public Health Service Act to require drug manufacturers to provide affordable prices for drugs purchased by certain entities funded under the Public Health Service Act, and for other purposes.

S. 1738

At the request of Mr. DASCHLE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1738, a bill to prohibit imports into the United States of meat products from the European Community until certain unfair trade barriers are removed, and for other purposes.

S. 1741

At the request of Mr. ROBB, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1741, a bill to provide for approval of a license for telephone communications between the United States and Vietnam.

S. 1810

At the request of Mr. ROCKEFELLER, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

At the request of Mr. KENNEDY, his name was added as a cosponsor of S. 1810, *supra*.

At the request of Mr. DURENBERGER, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1810, *supra*.

SENATE JOINT RESOLUTION 131

At the request of Mr. KERREY, his name was withdrawn as a cosponsor of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. ROBB], the Senator from Montana [Mr. BAUCUS], the Senator from Idaho [Mr. CRAIG], the Senator from New Mexico [Mr. DOMENICI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Michigan [Mr. LEVIN], and the Senator from Alabama [Mr.

HEFLIN] were added as cosponsors of Senate Joint Resolution 139, a joint resolution to designate October 1991, as "National Lock-In-Safety Month."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Florida [Mr. GRAHAM], the Senator from Delaware [Mr. ROTH], the Senator from Oregon [Mr. PACKWOOD], the Senator from California [Mr. SEYMOUR], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. CRAIG], the Senator from Maryland [Mr. SARBANES], and the Senator from Arkansas [Mr. PRYOR] 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 176

At the request of Mr. DIXON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. SYMMS], the Senator from Georgia [Mr. NUNN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

SENATE JOINT RESOLUTION 188

At the request of Mr. LAUTENBERG, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. INOUE], the Senator from Georgia [Mr. NUNN], the Senator from California [Mr. CRANSTON], the Senator from Mississippi [Mr. COCHRAN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Virginia [Mr. ROBB], the Senator from North Dakota [Mr. CONRAD], the Senator from Missouri [Mr. DANFORTH], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 188, a joint resolution designating November 1991, as "National Red Ribbon Month."

SENATE JOINT RESOLUTION 196

At the request of Mr. SIMON, the names of the Senator from Florida [Mr. MACK], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from South Dakota [Mr. PRESSLER], the Senator from Idaho [Mr. CRAIG], the Senator

from Pennsylvania [Mr. SPECTER], the Senator from Virginia [Mr. WARNER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Delaware [Mr. ROTH], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 196, a joint resolution to designate October 1991 as "Ending Hunger Month."

SENATE JOINT RESOLUTION 197

At the request of Mr. COCHRAN, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 197, a joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 25, 1991, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE JOINT RESOLUTION 211

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 211, a joint resolution designating October 1991 as "Italian-American Heritage and Culture Month."

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CRANSTON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. SEYMOUR, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Utah [Mr. HATCH], the Senator from Oklahoma [Mr. BOREN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Concurrent Resolution 62, a concurrent resolution expressing the sense of the Congress that the President should

award the Presidential Medal of Freedom to Martha Raye.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the names of the Senator from Connecticut [Mr. DODD], the Senator from Wyoming [Mr. WALLOP], the Senator from New York [Mr. MOYNIHAN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SANFORD, the names of the Senator from Arkansas [Mr. PRYOR], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of Senate Concurrent Resolution 70, a concurrent resolution to express the sense of the Congress with respect to the support of the United States for the protection of the African elephant.

AMENDMENT NO. 1260

At the request of Mr. SEYMOUR, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. SIMPSON], the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. COATS], the Senator from Idaho [Mr. CRAIG], the Senator from Texas [Mr. GRAMM], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Montana [Mr. BURNS], the Senator from Oregon [Mr. HATFIELD], the Senator from Indiana [Mr. LUGAR], the Senator from Oklahoma [Mr. NICKLES], the Senator from New Hampshire [Mr. SMITH], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of amendment No. 1260 intended to be proposed to 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.

SENATE CONCURRENT RESOLUTION 72—SUPPORTING THE PRESENTATION OF THE ELLIS ISLAND MEDAL OF HONOR

Mr. SPECTER submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 72

Whereas the immigrant station at Ellis Island, New York, opened on January 1, 1892, and admitted 700 immigrants to the United States on its first day of operation;

Whereas January 1, 1992, will mark the centennial of the opening of Ellis Island;

Whereas approximately 17,000,000 immigrants were admitted through Ellis Island between 1892 and 1954;

Whereas approximately 40 percent of all people in the United States today can trace their heritage to immigrant ancestors who were admitted through Ellis Island;

Whereas the presentation of the Ellis Island Medal of Honor on January 1, 1992, by the National Ethnic Coalition of Organizations, in association with the Statue of Liberty-Ellis Island Foundation, will be a symbolic way to commemorate the centennial of the opening of Ellis Island;

Whereas the Ellis Island Medal of Honor will be presented to distinguished citizens who have promoted the bond between their native countries and their adoptive country and who exemplify a lifetime dedicated to the growth and strength of the United States while preserving the values and tenets of their heritage;

Whereas the Ellis Island Medal of Honor will also be awarded to individuals for distinguished service to humanity in all fields, professions, and occupations; and

Whereas the United States House of Representatives has passed a resolution designating January 1, 1992, as National Ellis Island Day; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the presentation of the Ellis Island Medal of Honor on January 1, 1992, to initiate in a most worthy manner the centennial celebration of the opening of Ellis Island.

Mr. SPECTER. Mr. President, today I am introducing a concurrent resolution expressing support for awarding the Ellis Island Medal of Honor on January 1, 1992. This date marks the centennial of the opening of Ellis Island. My colleague in the House of Representatives, FRANK GUARINI, introduced House Joint Resolution 130, designating January 1, 1992, as "National Ellis Island Day."

The Statue of Liberty-Ellis Island Foundation and the National Ethnic Coalition of Organizations will award the Ellis Island Medal of Honor to a group of notable American citizens who typify the ideal of a life dedicated to the American way, while maintaining the values of their particular heritage. The awards ceremony will take place on January 1, 1992, in the Grand Hall at Ellis Island.

On opening day, January 1, 1892, 700 immigrants entered the United States through Ellis Island, and from 1892 to 1924, 17 million immigrants were admitted through this historic passageway. The Ellis administration and staff, on the average, processed up to 5,000 people a day. It is estimated that 100 million Americans can trace their ancestry to the immigrants that came through Ellis Island before traveling and settling throughout the country. Again, the room at Ellis Island will be filled with hundreds of thousands of visitors.

During this time of mass immigration, the newcomers had little to no knowledge of English and hardly any money. Many arrived with only the clothes on their backs. Essentially, they risked their lives in exchange for freedom and a better way of life.

President Reagan asked Lee Iacocca to undertake a private sector venture

and restore the Statue of Liberty and Ellis Island. In 1984, the restoration and preservation of Ellis Island and the Statue of Liberty began. It was the largest refurbishment project in the United States. On September 10, 1990, the Ellis Island Immigration Museum opened, marking the completion of the restoration. One of the features of the Immigrant Museum is the American Immigrant Wall of Honor. This exhibit is devoted to a display of names from a number of national origins. At the opening last fall, 2,000 names were inscribed on the Wall of Honor.

Mr. President, I come to this issue with a point of view, you might even say a substantial bias, because my parents were both immigrants. My father came to this country in 1911 at the age of 18 from Russia, and my mother came to this country at the age of 5 from a section of Russo-Poland. America is a land of immigrants who have enriched our country with their dedication, hard work, and traditions. I urge my colleagues to review and cosponsor this concurrent resolution, for I am sure they will concur that it is appropriate to honor those individuals who have made special contributions to build this great Nation.

SENATE RESOLUTION 201—RELATIVE TO ENFORCEMENT OF THE OILSEEDS GATT PANEL RULING AGAINST THE EUROPEAN COMMUNITY

Mr. DANFORTH (for himself, Mr. PRYOR, Mr. BAUCUS, Mr. BOND, Mr. FOWLER, Mr. MCCONNELL, Mr. HELMS, Mr. BOREN, Mr. SANFORD, Mr. KERREY, Mr. DURENBERGER, Mr. SIMON, Mr. GRASSLEY, Mr. DIXON, Mr. JOHNSTON, Mr. BURDICK, Mr. WALLOP, Mr. HARKIN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 201

Whereas in 1962, the European Community agreed to duty-free bindings on imports of oilseeds and oilcakes, including those exported from the United States;

Whereas in December 1987, the American Soybean Association filed a section 301 petition with the United States Trade Representative charging that the European Community's production and processing subsidies on oilseeds and animal feed proteins were inconsistent with the General Agreement on Tariffs and Trade (GATT), and nullified and impaired the European Community's duty-free bindings granted to the United States in 1962;

Whereas in May 1988, after consultations failed to result in a satisfactory resolution of this dispute, the United States Trade Representative requested the GATT Council of Representatives to establish a dispute settlement panel to consider the matter;

Whereas in July 1988, the United States Trade Representative determined that the rights of the United States under the GATT were being denied by the European Community's oilseeds subsidies;

Whereas in December 1989, the GATT dispute settlement panel found that the Euro-

pean Community's oilseeds subsidies were inconsistent with its GATT obligations regarding national treatment, and nullified and impaired the benefit of the duty-free bindings granted to the United States in 1962;

Whereas in January 1990, the European Community accepted the GATT panel ruling and committed to reforming its oilseeds regime to bring it into conformity with its GATT obligations beginning in the 1991 crop year;

Whereas in June 1991, the European Community Council of Ministers agreed that it would adopt by October 31, 1991, a new oilseeds regime that would bring the European Community into conformity with its GATT obligations;

Whereas the new oilseeds regime proposed by the Commission of the European Community would continue to provide unacceptably high subsidies for oilseeds, guaranteeing European Community producers a return of approximately twice the world market price for oilseeds, and would continue to nullify and impair the benefit of the duty-free bindings granted to the United States in 1962; and

Whereas the European Community's existing oilseeds regime is seriously injuring the United States economy and is estimated to cost United States farm interests at least \$2 billion annually in lost sales: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) if by October 31, 1991, the European Community Council of Ministers has not adopted a new oilseeds regime that is fully in conformity with its GATT obligations, the United States Trade Representative should immediately take action under section 301 to compensate for the trade losses caused by the European Community's failure to comply with the GATT panel ruling; and

(2) the actions taken by the United States Trade Representative under section 301 should remain in full force and effect until such time as the European Community brings its oilseeds regime into conformity with its GATT obligations.

Mr. DANFORTH. Mr. President, this resolution is a sense-of-the-Senate resolution which is designed to serve as something of a rallying point for Members of the Senate relating to what has become increasingly a damaging and outrageous situation that we have with the European Community in connection with their subsidies of oilseeds. These oilseeds subsidies are costing the American soybean farmer an estimated \$2 billion per year in lost sales.

Back in 1987, the American Soybean Association filed a section 301 petition with the U.S. Trade Representative challenging the European Community's system of subsidies for oilseeds.

The USTR proceeded under the General Agreement on Tariffs and Trade and requested that a GATT dispute settlement panel consider the matter. The GATT panel in December 1989 issued its findings stating that the European oilseed subsidy program violated the General Agreement on Tariffs and Trade and also nullified and impaired the duty-free bindings that the European Community granted the United States in 1962.

Despite the fact that this case was commenced in December 1987, and de-

spite the fact that the GATT panel issued its finding in December 1989, to date absolutely nothing has happened.

In June of this year, the European Community Council of Ministers agreed that it would adopt a reform implementing the GATT panel finding by October 31 of this year. Despite the fact that the European Community Council of Ministers stated that position in June, in the next month, in July, the EC commission proposed a new system of oilseeds subsidies which would guarantee European producers a return approximately twice that of the world market.

So, Mr. President, instead of moving forward, the European Community has been dragging its feet and resisting the kind of remedies that are required under the General Agreement on Tariffs and Trade.

This sense-of-the-Senate resolution states very simply that, first, if by October 31, 1991, the European Community Council of Ministers has not adopted a new oilseeds regime that is fully in conformity with its GATT obligations, the United States Trade Representative should immediately take action under section 301 of the Trade Act to enforce the GATT panel ruling against the European Community; and, second, that the actions taken by the USTR under section 301 should remain in full force and effect until such time as the EC brings its oilseed regime into conformity with its GATT obligations.

Mr. President, it is my intention at some point to bring this matter to the floor of the Senate for a vote, and in the meantime I would welcome the co-sponsorship of any Senators.

Mr. PRYOR. Mr. President, today I join my friend from Missouri, Senator DANFORTH, in continuing pursuit of bringing to the attention, not just within this Nation but for an international audience, the grossly unfair trade policies being exercised by the European Community. Many of you in this Chamber are already familiar with the oilseed policy of the EC, as witnessed by the fact that 58 of you signed a letter in April expressing your frustration with the insistence of the European Community to neglect the authority of the General Agreement on Tariffs and Trade.

In December, 1989, after an extended period of debate a GATT panel found the EC's oilseed policy of subsidies to be inconsistent with the rules of the GATT. The EC formally accepted the findings of the panel and agreed to make the needed reforms in its oilseed policy for the 1991 crop year, which by now, is nearing a close. Soon after that however, the EC announced its intention to maintain its current subsidy program until the negotiation in the Uruguay round was completed. This new decision by the EC has proven to be the primary stumbling block to reaching any results in the Uruguay

round. It also means money out of the pockets of American soybean farmers. Mr. President, this has gone on too long. This is our opportunity to send a strong and loud message to the EC and our own negotiators that we find the inaction of the EC intolerable.

Subsidies for the production of oilseeds in the European Community have now become the single largest aspect of agriculture spending for them. This year alone, they expect to increase spending in this area over 20 percent. Meanwhile, U.S. soybean producers operate without a direct subsidy program. This maddening policy of the EC has had a seriously adverse impact on the U.S. farm sector: Farm income has suffered; exports have declined; our market share has fallen dramatically; and this is not limited to soybeans, this is all oilseeds—cotton seed, canola, rape seed, sunflower oil, and this list eventually, includes the overall U.S. economy. The Danforth-Pryor resolution addresses this, and it calls for reform from the EC by October 31, 1991. Do not think for a moment this is short notice for them either, Mr. President, for the EC has been playing this hide-and-seek game for 2 years now.

A couple of years ago I accompanied the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, as well as other colleagues on a trade mission through the EC, and raised repeatedly the issue of their oilseed policy. That was a time of discussion, debate, and requests for fairness. My friends, the time for such diplomatic niceties has since passed, and I urge you to join me in demanding that the EC abandon its policy of piracy. In Arkansas, it is just common sense to let someone know when you are serious; Now is the time to let the EC know that we are serious and do not intend to sit idly by while they continue to maim the integrity of the international trade negotiations and the universal rules of fair play.

For additional information supporting these claims I ask unanimous consent to have the RECORD several pieces of correspondence, charts and statistics that I believe others will find not only interesting, but appalling.

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

U.S. SENATE,
Washington, DC, April 23, 1991.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our concern regarding an issue of great importance to U.S. farmers—the reluctance of the European Community (EC) to bring its policies for soybeans and other oilseeds into conformance with its obligations under the General Agreement on Tariffs and Trade (GATT).

In December 1989, after an extended period of debate, a dispute settlement panel under the GATT found the EC's oilseed subsidy programs to be inconsistent with the rules of

the GATT. The EC formally accepted the finding of that panel and agreed to make the necessary reforms in its oilseed policies for the 1991 crop year, which is about to begin.

The EC, however, has recently announced that it does not intend to reform its internal oilseed policies this year and has linked its obligation under the GATT panel decision to a successful conclusion of the Uruguay Round of trade negotiations. The refusal of the EC to make meaningful commitments in those negotiations has been the primary stumbling block to progress in the Uruguay Round.

Subsidies paid for the production of oilseeds in the EC have now become the largest single component of farm program spending in the Community. Spending on oilseeds, protein crops, and olive oil within the EC is expected to increase this year by over 20 percent, to nearly \$9.5 billion—roughly equal to total projected U.S. farm program costs. The oilseed policies are estimated to cost U.S. farm interests at least \$2 billion annually in lost sales.

The damage done to our oilseed sector is cumulative—oilseed exports have declined, farm income has been hurt, and processing plants have shut down all over the United States. Yet the EC says that the United States should wait until the Uruguay Round negotiations are completed.

The strategy of the EC is readily apparent. By wrapping lost trade disputes into the GATT negotiations, the EC is betting on coming out better in those negotiations than it would under current GATT rules. The resolution of the EC's obligations under the GATT panel decision should not be dependent upon the Uruguay Round negotiations.

The integrity of international trade disciplines and important U.S. commercial interests are at stake in this case. We encourage you to employ every diplomatic avenue possible to convince the EC to fulfill its obligations under the GATT panel decision in a timely fashion. Should a diplomatic solution fail, we believe that you should exercise our rights under U.S. trade law to retaliate.

We thank you for your consideration of our views.

Sincerely,

David Pryor, Patrick Leahy, Bob Dole, Conrad R. Burns, Dan Coats, Al Gore, John C. Danforth, Dick Lugar, Bob Packwood, Carl Levin, Nancy Landon Kassebaum, Thad Cochran, Malcolm Wallop, Kit Bond, John McCain, Ernest F. Hollings, Bill Roth, Alan J. Dixon, Bob Kerrey, Tom Harkin, John Breaux, Paul David Wellstone, John Warner, Strom Thurmond, Wendell Ford, J. Bennett Johnston, Barbara A. Mikulski, Larry E. Craig, Tom Daschle, Quentin Burdick, Howell Heflin, Terry Sanford.

James M. Jeffords, Paul Simon, Frank H. Murkowski, Richard Shelby, Chuck Grassley, Conrad Burns, Jim Sasser, Joe Biden, Mitch McConnell, Bill Bradley, Jesse Helms, J.J. Exon, Herb Kohl, Kent Conrad, Don Riegle, Dave Durenberger, Chuck Robb, Wyche Fowler, Jr., Max Baucus, Bob Kasten, Trent Lott, Paul Sarbanes, Dale Bumpers, John Glenn, Larry Pressler, Sam Nunn, Al Simpson.

U.S. SENATE,

Washington, DC, July 24, 1991.

Hon. CARLA A. HILLS,

U.S. Trade Representative, Washington, DC.

DEAR CARLA: We are writing to share our views regarding efforts to bring the Euro-

pean Community's [EC] oilseeds programs into conformance with its obligations under the General Agreement on Tariffs and Trade [GATT].

We understand that the EC Commission is expected to present a proposal by July 31, 1991, to bring the EC's programs into conformity with the GATT panel report on oilseeds. In anticipation of this action, we would like to express our view that only a full implementation of the GATT panel report would be an acceptable resolution of this case. We note that the GATT dispute settlement panel found that the EC's programs both violate the national treatment principle of GATT Article III and nullify and impair the EC's duty-free binding on oilseeds and oilseed meal. Any reform proposal must implement fully both aspects of the GATT panel ruling.

We also believe it important to emphasize the need for strong and immediate action by the United States should the EC again fail to live up to its commitments to reform its oilseeds policies this year. It has been more than one and one-half years since the GATT dispute settlement panel ruled against the EC's oilseeds subsidy programs. To date, there has been no discernible action by the EC to comply with the GATT panel report. In the meantime, U.S. soybean farmers have continued to suffer lost sales and depressed prices. Further delays will only exacerbate the injury to U.S. agriculture.

Your recent success in obtaining an extension of fast track authority was clearly related to your willingness to stand up for U.S. agriculture in the Uruguay Round negotiations. We view the vigorous enforcement of U.S. rights in the oilseeds dispute to be another critical measure of the administration's commitment to a strong and effective trade policy. Accordingly, we strongly urge you to have a plan of retaliation prepared should the EC proposal fail to implement fully the panel report. The U.S. must be prepared to enforce immediately its rights should the EC attempt to avoid further its GATT obligations.

Thank you for your consideration of our views.

Sincerely,

DAVID PRYOR,
JOHN C. DANFORTH.

Brussels, October 18, 1991.

Mrs. CARLA A. HILLS,
U.S. Trade Representative,
Mr. EDWARD MADIGAN,
Secretary of Agriculture, Washington, DC.

DEAR CARLA AND ED: Thank you for your letter of September 7 and the message sent to us on September 24 concerning the implementation of the conclusions of the GATT oilseeds panel.

We are glad to read that you acknowledge that the Commission has taken the right initiative to resolve the violation of GATT Article 111.4 by proposing to the Council to support farmers' incomes by a system of direct payments.

Unfortunately, you do not seem to accept that the other main issue addressed by the Soya Panel, the impairment of the tariff concession, will be removed as well upon adoption by the Council of the Commission proposal. You will recall that the panel conclusions of December 1989 state that the support arrangements for oilseeds should not "protect Community producers completely from the movement of prices of imports and thereby prevent the tariff concession from having any impact on the competitive relationship between the domestic and imported

oilseeds". It is our view that the Commission proposal meets this point and we disagree with your assessment to the contrary.

We believe that the requirements laid down by the panel's conclusions will be met by the combined effects of the following elements of the Commission's proposal if they are adopted by the Council:

The producer will sell his product at the world market price and will, consequently, be subject to the risks related to such a situation;

The aid will be calculated once a year, will include a franchise and will be paid for an average production. The aid will, therefore, not compensate for price fluctuation on the world market;

The producer will not be shielded by an intervention system.

It is in particular for these reasons, that we cannot agree with your conclusion that, under the new system, the GATT binding will continue to be prevented from having any impact on the competitive relationship between domestic and imported oilseeds.

As regards your proposal to apply paragraph k.4 of the Uruguay Round draft text on dispute settlement which allows, *Inter alia*, for a resort to the original panel in case of disagreement as to measures taken to comply with recommendations and rulings under GATT Article XXIII:2, we are of the opinion that this provision, even though its inclusion in the Lacarte text was supported by the EC, only creates obligations after it has been accepted as part of an overall agreement on the outcome of the Uruguay Round. Until such time, we do not wish to anticipate on the entry into force of the new text on dispute settlement. For the time being, the GATT Council remains, therefore, the sole body to be addressed for monitoring the implementation of recommendations or rulings adopted under Article XXIII [and in particular paragraph 1 of the April 1989 Decision, §180 365/61].

As we indicated in our letter of June 27, the EC Council has agreed to adopt, by October 31 of this year, a new oilseeds regime which will bring EC legislation into conformity with the panel conclusions. The Commission proposal which was sent to the Council in July is only a step in the decision-making process of the Community. In view of this and of the Council's pledge to decide on the proposal before the end of October, your complaint is, to say the least, premature.

We would like to point out that the Commission's proposal, while complying with the GATT panel conclusions, lays down a transitional scheme which will apply until the definitive one is adopted as part of the CAP reform under discussion in the Council.

We hope that you will be convinced that we are fulfilling the obligations we undertook on the adoption of the panel report and we are, as always, ready to continue to explore with you the ways to control this issue.

Yours sincerely,

FRANE ANDRIESEN,
RAY MAC SHARRY.

HOW THE EUROPEAN COMMUNITY HARMS U.S. AGRICULTURE

The EC provides tremendous subsidies for its farming industry.

Consequently, EC agricultural production has expanded rapidly over the past two decades.

EC subsidized exports have driven down world market prices of farm products.

The EC has shifted from a net importer of many agricultural products to the world's second largest exporter [behind the U.S.].

Lower world prices and reduced U.S. Market shares have cut U.S. agricultural exports, resulting in less U.S. acreage planted and lower U.S. farm incomes.

While the EC has undertaken some modest reforms of agricultural policy, its production and trade continue to expand.

Mr. McCONNELL. Mr. President, patience may be a virtue, but being too patient can be viewed as inaction. During the decade of the 1980's U.S. soybean farmers suffered from lost income because of unfair trade practices by the European Community. In 1987, a section 301 petition was initiated under GATT rules to investigate the problems.

The EC guarantees its farmers more than twice the current world price of soybeans and EC oilseed processors receive additional subsidies. It is not surprising their farmers have increased acreage fivefold during the past decade. This increased production in the EC will displace around \$1.5 billion in potential income to U.S. soybean producers this year alone.

Almost 2 years ago, a GATT panel which reviewed this petition found the European Community's oilseed subsidy program was inconsistent with the rules of the General Agreement on Tariffs and Trade. It is time to act, before our soybean farmers lose more money.

My home State of Kentucky typically ranks as the 13th largest soybean producing State. Over \$200 million per year is earned by Kentucky soybean farmers. So you see, unfair trade practices directly hurt the soybean industry in my State and I believe it is time to exercise our rights under U.S. trade law.

EC officials claim they will modify their internal support programs in an effort to resolve this dispute. However, no positive steps have been taken. This problem has dragged on far too long and it is time it was resolved.

Mr. President, I strongly support this resolution and I am frankly becoming impatient waiting for the EC to correct the inequities which exist. I yield the floor.

Mr. BOND. Mr. President, I rise in strong support of the resolution offered by my distinguished colleague from Missouri, Senator DANFORTH, and Senator PRYOR and others. This resolution expresses the sense of the Senate regarding enforcement of the oilseeds GATT panel ruling against the European Community.

While the European Community [EC] has expanded its oilseed exports, U.S. exports have fallen, domestic stocks have risen and prices for both oilseeds and oil have dropped. The ability of the EC to produce and export oilseeds is entirely dependent on subsidies. It is time the administration recognize that the EC has no intention of complying with its GATT commitments to reform its GATT illegal oilseed subsidy regime. It is clear to me and the Nation's soybean farmers that nothing less than

certain retaliation against EC exports to the United States will convince the EC that the United States is completely serious. We will accept nothing less than the EC reforming its oilseed subsidy regime as it is required to do as a GATT signatory.

As the resolution indicates, the American Soybean Association [ASA] representing all U.S. soybean farmers, filed a section 301 petition against the EC in December 1987. The petition charged that the EC was impairing its duty-free tariff bindings on soybeans and soybean meal by providing lucrative subsidies to growers and processors of EC-origin soybeans, rapeseed, and sunflower seed. The ASA petition was accepted by the Reagan administration in January 1988, and actively pursued through the GATT and in consultations with the EC.

In January 1989, the GATT Council of Ministers adopted a report of a dispute settlement panel that had considered the merits of the charges contained in the American Soybean Association's section 301 petition. The GATT dispute settlement panel ruled that EC subsidies are a violation of GATT trading rules. It is important to note that the EC accepted the results of the dispute settlement panel when it was presented to the GATT Council in January 1989. In so doing the EC agreed to bring its oilseed regime into compliance with the GATT and to eliminate the impairment of its duty-free bindings.

Soon, it will be 4 years since the ASA's section 301 petition was filed with USTR and 2 years since the EC's oilseed regime was found to be GATT-illegal. Yet, the EC has yet to take action to come into compliance. Quite the opposite has occurred in fact. In 1986-87 marketing year, the time when ASA filed its petition, the EC produced a total of 6.9 million metric tons [MMT] of oilseeds. This year, the EC is expected to produce over 12 MMT of oilseeds, the largest crop in its history.

The EC budgeted the equivalent of \$9 million in 1990-91 to pay the cost of its subsidies for the production of oilseeds, protein crops, and olive oil, directly affecting demand in Europe for U.S. soybeans and soybean meal. That is almost as much as the United States spent in fiscal year 1991 on all domestic farm income and price supports. This year the EC is expected to export well over 1 MMT of highly subsidized rapeseed oil to markets previously supplied with U.S. soybeans and soybean oil.

It is important to consider the extent of the EC's subsidies. Here in the United States we guarantee our soybean farmers \$4.92 for each bushel of soybeans they grow and 8½ cents per pound for each pound of sunflower seed and rapeseed they grow. That is below the cost of production for many farmers and well below the normal market price for those crops. In Europe farm-

ers receive in excess of \$12-\$15/bushel for all of their soybeans and almost 20 cents per pound for each pound of rapeseed and sunflower seed they grow. By reimbursing EC oilseed processors for the higher price they must pay EC farmers for oilseeds, the EC is able to sell at a cost lower than the EC processors can purchase U.S. soybeans. United States soybeans and soybean meal simply cannot compete in the European market with EC-origin oilseeds. I ask my colleagues, what would be the reaction from the EC if we adopted their policy for oilseeds and applied it to wine? Without question they would retaliate.

This summer the EC promised U.S. Trade Representative Carla Hills and Secretary of Agriculture Ed Madigan that it would adopt a new oilseeds program that complied with the GATT panel's ruling by October 31 of this year. In August, the EC's proposed oilseed plan was unveiled. The EC's plan for compliance with the December 1989 GATT panel's ruling merely continues the excessive oilseed subsidies of the past.

Mr. President, I am fed up with the EC's continued uncompromising position on the oilseeds case as well as with just about every other agricultural issue. The EC has had 2 years to make acceptable reforms. In the meantime, U.S. soybean farmers and processors are losing at least \$1.5 billion annually in sales to the EC. It is my view that the EC will keep on stealing our soybean farmers' and processors' market in Europe if we don't retaliate.

Our soybean farmers and soybean processors should not have to wait any longer for the EC to act on the oilseeds issue. They have waited far too long already. The way to get ahead of the EC is to get behind the American producer. The administration must retaliate against the EC by taking action under section 301 to impose prohibitive import duties on no less than \$1.5 billion in EC exports to the United States. Through such retaliation the United States will make the EC pay an economic price for its failure to make acceptable reforms and provide a reason for the EC to complete fairly. I urge my colleagues to support this resolution.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair. I thank my colleague from Missouri for both of those statements. I am pleased to be a cosponsor of the resolution that he has introduced with regard to the European Community. I want to express the sense of frustration of being on the Finance Committee and not being able to deal as adequately as we should with these problems, but the time is running short for the Europeans, and we have all the time in the

world in the one sense. They do not have that much time to make a decision to deal appropriately with fair trade in this world.

AMENDMENTS SUBMITTED

CIVIL RIGHTS ACT OF 1991

DECONCINI AMENDMENT NO. 1264

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (S. 1745) to amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes, as follows:

Beginning on page 6, strike line 8 and all that follows through page 7, line 2, and insert the following:

"(3) LIMITATIONS.—The amount of punitive damages that may be awarded under this section shall not exceed the greater of—

"(A) \$150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under this section and equitable monetary relief awarded under section 706(g) of the Civil Rights Act of 1964.

• Mr. DECONCINI. Mr. President, I would like to offer an amendment to Senator DANFORTH'S civil rights bill (S. 1745) to strike the limitations on the damages provisions included in his bill and replace them with the limits included in last year's conference report on the Civil Rights Act of 1990. These are the same limits that are included in H.R. 1, the House-passed civil rights bill.

I commend Senator DANFORTH for the hard work he has put into drafting his compromise bill and I support him in this effort. However, I am concerned that the caps he places on damages for victims of intentional discrimination are too restrictive. Senator DANFORTH'S bill would create three tiers of remedies for victims of intentional discrimination, based not on the egregiousness of the injury, but on the size of the employer.

Damage awards would be limited to \$50,000 for employees with 15 to 100 employers, \$100,000 for employers with 101 to 500 employees, and \$300,000 for employers with more than 500 employees. Since 97 percent of all employers would fall under the first tier, I feel strongly that victims will have little incentive to seek enforcement of their rights. No matter how egregious an employer's behavior, most victims would never be eligible to receive more than \$50,000.

These caps would apply to the total of all punitive and compensatory damages, including future pecuniary losses, pain and suffering, mental anguish, and loss of enjoyment of life. Compensatory damages are designed to compensate an injured party for the harm actually done, and to place the injured party, inasmuch as possible, in the same position he or she would have been in the absence of the discrimination. Compensatory damages are designed to make the victim whole. Limits on compensatory damages are unfair and should be avoided at all costs.

My amendment would eliminate all caps on compensatory damages and instead place a cap on punitive damages of \$150,000 or the amount of compensatory damages, whichever is higher. This seems a fair alternative and one that was accepted last year in the conference report on civil rights and this year in the House-passed bill. In the situation where an employer's actions have caused an exceptional amount of out-of-pocket expenses or pain and suffering, the amount of punitive damages should be correspondingly higher. However, a cap of \$150,000 will provide some protection in those cases where the behavior caused less damage.

Victims of intentional discrimination should be treated fairly and equitably. Victims of intentional race discrimination have long been able to seek compensatory and punitive damages for the discrimination they suffer under 42 U.S.C. 1981. However, women, certain religious minorities and the disabled are severely limited in the remedies they can receive.

In its current form, title VII's remedies are limited to: reinstatement to the job; back pay if the victim can prove lost wages; and/or court orders against future discrimination. Title VII does not provide compensation for other harm attributable to the discrimination, such as medical injuries and their associated costs; emotional distress; losses, such as loss of a house or car because payments were missed due to discriminatory discharge from a job.

Title VII does not address the needs of victims who do not wish to return to their jobs, who suffer medical and psychological harm, or who suffer out-of-pocket expenses because of the harassment from their employers. For example, Helen Brooms was sexually harassed on the job. She finally quit her job after her supervisor showed her sexually explicit photographs and threatened her life. She fell down a flight of stairs trying to get away from him and subsequently suffered from severe depression. Although the court found her civil rights had been violated, she received no compensation at all for her medical injuries. These types of examples are endless. The need for damages for all victims of intentional discrimination is clear.

Opponents of the damages provisions argue that it will subject employers to enormous liability and put them out of business. A recent study completed by the Washington, DC, law firm of Shea

and Gardner at the request of the National Women's Law Center challenges this assertion. This study shows that monetary awards under section 1981 for victims of intentional racial discrimination has not led to unlimited awards and bonanzas for lawyers. The study which covers a 10-year period, found that in over 85 percent of cases, no damages at all were awarded. Of the remaining cases where there was a monetary award, the average award was about \$40,000 and in only three cases were the damage awards more than \$200,000.

A victim's ability to recover damages for harm caused by intentional discrimination should not be artificially constrained based upon a presumption about the employer's ability to pay. A victim should be able to recover the full cost of the losses they suffer because of the discrimination of their employer. It is for this reason compensatory damages should not be restricted.

An adequate damages remedy in title VII, like that proposed in my amendment, will deter employers from discrimination and encourage the settlement of cases. It will send employers the message that all forms of illegal, intentional discrimination are not to be tolerated. I urge my colleagues to accept my amendment which I intend to offer when the civil rights bill is considered this week. •

FEDERAL FACILITY COMPLIANCE ACT OF 1991

BAUCUS AMENDMENT NO. 1265

Mr. BAUCUS proposed an amendment to the bill (S. 596) 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, as follows:

In section 105, subsection (b), in line 4 of new section 3004(m)(3) of the Solid Waste Disposal Act, after "comment", insert "and after consultation with appropriate State agencies in all affected States".

In section 105, subsection (b), in line 12 of new section 3004(m)(4) of the Solid Waste Disposal Act, after "comment", insert "and after consultation with appropriate State agencies in all affected States".

In section 109, subsection (b)(3), line 12, after "shall be" insert "only for the cost of completion of the contract work".

In section 111, line 1, after "solid", delete "of" and insert in lieu thereof "or".

In section 114, delete "AMENDMENT TO THE FEDERAL FACILITY COMPLIANCE ACT OF 1991" and insert in lieu thereof "USE OF MINE WASTE TREATMENT CAPABILITIES".

WIRTH (AND CHAFEE) AMENDMENT NO. 1266

Mr. WIRTH (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 596, supra, as follows:

On page 6, after line 12, add the following new section:

SEC. 5. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.

(a) **IN GENERAL.**—The Architect of the Capitol (referred to in this section as the "Architect") shall undertake a program of analysis and retrofit of the Capitol Buildings, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

(b) **PROGRAM.**—

(1) **LIGHTING.**—

(A) **IMPLEMENTATION.**—

(i) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act and subject to the availability of appropriated funds to carry out this section, the Architect shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less.

(ii) **REPLACEMENT OF INCANDESCENT LIGHTING.**—Wherever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

(B) **COMPLETION.**—Subject to the availability of appropriated funds to carry out this section, the program described in subparagraph (A) shall be completed not later than 5 years after the date of enactment of this Act.

(2) **EVALUATION AND REPORT.**—

(A) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

(B) **COSTS.**—The report shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measures.

(3) **IMPLEMENTATION PLAN.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Architect shall issue an implementation plan for the installation of all energy conservation measures identified in accordance with paragraph (2) with payback periods of less than 10 years.

(B) **INSTALLATION.**—The plan shall provide for the installation of the measures described in subparagraph (A) not later than 6 years after the date of enactment of this Act.

(4) **ENERGY SAVINGS PERFORMANCE CONTRACTS.**—

(A) **IN GENERAL.**—In carrying out this section, the Architect is authorized and encouraged to solicit and enter into one or more energy savings performance contracts offered by one or more private firms.

(B) **CONTRACT REQUIREMENTS.**—Each energy savings performance contract shall—

(i) require an annual energy audit;

(ii) specify the terms and conditions of each payment and performance guarantee; and

(iii) provide that, for the term of each guarantee, the contractor is responsible for maintenance and repair services for energy-related equipment, including computer software systems.

(C) **PAYMENTS.**—The Architect may incur an obligation to finance a project contracted for in accordance with this paragraph if—

(i) the energy savings guaranteed in the contract exceeds the debt service requirements; and

(ii) aggregate annual payments do not exceed the energy savings guaranteed in the contract during each contract year.

(D) **IMPLEMENTATION.**—The procedures and methods used to calculate the energy savings guaranteed in the contract shall be based on—

(i) sound engineering practices; and

(ii) consideration of relevant variables, including applicable utility rate schedules and fuel and utility billing schedules.

(E) **DEFINITION.**—As used in this paragraph, the term "energy savings performance contract" means a contract that—

(i) provides for the performance of services for the design, acquisition, installation, testing, operation, and, if appropriate, maintenance and repair, of an energy conservation measure identified in accordance with paragraph (2); and

(ii) may provide for appropriate software licensing agreements.

(5) **UTILITY INCENTIVE PROGRAMS.**—In carrying out this section, the Architect is authorized and encouraged to—

(A) accept any rebate or other financial incentive offered through a program for energy conservation or the management of electricity or gas demand that—

(i) is conducted by an electric or natural gas utility;

(ii) is generally available to customers of the utility; and

(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost effective for the buildings described in subsection (a); and

(B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

ROBB AMENDMENT NO. 1267

Mr. BAUCUS (for Mr. ROBB) proposed an amendment to the bill S. 596, supra, as follows:

Insert at the end of section 304(b)(2): "unless the conditions enumerated in subsection (a) are met."

Insert at the end of section 304(b)(3): "unless the conditions enumerated in subsection (a) are met."

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

CONRAD AMENDMENT NO. 1268

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin Program, Wyoming, as follows:

On page 227, after line 4, insert the following new title:

TITLE XXXIV—IRRIGATION ON STANDING ROCK INDIAN RESERVATION
SEC. 3401. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

Section 5(e) of Public Law 89-108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986, is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation".

CIVIL RIGHTS ACT OF 1991

MOYNIHAN AMENDMENT NO. 1269

(Ordered to lie on the table.)
Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill S. 1745, supra, as follows:

At the appropriate place, add the following:

SECTION 1. SHORT TITLE.

This section may be cited as the "Welfare Dependency Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that welfare dependency has reached threatening levels:

(1) In the period since 1960 the average annual caseload of the Aid to Families With Dependent Children Program under title IV of the Social Security Act has quintupled.

(2) In 1990 there were on average almost twice as many households receiving Aid to Families With Dependent Children payments as the number of households and individuals receiving unemployment compensation benefits.

(3) Nearly one quarter of children born in the period 1967 through 1969 were dependent on welfare (AFDC) before reaching age 18. For minority children this ratio approached three-quarters.

(4) At any given time one-quarter of schoolchildren are from single parent families, or households with neither parent. The National Assessment of Educational Progress has documented the educational losses associated with single parent or no parent households.

(5) Only one quarter of father-absent families receive full child support and over half receive none.

(6) The average Aid to Families With Dependent Children benefit has declined by more than one-third since 1960.

(7) The burden of welfare dependency is an issue of necessary concern to women who in overwhelming proportion are the heads of single-parent families.

(8) The rate of welfare dependency is rising. However the statistical basis on which to assess this national issue is wholly inadequate, much as the statistical basis for addressing issues of unemployment was inadequate prior to the Employment Act of 1946 and the creation of the annual Economic Report of the President.

SEC. 3. CONGRESSIONAL POLICY.

The Congress hereby declares:

(1) That it is the policy and responsibility of the Federal Government to reduce welfare dependency to the lowest possible level, consistent with other essential national goals.

(2) That it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient, and to underscore the responsibility of parents to support their children.

(3) That the Federal Government should help welfare recipients as well as individuals

at risk of welfare dependency to improve their education and job skills and to take such other steps as may assist them in becoming financially independent.

(4) That it is the purpose of the Welfare Dependency Act to aid in lowering welfare dependency by providing the public with generally accepted measures of welfare dependency so that it can track dependency over time and determine whether progress is being made in reducing it, and also to determine the adequacy of welfare benefits.

SEC. 4. ANNUAL WELFARE DEPENDENCY REPORT.

(1) The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall submit an annual report on welfare dependency in the United States. The report will attempt to identify predictors of welfare dependency and trends thereof.

(2) The report shall include families and individuals receiving needs-tested benefit programs, including Aid to Families With Dependent Children, Food Stamps and Medical Assistance, as well as general assistance programs administered by State and local governments.

(3) Not later than three years after the date of enactment of the Act, the Secretary shall submit the first annual Welfare dependency report to the Senate Committee on Finance and the House Ways and Means Committee. Such report shall set forth:

(a) current trends in the number of recipients and total expenditures for each of the means-tested welfare programs.

(b) the proportion of the total population receiving each of the means-tested programs.

(c) annual numerical goals for recipients and expenditures for each program for the calendar year in which the report is transmitted and for each of the following four calendar years. These goals will reflect the objective of reducing welfare dependency to the lowest possible level consistent with other essential national goals. Numerical goals should also be provided for significant subgroups within the population.

(d) the programs and policies the Secretary determines are necessary to meet the goals for each of the five years, together with such recommendations for legislation as the Secretary may deem necessary or desirable.

(e) the Secretary's annual reports will include interim goals for reducing the proportion of families and children who are recipients of Aid to Families With Dependent Children to ten (10) percent.

(4) The Secretary shall submit reports annually after the due date of the report described in subsection (a) to the Senate Committee on Finance and the House Ways and Means Committee. The report shall be transmitted during the first 60 days of each regular session of Congress.

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 hold a hearing on agricultural and food assistance for the Soviet Union on Wednesday, October 30, 1991, at 10 a.m., in SR-332.

For further information please contact Lynnett Wagner of the committee staff at 224-5207.

AUTHORIZATION FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 22, at 2 p.m. to hold a business meeting.

BUSINESS MEETING

The Committee will consider and vote on the following business items:

LEGISLATION

(1) S. Res. 198, authorizing the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the U.S. hostages in Iran.

(2) S. 503, the U.S.-Mexico Border Environmental Protection Act, sponsored by Senators McCain and DeConcini.

NOMINATIONS

(1) Mr. Edward Gibson Lanpher, of the District of Columbia, to be Ambassador to Zimbabwe.

(2) Mr. Richard C. Houseworth, of Arizona, to be U.S. Alternate Executive Director of the Inter-American Development Bank.

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

SUBCOMMITTEE ON TAXATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Taxation of the Committee on Finance be authorized to meet during the session of the Senate on October 22, 1991, at 2:30 p.m. to hold a hearing on S. 1787, the Asset Disposition and Revitalization Credit Act of 1991.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., October 22, 1991, to receive testimony on S. 1696, a bill to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes.

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

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Tuesday, October 22, at 10 a.m. to hold a hearing on the narcotics and foreign policy implications of the BCCI affair.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Sub-

committee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 22, 1991, to receive testimony on S. 1825, a bill to authorize the sale of Bureau of Reclamation loans to the Redwood Valley County Water District, California; and H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991.

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

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Tuesday, October 22, 1991, at 9 a.m. to hold a hearing on the viability of the U.S. grain inspection system.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, October 22, at 9:30 a.m., for a hearing on the subject: FTS-2000.

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

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Consumer and Regulatory Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, October 22, 1991, at 10 a.m. to conduct a hearing on recommendations for amending the Fair Credit Reporting Act.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Indian Affairs be authorized to meet on October 22, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building, on S. 1315, the Indian Federal Recognition Administrative Procedures Act of 1991.

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

ADDITIONAL STATEMENTS

MAGAZINE SURVEY FINDINGS DECRY NEED FOR HIGHWAY BILL

• Mr. SHELBY. Mr. President and Members of the Senate, I rise today to recognize the contributions of *Overdrive* and *Equipment World* magazines toward educating readers and the general public about problems and chal-

enges facing our Nation's drivers and truckers in particular. Recently, I read an article in the September issue of *Overdrive* magazine, a trucking magazine published in Tuscaloosa, AL, that drives home the importance of drafting and enacting a highway bill that has meaning and substance.

Overdrive, the magazine for the owner-driver trucker, and *Equipment World*, *Overdrive's* sister publication and the leading magazine for the construction industry, are both owned by Randall Publishing Co. Together, these publications represent those persons whose livings are made driving and constructing this Nation's roads.

I feel the *Overdrive* article "Streets of Shame" should be entered into the CONGRESSIONAL RECORD. It expresses the opinions of this country's experts on our roads—professional truckers. *Overdrive's* readers, professional owner-drive truckers, were asked to select the worst roads in the country. I can think of no group of Americans better qualified to make that selection than the people who travel the highways to make their living.

The results of the survey tell us that the need for effective highway legislation is real and immediate. When 2,500 truckers are willing to voice their opinions on the worst roads in America, we have a responsibility to listen to them. Published by both *Equipment World* and *Overdrive*, the survey's finding and conclusion of the need for a highway bill was aired on *Equipment World's* construction report and *Overdrive's* Trucking News, each a nationally-ranked syndicated radio show, highlighted by Bryant Gumbel in a segment on the Today Show, and reported by the national wire services.

The survey ranks 36 States and clearly demonstrates that the need for highway improvements is not limited to just a few special areas. Entire interstates and major arteries, such as I-80, are named for a lack of attention and serious, hazardous truck-damaging potholes. In some cases, truckers are calling for a boycott of some of the worst sections and routes. The truckers and contractors of America are speaking out through *Overdrive* and *Equipment World* magazines for a comprehensive bill that would help maintain our highways and in turn allow our Nation's economy to remain prosperous and internationally competitive. In effect, the article, "Streets of Shame" challenges us to produce effective highway legislation that will ensure the continued future of one of our greatest resources—our National Highway System.

Mr. President, as the Congress continues to hammer out a comprehensive highway bill, I hope the recommendations and observations contained in this survey of America's truckers is not left out of this process.

I ask that this article be printed in the RECORD.

The article follows:

[From *Overdrive* magazine, October 1991]

STREETS OF SHAME

The results are in: Pennsylvania gets the wooden spoon for the nation's worst roads—and gets it by a country mile over second-place New York state.

In the *Overdrive* Worst Roads Contest, readers voted for their least favorite sections of highway. The mail-in cards in the March issue gave each respondent five opportunities to rank their least favorite roads on a "hate" list. The response was enormous. No fewer than 2,500 entries for the Worst Road were received, showing the nation's truckers are fed up with the state of repair of the nation's highways.

After tabulation it turns out that Pennsylvania is tops in the ranking, followed by New York. Third place state is Ohio, making it a grand slam for the Northeast.

The rankings for all states mentioned in the respondents' cards are reported in the accompanying table. It's interesting to note that not all states are represented. Some states either look after their highways, or else truckers don't go there often enough that their roads are a problem.

While Pennsylvania gets the overall vote for the state that cares least for road users, it's New York that has the single worst road. By almost two to one, truckers voted the Cross Bronx Expressway the single worst road in the nation.

It was not just the individual states that came in for a panning. The whole country came in for a consistent thrashing. Major arteries such as I-80 "across the nation" were consistently criticized for poor attention, for truck-damaging potholes, for discomfort. In some cases, the respondents called for outright boycott of some of the worst sections and routes.

Overdrive plans to present the information to the state governors and the Secretary of Transportation so they can make funding for the repair and upgrading of the worst roads in the nation a priority.

Here's how the top 10 states stack up:

PENNSYLVANIA

Ranking among the highest of the worst roads was I-80, scoring in many states, though none worse than Pennsylvania's. Especially singled out for comment was the section from Milesburg to Hazelton.

Next came I-81, scoring half as many, yet still outrating many other states' worst-rated roads. Again, a single stretch was highlighted: Carlisle to Scranton. Scranton was a popular—or rather unpopular—city for truckers on I-84, as this scored third in the Keystone State. Other highways singled out for the dubious honor of being included in this list included I-70, I-78, I-79 and I-90.

NEW YORK

New York achieves notoriety by having the worst road in the nation: the Cross Bronx Expressway, I-84/I-95. After that, the complaints about the state's highway system are scattered, but Highway 17 around Binghamton gets its share of brickbats from unhappy truckers.

Another of New York City's streets that causes concern is the Brooklyn-Queens Expressway, another sign that the Big Apple is struggling to make budget ends meet.

OHIO

Complaints about Ohio's roads are statewide, with I-70 and I-90 particularly singled out. I-70 is voted worst around St. Clairsville/Richmond, while I-90 is reckoned bad across the state.

Of the state roads, Route 23 received a number of votes for the Worst Road.

ILLINOIS

The state's interstate freeway system came in for knocks over the whole area, but I-55 and I-80 were three times more frequently mentioned in the cards, the former around Chicago and the latter in the Chicago/Joliet area.

A state highway that popped up was Highway 41 in Lake County.

LOUISIANA

In Louisiana, most respondents who complained thought I-20 in the Shreveport-Monroe area was the worst, though one comment was along the lines that you could forget about the whole highway all the way to Michigan.

The only other highway in the state to rate a mention (way behind I-20, which has to be one of the nation's poorest roads in our ranking) was I-10, particularly around the attractively named town of Sulphur.

ARKANSAS

There were two interstates equally disliked in Arkansas: I-30 and I-40. I-30 was reckoned bad from Little Rock to the Texas state line. I-40 is said to be bad from Little Rock to Memphis, or Fort Smith to Memphis. Take your pick.

TEXAS

In Texas, I-10 gets the big thumbs down. Beaumont is highlighted as the major problem area, through the whole road west seems pretty much disliked. I-45 is not a particularly popular route, especially around the Dallas area. I-35 and I-40 also come in for some complaints, the former around Waco, the latter from Oklahoma City on west.

KANSAS

Salina, Kan., must be one of the least favorite cities with truckers, if its highways are any guide. The city is highlighted for the poor condition of both I-70 and I-135. I-70 seems universally disliked from Salina to the Colorado border, where I-135 is reckoned especially bad between Salina and Wichita.

Wichita gets a brickbat or two for the condition of Highway 54 from the city to the Texas border.

IOWA

I-80 across Iowa must be the worst of what is generally reckoned to be America's poorest main artery. Comments like "statewide" and "east to west" show that the road is disliked across the whole state, and it rates as one of the worst roads in our survey.

Other "favorites" are I-74 from Davenport east and Highway 61 between Dubuque and DeWitt.

NEW MEXICO

Tenth-place New Mexico gets its notoriety for the condition of I-40 as it crosses the state. It outranks other poor roads in New Mexico by four to one. However, I-25 and I-10 are also rated in the Worst Roads Hall of Shame.

New Mexico also rates a black mark for Highway 54 around Alamogordo.

These are just a few of the worst roads from the worst states around the nation. We will be using the list in further moves to get highway attention and highway funds appropriated to attend to America's crumbling Interstates. But as this is written, the Highway Reauthorization seems to be sliding back onto the back burner. We hope that we can do something to get it back into the government's consciousness before truck transportation sinks into one giant chuckhole.

[From Equipment World magazine, October 1991]

TRUCKERS: THUMBS DOWN ON U.S. ROADS

Who better to rate America's roads than over-the-road truckers? These people feel every bump, jolt and rattle as they drive their mobile offices down U.S. highways. In fact, you might think of them as roads scholars, with Ph.Ds in avoiding particularly nasty stretches of highway.

So it made sense for Overdrive magazine, a sister publication of Equipment World that reaches truck drivers, to ask their readers to nominate candidates for the Worst Roads Contest. Using a mail-in card, Overdrive asked each respondent to rank their five least favorite roads. "The response was enormous, with more than 2,500 truckers responding" says Steve Sturgess, editor of Overdrive. "It shows that the nation's truckers are fed up with the state of repair of the nation's highways."

And the survey says . . . Pennsylvania is heads above any other state when it comes to bad roads. (See chart.) However, New York gets the nod in the "single worst road" category. By almost two to one, truckers voted the Cross Bronx Expressway in New York City the single worst road in the nation.

Not just individual states roads came in for a panning; in fact, entire interstates were consistently criticized. Major arteries such as I80 across the nation were faulted for poor attention, for truck-damaging potholes and for discomfort. In some cases, truckers called for an outright boycott of some of the worst sections and routes.

The key question is this: is anyone in Congress listening? By the time you receive this issue, we will know the answer.

We do know this much now, however, before Congress voted, they knew exactly how truckers felt about the road construction job they'd done to date. As Congress began debating the finer points of the highway re-authorization bill, Randal Publishing issued a press release on the survey's results. The release was picked up by the Today show, plus numerous news outlets across the nation.

Let's hope it did some good.

Worst Roads Tally: Top 10

State	Percent
1. Pennsylvania	20.95
2. New York	15.90
3. Ohio	5.41
4. Illinois	4.72
5. Louisiana	4.72
6. Arkansas	3.26
7. Texas	3.26
8. Kansas	3.05
9. Iowa	2.80
10. New Mexico	2.76*

WORKING TOGETHER TO PRESERVE OUR ENVIRONMENT

• Mr. McCONNELL. Mr. President, I want to draw the attention of my colleagues to a heartening effort to preserve the stunning natural beauty of Kentucky.

Recently, Westvaco Corp., in consultation with the Kentucky Department of Fish and Wildlife Resources, purchased and set aside the land of the Carlisle County Wildlife Preserve.

This type of cooperative effort is an ideal example of how government and industry can work together to protect our natural heritage.

The Westvaco wildlife management area will provide an economic stimulant to Carlisle County and a protected habitat for migrating waterfowl. The foresight and progressiveness shown by Westvaco has provided a direct benefit to Kentucky and the Nation.

Mr. President, I would like to share with my colleagues the remarks of Westvaco's president, John Luke, who dedicated the Westvaco wildlife management area earlier this fall. I also want to express my congratulations on a job well done.

The remarks follow:

REMARKS OF JOHN A. LUKE

Thank you, Don, for your very kind remarks. I am pleased to be here this morning to participate in the dedication of this very important project. Westvaco is honored to join with the Kentucky Department of Fish and Wildlife Resources in providing critical habitat areas for waterfowl in the Mississippi Flyway.

As I stand here this morning, I am reminded that the wisdom of Westvaco's decision to locate its new mill at Wickliffe 25 years ago is reinforced by Kentucky's natural resources. This magnificent setting overlooking the mighty Mississippi River highlights the importance of this unique, environmental project carried out by the public and private sectors for the good of America's wildlife resources. I can almost see the ducks and geese winging their way toward us! They will be here soon, and they will be most welcome in their new winter home!

This wildlife management area is very important, I know, to Kentucky, the surrounding states, local communities, and sportsmen and outdoor enthusiasts nationwide. It is also extremely important to Westvaco, our shareholders, and our employees. As a company with strong and traditional ties to natural resources, we have been involved in a number of innovative and successful conservation efforts over the years, and we fully expect this pioneering project to be one of our most successful.

Today, I plan to focus my remarks on Westvaco's presence in the region and our partnership with the Kentucky Department of Fish and Wildlife Resources in helping meet the goals of the North American Waterfowl Management Plan. Then, I want to talk about the depth of our commitment to wise stewardship of our nation's forests and related natural resources, and in conclusion, I will comment on Westvaco's broader efforts and attitudes toward the environment as a whole.

Westvaco is especially pleased to be the owner and the enabling partner in this pioneering wildlife program in western Kentucky since we have been a corporate citizen of the Commonwealth for nearly a quarter of a century. Construction of our fine papers mill at Wickliffe just up river from where we are this morning began in the summer of 1967, and at that time it was the largest single project in our company's history.

From its initial production run in 1970 through 20 years of continuing process im-

provements and expansion, the Wickliffe mill has remained a state-of-the-art producer of world-class products for markets throughout this country and abroad. Wickliffe's 640 dedicated employees produce nearly 1,000 tons of high-quality, communications paper and market pulp products daily.

I wish I could invite you to the mill today, but the plant has just been down for a normal maintenance outage, and it is not the time to receive guests. However, I do issue an invitation to one and all to tour the mill at some other time. If you would like to see it, please call our Public Relations Department at Wickliffe, and given a bit of notice, it can be arranged. We are very proud of our mill. There is none better in the world, and we like to show it off.

In addition to the mill at Wickliffe, Westvaco's presence here, including our 235,000 acres of timberlands, our wood procurement activity, and the 165,000 acres in our Cooperative Forest Management programs which are owned by 500 private landowners, extends into a six-state region. Our contribution to these economies, according to the Kentucky Cabinet for Economic Development, amounts to more than \$350 million each year.

Since Westvaco first came to Kentucky, we have enjoyed working with some of the finest state, local, and federal agencies in the country. No relationship or project, however, has been more rewarding than working with the Kentucky Department of Fish and Wildlife Resources to establish the "Westvaco Wildlife Management Area." When our Senior Vice Presidents, Scott Wallinger and Lee Andrews, joined Commissioner McCormick in Frankfort this June to jointly announce the creation of the Westvaco Wildlife Management Area, it marked the beginning of a unique partnership project that will have a significant environmental impact for many years to come.

Initially we intend to voluntarily designate over 2,000 acres of the Columbus Bottoms lands which we own or have under option as a key wintering habitat for migrating waterfowl. This habitat will exist in perfect harmony with the most advanced industrial forest management—a superb demonstration of multiple-use land management and of the compatibility of sound environmental and sound business practice.

When the North American Waterfowl Management Plan was first implemented in 1987, it was called the largest conservation program of its kind in the world—a multinational effort including the United States, Canada, and Mexico working in concert to reverse the trend of steeply declining waterfowl populations, primarily ducks. The goals of restoring waterfowl populations to the levels of the early 1970s and adding more than six million acres of priority habitat across the North American Continent by the year 2000 are among the most ambitious conservation efforts ever undertaken. Westvaco is indeed proud to contribute to this effort. And we are especially encouraged that those who developed the Plan sought to include private participation and to encourage joint ventures. We pledge Westvaco's full support in making our joint venture with the Kentucky Department of Fish and Wildlife Resources the shining example of private participation in the North American Plan.

Now let me comment on Westvaco's commitment to wise stewardship and conservation of natural resources. For many years we have worked hard in Kentucky, Tennessee, Illinois, Missouri, Mississippi, South Caro-

lina, Virginia, West Virginia, and other states to bring a high level of responsible forest management to our lands. I am going to take a moment here and later in my remarks to illustrate, I hope conclusively, that our environmental and resource commitment can be judged every bit as much by our performance as by our words.

We are considered the leaders in the forest products industry in ensuring that timber management and logging activities are done in full compliance with the best management practices. This means that our standards provide the best protection possible for soil, water, wildlife, and other resources.

We manage all of our forests intensively with the most advanced technology, and we pride ourselves on their multiple use for the benefit of all—wildlife, recreation, hunting, forest products, and jobs—all in compatible fashion and with the most sensitive attention to the environment.

Healthy, rapidly growing, young forests are widely accepted as important contributors to the environment. Each year we plant more than 45 million genetically advanced seedlings, more than two new trees for every one we harvest. As benchmarks of progress, in 1988, we celebrated the planting of our one billionth seedling, and our forests consume more CO₂ than our mills release. Not many companies or industries can match that environmental contribution.

In July, Westvaco joined a conservation partnership with 17,000 of our acres to protect the watershed and estuary formed by the Ashepoo-Combahee-Edisto (ACE) Rivers in coastal South Carolina. This is the largest undeveloped estuary on the Atlantic Coast. It is a unique ecosystem and our cooperative efforts can help maintain that uniqueness for future generations. Protection of the area provides a wonderful opportunity for cooperation among private and public interests—forestry, wildlife, farming, fisheries, and outdoor recreation.

We were also instrumental in efforts to Save the Cache River Wetlands project in southern Illinois through the transfer of our Little Black Slough properties to the Illinois Nature Conservancy 16 years ago. And earlier this year, we participated in the dedication ceremonies of the Cypress Creek National Wildlife Refuge and the Lower Cache River Nature Preserve.

Through our Cooperative Forest Management Program, which we created in the 1950s as our industry's very first such program, we provide free professional forest management advice to over 2,500 private landowners to encourage sound and advanced forestry practice on 1.2 million acres of their land.

Westvaco's distinguished forestry and environmental programs have been recognized over a long period of years by a wide variety of resource conservation organizations and state and federal agencies. We maintain a close working relationship with the Tennessee Wildlife Resources Agency, particularly in their small game management, eagle nesting, and public hunting area programs. We have been heavily involved with the Illinois conservation community for years; and in Virginia, Westvaco pioneered the creation of wildlife corridors as harvesting is done. This is now a standard practice for us in those regions where it is beneficial. Our Woodlands Division has two, full-time wildlife biologists on its staff to help with efforts such as these.

We have participated actively in a range of cooperative ventures with Ducks Unlimited, The Nature Conservancy, the ruffed Grouse Society, the National Wild Turkey Federa-

tion, the U.S. Fish and Wildlife Service, and the Tennessee Conservation League.

We aggressively fund our forest research activities which are at the very cutting edge of modern biotechnology efforts as we strive to develop tree seedlings which can grow faster, straighter, and which are more resistant to disease and weather. We are excited by the potential future benefits of this work, and we are investing in its future.

It is in these ways, and countless more, that Westvaco brings substance to the support of its words of commitment as a good corporate neighbor and in the wise use of its natural resources. We know that sound industrial forest management is fully compatible with all of the other uses of our forest resource because we prove it—on the ground and before our neighbors' eyes—each and every day, year in and year out.

Concern for the environment is no fleeting matter, and it is deeply ingrained in our corporate culture. The Westvaco organization has long shared this concern, and we pledge to be at the forefront of responsible environmental stewardship for the future. The establishment of this wildlife management area, in such close proximity to our Wickliffe paper mill, readily demonstrates that modern, well-managed manufacturing can operate in full and balanced harmony with sound and environmentally sensitive land uses.

A few months ago Administrator Reilly of the Environmental Protection Agency invited over 600 companies to voluntarily and aggressively reduce certain chemical emissions from their facilities. Westvaco promptly responded that it would join in the voluntary program and even go a step further. Not only did we agree to reduce the specified chemical emissions by 50 percent by 1995, but we volunteered to achieve the same reduction for an additional list of chemicals that are reported each year. We expect to meet both of those commitments ahead of schedule. Actions such as these keep Westvaco positioned in the vanguard of American industrial environmental performance.

At this time I would like to make special note that in 1989 Westvaco became one of the very first companies in American industry to establish a Committee on the Environment on its Board of Directors—a clear example of the importance we attach to the environment. This committee has the leadership and oversight responsibility for all of Westvaco's environmental practices and policies.

The Chairperson of our Board's Committee on the Environment, Katherine Peden, is well known to Kentuckians for all that she has done for the Commonwealth, and it is particularly appropriate that she is here today.

It was her Board Committee that gave life to our dream of the Westvaco Wildlife Management area we celebrate today. I would also note that when Westvaco made the decision to locate its new paper mill near Wickliffe, Katie was serving as Kentucky's Commerce Commissioner, and she persuasively clinched our decision that the Blue Cross State was where we should be. We have never regretted that decision, and we are deeply indebted to her for her distinguished service as a Westvaco Director, for Chairing our Board's Environmental Committee, for this Refuge, and for bringing Westvaco to Kentucky. She is an active and determined leader, and I can assure you that if there is ever any grass under Katie's feet, it will only be pure Blue Grass! Please join me in a round of special thanks to a very special friend of us all.

And now I will leave you with these concluding thoughts.

Westvaco, in its broad commitment to environmental matters, has long had a record of workplace safety and health that stands at the forefront of industrial performance in respect for the human environment. And it has an equally long and distinguished record of respect for the natural environment, capped by demonstrated performance and by the investment, in today's dollars, of almost \$1 billion in protective facilities. Much of this investment has been made voluntarily and well ahead of regulatory requirement. We also spend another \$50 million each year to operate these facilities, and compliance with each of the numerous and complex environmental regulations governing our activities is our clear and constant objective. We consider ourselves environmentalists, we believe in sound science, and we believe in sound environmental practice. We are very proud of what we have done and of what we are doing.

It is our conviction that safe and healthy workplaces, communities, and products are essential to the conduct of a successful business, and we simply do not compromise. While we would not be so naive as to profess perfection in these complex and demanding areas, you can be assured that our commitment to health, safety, and the environment is absolute. We fully respect the environment for today and as a legacy to the future.

Westvaco, as the owner and the enabling partner in the Wildlife Area we celebrate today, is extremely proud to share with the Kentucky Department of Fish and Wildlife Resources in the important goals of the North American Waterfowl Management Plan and in the needs of this region. We hope the Westvaco Wildlife Management Area will stand as a shining example of what a business and a community can accomplish for the benefit of all. May it signal new potentials for sound social, economic, and environmental prosperity for all of us in western Kentucky.●

HONG KONG DESERVES A BETTER DEAL

● Mr. SIMON. Mr. President, I have been talking on the floor and buttonholing my colleagues occasionally about the need to pay more attention to the yearning of the people of Hong Kong for democracy.

The British have not done a good job, and the United States has not been good in prodding the British to do a good job.

And unless something happens soon, it is unlikely that the Chinese will feel any obligation to provide basic human rights to the people of Hong Kong when they take over in 1997.

We seem excessively sensitive to the wishes of the leaders of the People's Republic of China but not sensitive enough to the human rights hopes and dreams of the people of Hong Kong.

Recently, the Chicago Tribune reprinted a column written by Jack Payton, of the St. Petersburg Times, on the subject of the Hong Kong situation.

I urge my colleagues to read his column, and I urge people in the administration to do the same.

I ask that it be printed in the RECORD at this point.

The column follows:

[From the Chicago Tribune, Oct. 5, 1991]

HONG KONG DESERVES A BETTER DEAL

(By Jack R. Payton)

WASHINGTON.—While we're patting ourselves on the back because democracy seems to be triumphing over tyranny and oppression around the world, let's not forget the awful thing we're getting ready to do to 6 million or so fellow freedom lovers.

I'm talking, of course, about the people of Hong Kong, a people whose devotion to free enterprise and democratic ideals could be a model for all of us. What we're getting ready to do to these people is sell them down the river.

By "we" I mean the Western democracies, but most especially Britain. It was Britain, after all, that negotiated the treaty to return Hong Kong to Chinese sovereignty.

Many Americans have a lot of admiration for Margaret Thatcher. But the treaty she signed with Beijing in 1984 is seen in Hong Kong as one of this century's great betrayals.

Under the terms of that treaty, the people of Hong Kong have less than six years of freedom left before they come under the sway of the mainland Chinese leaders who brought us the Tiananmen Square massacre in 1989.

The Chinese have promised to maintain Hong Kong's Western-style freedoms and free enterprise system for at least 50 years after taking over. But the treaty Thatcher signed doesn't have any guarantees on this. Thatcher, and now her successor John Major, simply decided to trust them.

That may be easy enough for the British, who won't have to live with the consequences of the treaty. But for the people of Hong Kong who will, trusting their communist cousins on the mainland just isn't in the cards. They know them too well for that.

More than 50,000 Hong Kong residents showed how much they distrust the mainlanders last year by packing up and moving to safe havens elsewhere, mainly Canada, Australia and the United States.

But escapes like that are mainly for the wealthy or highly skilled. The vast majority of Hong Kong's residents are going to be stuck when the Chinese take charge in 1997.

For years, the British authorities who run the colony have dismissed concerns about freedom and democracy by saying that the only thing the people of Hong Kong care about is making money, not politics and certainly not Western ideals of democracy and freedom. And for years, it was hard to contradict that because the people of Hong Kong never had a forum to make their views known.

That changed this past week when for the first time in Hong Kong history its people had a chance to vote on delegates to the colony's Legislative Assembly.

In objective terms, it wasn't much of an election. Only 18 of the 60 seats on the council were up for grabs. And in any case, the council doesn't have any real power. Whatever the trappings of representative government, Hong Kong is really run by its British governor.

What made the elections important was that the voters overwhelmingly chose candidates who favor bold and rapid moves toward democracy instead of the timid, go-slow approach favored by Hong Kong's British overlords. The results, though not surprising, came despite a blunt warning from

the mainland Chinese that the wrong choices in the election could threaten the colony's political and economic future.

The balloting shattered two convenient myths. First, that the people of Hong Kong don't care about politics; and second, that given their choice, they'd go with cautious bureaucrats who wouldn't do anything to upset the mainland Communists.

So now that Hong Kong's voters have spoken, what's to be done about it?

Britain, of course, would rather stand pat than get into a tug-of-war it couldn't win with the mainland Chinese. There's no way Britain could wangle any significant changes in the 1984 treaty much less secure Hong Kong's eventual independence.

As a practical matter, if the Chinese wanted to take over the colony by force tomorrow, they could do it easily. There's nothing the British could do to stop it. Hong Kong isn't the Falkland Islands, and the Chinese army is somewhat more formidable than Argentina's.

But what the British can do is be a bit more bold in challenging China's attempts to thwart the democratic evolution in Hong Kong even before it gains sovereignty. What they can do is allow the democratic process to spread as rapidly as Hong Kong's voters might desire.

The aging communist leaders in Beijing wouldn't be happy about this. No doubt, they'd complain bitterly. But they'd almost certainly go along with it because they don't want to do anything that would hurt Hong Kong's vibrant economy. They don't want to kill the goose that lays the golden eggs. And that's how China sees Hong Kong—as the goose that lays the golden eggs.

Even though Hong Kong is mainly a British concern these days, the United States could play a useful role in safeguarding its democratic future.

The Chinese know as well as anybody that the biggest customer for Hong Kong's golden eggs is the United States. They also have to keep in mind that the United States is one of their biggest customers too and that China even managed a \$10 billion trade surplus with us last year.

That's possible only because China enjoys most-favored-nation trading status with Washington, thanks in part to President Bush's fond memories of his time as U.S. ambassador to Beijing. It's a situation that already irritates a lot of people in Congress, both Republicans and Democrats.

If the British could somehow find the gumption to challenge the Chinese politically in Hong Kong, Bush could certainly protect London's flanks keeping the Chinese in line with the implicit threat of withdrawing its most-favored-nation status.

If the Chinese are convinced that the West is serious about democracy—not just political convenience—they'll be likely to accept whatever *sait accompli* we hand them six years from now in Hong Kong.

All it takes is a bit of boldness in the West.●

AMNESTY INTERNATIONAL'S CAMPAIGN FOR FREEDOM

● Mr. DECONCINI. Mr. President, I rise today to extend my gratitude and support for the work of Amnesty International in their 1991 Campaign for Freedom. Under this campaign, each State is designated a case in which a citizen is being unlawfully detained for sustaining religious or political beliefs

inconsistent with those of their respective government. In my State of Arizona, Amnesty International is working for the release of prisoner of conscience Dr. Ahmad Fa'iz al-Fawwaz, detained without trial for 10 years in a Syrian prison for being a member of the opposition party.

Throughout my Senate career, I have been consistent in my opposition to human rights violations whether they occur in El Salvador, South Africa, or the Soviet Union. I have spoken out on numerous occasions about the systematic violations of human rights and religious liberties in Syria, as well as Syrian-occupied Lebanon. Be it denial of individual rights in Kuwait or the brutal suppression of peaceful demonstrators in China, no government is exempt from criticism when it denies fundamental rights.

I commend Amnesty International and its Arizona chapter for making the case of Dr. Ahmad Fa'iz al-Fawwaz a priority, and for its efforts to secure individual rights and freedoms for those living under oppressive governments around the globe.

I ask that an explanation of Dr. Fawwaz's case be printed at this point in the RECORD.

The explanation follows:

DR. AHMAD FA'IZ AL-FAWWAZ, SYRIA

Dr. Ahmad Fa'iz al-Fawwaz has been detained without trial for over 10 years because of his political beliefs.

Ahmad Fa'iz al-Fawwaz, a medical doctor, was arrested in October 1980 during a roundup of leading members of the Communist Party Political Bureau which is banned in Syria. Since March 1972, when President Hafez al-Assad set up a coalition of political parties called the National Progressive Front, all parties which have not joined this Front have been prohibited, among them the Communist Party Political Bureau (CPPB). The CPPB was set up in 1973 and has been frequently attacked by the government and its members arrested because of the party's opposition to government policies.

Dr. Ahmad Fa'iz al-Fawwaz, born in al-Raqqah, is married and has four children. He is detained in 'Adra Civil Prison.

Amnesty International believes that Dr. Ahmad Fa'iz al-Fawwaz has been detained for over a decade now for merely expressing his political beliefs and for criticizing policies of the Syrian Government. It calls for his immediate and unconditional release.

All Amnesty International members in the state of Arizona will work on the behalf of Dr. Ahmad Fa'iz al-Fawwaz during Amnesty's 30th anniversary year. Members of the state's Congressional delegation can expect to be contacted by Amnesty members regarding this case and other human rights issues.●

THE USO COUNCIL OF NEW ENGLAND

● Mr. KERRY. Mr. President, I ask my colleagues today to join me in celebrating the 50th birthday of the USO Council of New England. Across the country, there are men and women, including me, who have strong love and

respect for a group that brought a little bit of home to them while they were serving their Nation in the furthest corners of the globe. In providing a bright, cheerful spot in the harsh atmosphere of conflict, the USO keeps alive the inspiration and morale of the troops. Their concerts and shows provide an entertaining reminder to all serving men and women that their country will never forget. The entertainment is almost secondary to the fact that there is a group of people willing to go halfway around the globe to liven up an afternoon or evening for the troops. This has had an incalculable effect on everyone who has witnessed their enthusiastic and lively shows.

Somewhat less visibly, and perhaps somewhat less glamorously—but equally importantly—the USO has established a fine tradition of providing recreational opportunities ranging from checkers to dances, and other critical assistance regarding matters of personal concern, for our servicemen and women who are serving away from their homes and families, whether in the United States or abroad.

As a nation, we should take a moment to thank and honor an organization whose countless hours of planning, organizing, performing, traveling, and helping have endured for 50 years. To the people at home, the USO is our own personal ambassador, carrying messages of hope and inspiration to places we cannot go, to our loved ones we cannot see. From Martha Raye and Marlene Dietrich in World War II, to Marilyn Monroe in Korea, to Dean Martin and his Gold Diggers in Vietnam, and right up through Steve Martin's visit to the men and women of Desert Storm, the USO has never failed the troops. And of course, who could forget the incomparable Bob Hope and his decades of commitment to the USO. His is a special place in the hearts of the troops. They and countless others—those who are stars and those who are not—have served admirably. Their contributions have occurred under USO auspices.

As a veteran from New England, I stand to salute the USO Council of New England and ask my colleagues to take a moment to do the same.●

ICP IS SETTING THE PACE FOR THE APPROVAL OF NEW MEDICAL TECHNOLOGIES

● Mr. SASSER. Mr. President, I am pleased to join my distinguished colleague from Tennessee today to call the attention of the Senate to the third annual conference of the Institute for Clinical PET to be held here in Washington, October 23-26. [PET] stands for positron emission tomography, the newest, most sophisticated advance in medical diagnostic imaging. PET has already proven itself as an amazing di-

agnostic tool with respect to the heart and brain. It has shown great promise in the diagnosis of epilepsy and Alzheimer's disease.

Like most new medical technologies, PET has all the classic conflicts of proven usefulness but high costs. When contemplating reimbursement by the Government or private insurers, caution must be exercised regarding utilization by providers so that there are specific medical benefits to justify the cost. That is why the Institute for Clinical PET was formed.

The institute [ICP] promotes the use of PET and advocates Government approvals of the radiopharmaceuticals used in PET procedures and the eventual reimbursement of PET. But ICP is unique because it was formed as much to coordinate its own members' studies and to do its own cost-benefit analysis as it was to promote its product and procedures.

Recognizing that technology is a major contributor to the increases in health care costs, ICP sought to discipline its approach to the Government by being sensitive to cost factors. To that end, ICP submitted to the FDA a drug master file for the approval of the radiopharmaceuticals used in PET. ICP continues to coordinate the clinical studies of PET procedures under a common protocol at six major university medical centers, including our own medical center at the University of Tennessee at Knoxville. And ICP's cost-benefit analysis has helped determine which PET procedures show the promise of saving costs and which ones might result in added costs.

Mr. GORE. Mr. President, I rise today to join my friend from Tennessee in calling attention to ICP's third annual conference. Mr. President, I know of no precedent for ICP. In the past, petitioners for FDA approvals or for reimbursement by the Health Care Financing Administration have not coordinated their petitions because of academic competition or because of individual desire to receive credit. But, through the instrument of ICP, researchers, physicians, manufacturers, and clinicians have shown they understand that the Government cannot afford an uncoordinated approach and the costs of overutilization. By a coordinated approach, it is likely that approvals will be more timely because the applications themselves are not scattered and include better and more pertinent data.

More importantly, ICP's coordination will allow more patients who need PET to receive PET's benefits sooner. It may seem to some that the methodical approach of ICP takes longer. But Government approvals are given with care, so the coordinated approach of ICP may save years as well as dollars.

ICP is a pioneer. I would not be surprised if all future petitions for approvals of new medical technologies follow the ICP example.

Mr. President, ICP may complete its approvals by the time of their fourth conference next year. For now, however, it is noteworthy that ICP is here in Washington actively working to prove itself and to set the pace for introducing new medical technologies throughout the Nation.●

FEDERAL RECYCLING INCENTIVE ACT

● Mr. MCCONNELL. Mr. President, last Thursday the Senate adopted the Federal Recycling Incentive Act as an amendment to the Federal Facilities Compliance Act. After my amendment was accepted, the manager of the bill made several remarks which indicate some confusion as to the purpose and plain meaning of my legislation.

I want to make the record absolutely clear on what my amendment does, and what it does not do.

My amendment does two things.

First, it allows the managers of Federal facilities to keep the revenues derived from the sale of source-separated materials to provide an economic incentive to recycle where markets for these materials exist.

Second, it punishes Federal facilities which fail to recycle, when recycling is feasible, by publishing the name of the facility in the Federal Register for public inspection.

The first criticism of my amendment by the senior Senator from Montana suggests that my amendment is inappropriate because it requires Federal facilities to recycle at a time when there is a glut in the recycled goods market.

To state that my bill requires Federal facilities to recycle is inaccurate. Make no mistake: My amendment does not require managers of Federal facilities to establish recycling programs. It merely makes a program available to the managers of these facilities if it is economically feasible to recycle.

The language of my amendment is quite clear on this matter:

Such materials shall not be collected if the administrator—of the EPA—determines that inadequate markets exist for such materials. The program established pursuant to this section shall seek to incorporate existing Federal programs to separate materials from solid waste for the purpose of recycling but in no case shall interfere with existing programs.

To state that there is a glut in the recycled goods market is simplistic. According to the Congressional Research Service, the glut in the recycled goods is a regional problem, and certainly not nationwide. In regions with a glut for such items as newspaper and mixed paper, there exist markets for other recyclable materials such as aluminum cans, corrugated paper, and glass.

Denying facilities the incentive to recycle where the market demand ex-

ists for source-separated materials would be environmentally irresponsible. That is why I insisted on my amendment being passed as soon as possible.

Second, the Senator from Montana criticizes my amendment for failing to list specific types of waste. I find this criticism particularly bewildering since the general term "materials" as it now appears in this bill came at the request of the Senator's own staff. I believe this was a positive change to my amendment since it expands the scope of items that may be recycled. Why should Federal facilities be limited in regard to the waste materials they can recycle? I can only conclude that the Senator's statement was drafted before this constructive change was suggested by his staff.

Finally, the Senator says that it is inappropriate for my legislation to be passed outside of RCRA because of the close relationship between the supply and demand sides of the recycled goods market.

I agree with the Senator from Montana that the supply and demand sides of the recycled goods market must be dealt with together. But in this case, why should we wait until RCRA comes to the floor when my amendment can start increasing Federal recycling now, to take waste out of the waste stream, and out of our landfills without obstructing other Federal recycling efforts?

In conclusion, my legislation does not interfere with current Federal recycling. It only allows facilities to keep the sales proceeds for goods where a market exists to give them an incentive to expand recycling efforts. If there is a market then the manager of a Federal facility may keep the proceeds of the sale of that material for recycling purposes.

I hope these comments have alleviated some of the confusion which has arisen in regard to the Federal Recycling Incentive Act.

I look forward to working closely with the senior Senator from Montana on the serious solid waste issues facing our Nation in the months to come.●

LIFT THE TRADE EMBARGO ON VIETNAM

● Mr. SIMON. Mr. President, the New York Times recently ran an article in its business section titled, "Lift the Trade Embargo on Vietnam."

It is written by Thomas J. Schwarz, who is a partner at Skadden Arps Slate Meagher & Flom and Eugene A. Matthews, president of Ashta International, an investment and consulting firm, who now lives in Hanoi.

The evidence is simply overwhelming that we ought to be modifying our policy toward Vietnam.

At the same time, we ought to be putting pressure on Vietnam to modify

its rigid Communist system and to be more sensitive to human rights.

But our present posture does not encourage that, and our present process encourages people to leave Vietnam because of a lack of hope. There is no question in the minds of the British and many other countries that American economic policy toward Vietnam is helping to create many of the boat people who plague Hong Kong, Thailand, and many others areas where they can ill afford massive new numbers of boat people.

I urge my colleagues to read this article, and I hope there are some people in the State Department and the White House who will also read it.

I ask that the article be printed in the RECORD at this point.

The article follows:

[From the New York Times]

LIFT THE TRADE EMBARGO ON VIETNAM

(By Thomas J. Schwarz and Eugene A. Matthews)

If the 16-year-old ban on trade with Hanoi continues, the United States will lose Vietnam all over again. But this time, the defeat will be economic and the winner will be our economic rival, Japan.

In the next decade, Vietnam has the potential to outpace other nations in economic growth. With a population of 70 million, it offers a larger market for American goods than Romania, Czechoslovakia and Hungary combined. Nearly 60 percent of the population is under the age of 21.

Despite what is called the "American" war, Americans and American products in Vietnam are looked upon with friendliness and favor—even in Hanoi. Teen-agers in Hanoi dance to American rock music in cafes owned by the Government; children in Hanoi wear T-shirts imprinted with "United States of America"; their faces light up when they realize an American is in their midst. The tastes of the nearly 42 million consumers under 21 also include such traditional American brands as Juicy Fruit gum and Kodak film.

Asian merchants and manufacturers recognize Vietnam's potential. Aside from the billions of dollars of oil reserves mapped by American companies before the ban and now being exploited by non-American companies, trade in other areas has boomed. Japan is Vietnam's second-leading trading partner, after the Soviet Union. Trade with Japan reached \$853 million in 1990, and with Moscow's economic and political difficulties, Japan can be expected to loom much larger in Vietnam's future. JVC, National and Sanyo television sets and tape recorders are being assembled in Vietnam. Toyota, Mitsubishi and Honda have finalized plans to build factories there.

To encourage foreign investment, Vietnam has adopted one of the most liberal foreign investment codes of any developing country. Foreigners can own and manage 100 percent of their enterprises in Vietnam or they can form joint ventures with private companies or individuals there. Generous tax write-offs are available to foreign investors; the Government has eliminated subsidies to state-run businesses, abolished price controls and is openly discussing a stock market.

American opposition to our trade embargo—both in the business community and among Vietnam veterans—is widespread. Many blue chip companies, as well as Wall

Street investment houses and law firms, have joined the United States-Vietnam Trade Council. The Senate Foreign Relations Committee voted 12 to 1 in June to support a measure that would lift the trade embargo. The measure's chief sponsor is a Republican.

The Bush Administration has not established relations with Vietnam for many reasons, including Vietnam's presence in Cambodia. Given progress on the issue of Americans missing in action, however, the Administration's resistance to stronger economic ties can only be explained by a determination to keep punishing Vietnam for having humiliated the United States in the war.

Recently, under pressure to stop changing its demands on Vietnam, the Administration outlined its "road map" for what Vietnam must do to improve relations with the United States. But as a guide for American businesses, it is essentially a dead end. It essentially would allow American companies to do nothing more than sign contracts that would not become binding for an indefinite period—six months after peace in Cambodia. By then, the agreements could well have been rendered meaningless.

The White House is scheduled to decide this month whether to renew the Vietnamese trade embargo. But even if it were lifted tomorrow, most American companies would be at least a year away from making investments.

For our benefit and Vietnam's, the United States should let its free-market values triumph in Vietnam, as they have around the world, and it should allow United States companies to participate in the next great Asian economic success story.●

SOIL CONSERVATION SERVICE

● Mr. BOND. Mr. President, I rise today to recognize the Soil Conservation Service and its mission to provide leadership in the conservation and wise use of soil, water, and related resources through a balanced, cooperative program that protects, restores, and improves those resources.

The Soil Conservation Service was established as an agency of the United States Department of Agriculture on April 27, 1937, through the enactment of Public Law 46 of the 74th Congress, and in this same year the Soil Conservation Service was established in Missouri.

State conservationists K.G. Harmon, Oscar C. Bruce, Howard C. Jackson, J. Vernon Martin, Kenneth G. McManus, Paul F. Larson, and Russell C. Mills provided outstanding direction and leadership from 1935 to present.

The Soil Conservation Service has a proud history of working with and through soil and water conservation districts since their creation by the Missouri Legislature in 1943.

Mr. President, in its 55-year history the Soil Conservation Service has earned the reputation as a respected, professional, service-oriented Federal agency as a result of the work of the hundreds of dedicated employees who have made an enduring contribution to the sustained productivity of Missouri's \$4 billion agricultural industry.

The Conservation Operations Program has provided technical assistance

to land users in the application of a wide range of soil and water conservation practices to protect Missouri's 44 million acres of cropland, grassland, and forest land with recent emphasis focusing on the State's 6.3 million acres of highly erodible cropland.

The Cooperative Soil Survey Program will complete soil mapping for a progressive soil survey in all 114 Missouri counties by 1998.

The National Resources Inventory Program inventories land cover and use, soil erosion, prime farmland, and other natural resource statistics on Missouri's Federal rural lands.

The Plant Materials Program, through the Elsberry Plant Materials Center, to evaluate a wide variety of plant materials, in vegetative solutions to erosion control.

The Watershed Protection and Flood Protection Program provides technical and financial assistance to sponsoring organizations of 71 Public Law 566 and two pilot watershed projects.

The River Basin Investigation and Survey Program facilitates water resource planning statewide, resulting in completion of seven regional river basin studies and six flood plan management studies.

The Resource Conservation and Development Program providing technical and financial assistance to five formally organized Resource Conservation and Development Councils.

Mr. President, both the people and the natural resources of the State of Missouri have benefited greatly by the contribution of the USDA Soil Conservation Service and the employees who are the heart of its organization. I would like to express my sincere appreciation and gratitude for the contribution the USDA Soil Conservation Service has provided to the care and use of Missouri's soil and water resources.●

THE ST. FRANCIS CONFERENCE- DEVEREAUX APARTMENTS, SALEM, OR

● Mr. PACKWOOD. Mr. President, it is a pleasure for me to rise today in honor of the volunteers of the St. Francis Conference-Devereaux Apartments in Salem, OR. These volunteers have been outstanding in their efforts to provide low-income families with free of charge housing for up to 1 year, thus allowing them to better their lives without the worries of rent payment.

Four years ago a group of volunteers set up the nondenominational St. Francis Conference with the goal of helping the homeless in Salem by providing them with a place to live while they concentrate on finding a job and improving their lives.

In 1987, the St. Francis Conference purchased a dilapidated apartment complex in a low-income community and refurbished it, thus helping to improve the neighborhood.

The apartment facility is comprised of 32 units—20 of which are rented at market prices and 12 of which serve as rent-free transitional housing. Over 50 volunteers and 1 full-time house manager keep the apartment complex up and running.

In addition to housing low-income families, the Devereaux Apartment volunteers work with the residents, teaching them the skills needed to obtain employment and permanent housing. The efforts by the volunteers of the St. Francis Conference are vital in assisting people in need. The pressures of trying to pay rent, raise a family and find a job can be extremely challenging, if not impossible. The people of the St. Francis Conference help eliminate some of these pressures facing unemployed families, allowing them more time to get back on their feet.

To the many outstanding volunteers of the St. Francis Conference, who are the perfect example of what hard work and kindness can do for others, I take great pride in saluting you for a job well done.●

LATINO FAMILY SERVICES

● Mr. RIEGLE. Mr. President, on October 25, 1991, Latino Family Services, Inc. of Detroit, MI, will celebrate its 20th anniversary. From its outset, this agency has been recognized for its innovative programs. Emphasizing human services in a bilingual and culturally sensitive context, workers of Latino Family Services have reached out to thousands of individuals in the State of Michigan.

Latino Family Services operates from centers in southwestern Detroit. Over the years its programs have evolved to meet changing needs of the community. Founded on the premise that "the community has many undeveloped strengths that need to be enhanced," the agency is involved in family service projects for all age groups. Today, some 65 staff members operate 30 educational programs which provide health care and training services.

The Hispanic community has been increasing in size in our State, and Latino Family Services, considered the largest organization in the State providing services for Hispanic people, has responded to this growth with successful outreach projects. Counselors have offered their professional services in many capacities and the center itself has become a home for other groups providing similar services. Among these are the Metro Girl Scouts Latino project, the Southwest Detroit Community Mental Health Hispanic project, the Police Athletic League, Wayne State University night classes, adult education classes in conjunction with the board of education, and the Pinto project, an ex-offender program.

In honoring Latino Family Services on its 20th anniversary, I join the peo-

ple of Michigan in showing appreciation for the invaluable services provided to Detroit's Hispanic community by this agency.●

COSPONSORSHIP OF S. 1257

● Mr. KOHL. Mr. President, I rise today to cosponsor S. 1257, a bill that undoes the inequitable tax treatment of passive losses on rental real estate for real estate professionals.

In the 1986 Tax Reform Act, Congress automatically deemed passive any loss from rental real estate ownership. The intention behind this blanket provision was good: to close down the real estate tax shelters that had made a mockery of our progressive Tax Code. However the provision resulted in one unfair and unintended consequence: Real estate professionals who derive active income from their work with real property are not allowed to write off their losses against active income.

S. 1257 corrects this inequity. It taxes those who have materially participated in the rental real estate business on their net income rather than their gross income—the same treatment afforded any other business person.

S. 1257 is a simple, fair solution to a real problem. It deserves the support of the entire Senate.

I say that not just because the bill rights a true wrong. I say it because it also does so in the right way.

Let me explain. Months ago, when this bill was brought to my attention by several real estate groups, I expressed sympathy, but no support. My reason was the bill's price tag: \$3 billion.

At that time, I explained to the groups and constituents supporting S. 1257 that, regardless of the strength of their case, I couldn't support a tax law change that would increase the Federal deficit by \$3 billion in 1 year. Frankly, the Tax Code is replete with inequities. It is full of disincentives to investment, to business growth, to income equality, to worker advancement—you name it, the Tax Code discourages it. Were Congress to fix each of these inequities without concern for the costs, we would quickly collapse under incredible levels of deficit and debt.

Furthermore, were I to put my name on a tax break bill without understanding how it was to be financed, I would be misleading my constituents and ignoring my duty. I would mislead my constituents by implying that a tax break can be passed without an offset. It cannot. New Senate rules, which I voted for and which I support, require that Congress "pay as it goes"—that is, that we only give out tax benefits if we are willing to take the lost revenues from someplace—or someone—else.

Second, supporting a tax bill that is not offset would send a clear message: When it is my political fortune on the

line, damn the deficit, full speed ahead. As much as I wanted to help out the realtors in my State, I just cannot live by that philosophy.

So I put a challenge to the real estate groups and my constituents: find a way to pay for this, and I will support S. 1257. Just last week, the National Association of Realtors presented me with an offset to the costs of S. 1257 that they are willing to support. The offset comes out of their own industry—so it is a proposal they understand and have a right to offer. I will not say exactly what the offset is because the realtors do not want to show their hand without being assured of action on S. 1257.

But I will commend the realtors for their responsible and realistic treatment of this issue. They will ultimately prevail on this because they are playing by the rules, and they are acting responsibly. The final result will be the end of the unfair tax treatment of realtors in a deficit neutral way. That is good for the real estate industry and good for the economy. I encourage other groups who seek tax relief to follow this stellar example. ●

RULES OF THE SELECT COMMITTEE ON POW/MIA AFFAIRS

● Mr. KERRY. Mr. President, the Select Committee on POW/MIA Affairs, in accordance with the unanimous consent agreement propounded by Senate Majority Leader MITCHELL on October 17, 1991, hereby submits its rules of procedure to be printed in the CONGRESSIONAL RECORD. I ask unanimous consent that they be printed in their entirety.

The rules of the committee follow:

RULES OF PROCEDURE OF THE SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

RULE 1. CONVENING OF MEETINGS AND HEARINGS

1.1 Definitions. As used in these rules, the term "meeting" includes a meeting to conduct a hearing. The term "hearing" is used to describe any meeting of the committee for the purpose of receiving testimony.

1.2 Calling of Meetings. The committee shall meet at the call of the chairman. The members of the committee may call special meetings as provided in Senate Rule XXVI(3).

1.3 Notice of Hearings. The committee shall publicly announce the date, place, and subject matter of any hearing at least one week before its commencement. A hearing may be called on shorter notice if the chairman, after consultation with the vice chairman, determines that there is good cause to begin it at an earlier date.

1.4 Presiding Officer. The chairman shall preside when present. If the chairman is not present at any meeting, the vice chairman shall preside. The chairman may designate any member of the committee to preside in the absence of the chairman or vice chairman.

RULE 2. OPEN AND CLOSED SESSIONS AND MEDIA

2.1 Procedure. All meetings shall be open to the public unless closed. To close all or part of a meeting, or a series of meetings for

a period of no more than 14 days, the committee shall vote in open session by a record vote, including proxy votes, of a majority of the members of the committee. If discussion is necessary, a motion shall be made and seconded to go into closed session to discuss whether the meeting will concern the matters enumerated in Rule 2.2. Immediately after such discussion the committee shall return to open session and the meeting may then be closed by a record vote.

2.2 Closed Session Subjects. A meeting may be closed if the matters to be discussed concern: (1) national security or the confidential conduct of foreign relations; (2) committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation, or to invade the privacy, of any individuals; (4) matters that will disclose the identity of any informer or undercover law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or (5) other matters enumerated in Senate Rule XXVI(5)(b).

2.3 Representative of the President. The presiding officer at any closed meeting or hearing may permit any personal representative of the President, designated by the President to serve as a liaison to the committee, to attend the closed meeting.

2.4 Witness Request. Any witness may submit to the chairman, no later than 24 hours in advance of a hearing, a written request that he or she be examined in closed or open session. The chairman shall inform the committee of the request, and the committee shall take such action pursuant to Rule 2.1 as it deems appropriate.

2.5 Media. Any meeting open to the public may be covered by television, radio, or still photography. Coverage must be conducted in an orderly and unobtrusive manner. The presiding officer, in exercising his or her responsibility for the conduct of meetings, may order that the use of cameras, microphones, and lights adhere to standards which the select committee deems appropriate, taking into account the concerns of any witness. For good cause the presiding officer may terminate coverage in whole or in part or take other action to promote orderly proceedings or for the protection of witnesses.

RULE 3. QUORUMS AND VOTING

3.1 In General. A majority of members of the committee shall constitute a quorum for reporting to the Senate and for the transaction of other business.

3.2 Testimony. One member shall constitute a quorum for taking testimony.

3.3 Proxies. Proxies shall be in writing, and shall be filed with the chief clerk by the absent member or by a member present at the meeting. Proxies shall contain sufficient reference to the pending matter to show that the absent member has been informed of it and has affirmatively requested that he or she be recorded as voting on it. Proxies shall not be counted towards a quorum.

3.4 Polling.

(a) Subjects. The committee may poll only (1) internal committee matters including the committee's staff, records, and budget; (2) authorization for steps in any investigation within its jurisdiction, including the authorization and issuance of subpoenas, applications for immunity orders, and requests for documents; (3) other committee business, not including a vote on reporting to the Senate, that the committee at a meeting has designated for polling at a subsequent time.

(b) Procedure. At the direction of the committee or the chairman, the chief clerk shall

distribute a polling form to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests, the matter shall be held for consideration at a meeting. If the chairman, with the approval of a majority of the members, determines that the polled matter is in one of the areas enumerated in Rule 2.2, the record of the poll shall be confidential. The chief clerk shall keep a record of polls, and shall notify the members of the committee of the results of each poll. In order for a proposition to be approved by poll, a majority of the members of the committee must have responded to the poll and a majority of those responding must have voted in the affirmative.

RULE 4. SUBPOENAS

4.1 Authorization. Subpoenas shall be authorized either by a majority of the committee or by the chairman with the consent of the vice chairman, and shall be issued by the chairman. Subpoenas may be served by any person designated by the chairman. The chief clerk shall keep a log, and a file, of all subpoenas.

4.2 Return. A subpoena duces tecum or order for records may be issued whose return shall occur at a time and place other than at a meeting. When a return on such a subpoena or order is incomplete or accompanied by an objection, the chairman, after consultation with the vice chairman, may convene a meeting, including a hearing on shortened notice, to determine the adequacy of the return and to rule on the objection, or may refer the issues raised by the return for decision by poll of the committee. At a hearing on such a return one member shall constitute a quorum.

RULE 5. HEARINGS

5.1 Notice. Witnesses shall be given at least 48 hours notice, unless the chairman, after consultation with the vice chairman, determines that extraordinary circumstances warrant shorter notice, and all witnesses shall be furnished with copies of Senate Resolution 82 (102d Congress, 1st Session), Senate Resolution 185 (102d Congress, 1st Session), and these rules.

5.2 Oath. All witnesses who testify to matters of fact shall be sworn unless the committee authorizes waiver of an oath. Any member of the committee may administer oaths to witnesses.

5.3 Statement. Any witness desiring to make an introductory statement shall file 40 copies of the statement with the chairman or chief clerk 48 hours in advance of the appearance, unless the chairman determines that there is good cause to modify either of these requirements. A witness may be required to summarize a prepared statement if it exceeds ten minutes. Unless the committee determines otherwise, a witness who appears before the committee under a grant of immunity shall not be permitted to make an introductory or other statement and may be required to testify only in response to questions posed directly by committee members or committee staff.

5.4 Counsel.

(a) Presence. A witness's counsel shall be permitted to be present during the witness's testimony at any open hearing, closed hearing, or deposition, or at any staff interview of the witness, to advise the witness of his or her rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the chairman or the committee may rule that representation by counsel from the government, corporation,

or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association or not representing other witnesses.

(b) Inability to Obtain Counsel. A witness who is unable for indigence or other reason to obtain counsel shall inform the committee at least 48 hours prior to the witness's appearance, and the committee will endeavor to obtain volunteer counsel for the witness. Failure to obtain counsel will not excuse the witness from appearing and testifying.

(c) Conduct. Counsel shall behave in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject counsel to disciplinary action, which may include warning, censure, or ejection.

5.5 Transcript. An accurate electronic or stenographic record shall be kept of all testimony in open and closed hearings. At a witness's request and expense, access to a copy of the transcription of a witness's testimony in open or closed session shall be provided to the witness. Upon inspecting the transcript, within a time limit set by the chief clerk, a witness may in writing request changes in the transcript to correct errors of transcription. A witness may also request that specified grammatical errors and obvious errors of fact be corrected for the purpose of any printed record of the witness's testimony. The chairman or a staff officer designated by the chairman shall rule on such requests.

5.6 Impugned Persons. Any person who believes that evidence presented, or comment made by a member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the committee to testify in his or her own behalf; or

(c) request that submitted written questions be used for the cross-examination of witnesses called by the committee. The chairman shall inform the committee of requests for appearance or cross-examination. If the committee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witnesses by a member or by staff.

5.7 Additional Witnesses. Any four members of the committee shall be entitled, upon a timely request made to the chairman, to call additional witnesses or to require the production of documents during at least one day of hearing.

5.8 Objections. The presiding officer shall rule on any objections at a hearing, which ruling shall be the ruling of the committee unless a majority of the committee disagrees with the ruling. In the case of a tie, the vote of the chairman shall prevail.

RULE 6. DEPOSITIONS, EXAMINATION OF RECORDS, AND INTERROGATORIES

6.1 Authorization for Depositions. The chairman and the vice chairman, acting jointly, may authorize the taking of a deposition. The authorization shall specify a time and place for examination, and the name of the staff member or members who will take the deposition. Unless otherwise specified, the deposition shall be in private. The committee shall not initiate procedures leading to criminal or civil enforcement proceedings

for a witness's failure to appear unless any notice of the deposition was accompanied by a subpoena authorized by the committee.

6.2 Counsel at Depositions. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule 5.4.

6.3 Deposition Procedures. Witnesses at depositions shall be examined upon oath administered by a committee member or an individual authorized by local law to administer oaths. Questions shall be propounded orally by staff members. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection. The ruling may be sought from the chairman of the committee or, in the absence of the chairman, from the vice chairman, or, in the absence of both the chairman and the vice chairman, from any member designated by the chairman. The member from whom the ruling is sought may rule on the objection, and order the witness to answer the question if the objection is overruled, or may refer the matter to the committee for a ruling. The committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after having been ordered to answer.

6.4 Deposition Transcripts. An accurate electronic or stenographic record shall be kept of all testimony at depositions. If a transcript is prepared, the witness shall be furnished with a copy, or access to a copy, for review. No later than five days thereafter, if a copy is provided, the witness shall return it with his or her signature, and the staff may enter or append to the transcript the changes, if any, requested by the witness in accordance with the procedures established by Rule 5.5. If the witness fails to return a signed copy the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk. Committee staff may stipulate with the witness to changes in this procedure. Objections to errors in this procedure that might be cured if promptly presented are waived unless timely objection is made.

6.5 Examination of Records. The committee or the chairman and vice chairman, acting jointly, may authorize the staff to inspect locations or systems of records on behalf of the committee.

6.6 Written Interrogatories. Written interrogatories may be authorized by the committee or the chairman and vice chairman, acting jointly, and issued by the chairman, or, in the absence of the chairman, by the vice chairman, or, in the absence of both the chairman and the vice chairman, by any member designated by the chairman, and shall specify a date for filing an answer with the chief clerk. Written interrogatories shall be answered under oath.

RULE 7. PROCEDURES FOR HANDLING OF CONFIDENTIAL OR CLASSIFIED MATERIALS

7.1 Security. Committee offices shall operate under strict security precautions. The chairman or vice chairman may request the Senate Sergeant at Arms and the Office of Senate Security to provide assistance necessary to ensure strict security.

7.2 Confidential or Classified Materials. Confidential or classified materials shall be segregated in a secure storage area under the supervision of the committee's security officer. The committee shall adopt security regulations, in consultation with the Office of Senate Security, governing the handling of confidential or classified materials. The chairman may enter into agreements to obtain materials and information under assurances concerning confidentiality. Each member of the committee shall be notified of such agreements.

7.3 Privacy Interests. Before disclosing publicly information that could adversely affect the privacy or other legitimate interests of any person, the committee shall carefully consider that person's interests, but the committee may disclose publicly any information for which it determines that the national interest in disclosure outweighs the privacy or other interests of the persons concerned.

7.4 Access. Staff access to classified materials shall be limited to staff members with appropriate security clearances and a need to know, as determined by the chairman and vice chairman, in consultation with the Director of Central Intelligence. The committee shall adopt internal guidelines governing staff access to particular categories of classified materials, which shall be applied by the chairman and vice chairman. Staff access to confidential materials may be limited by the chairman and vice chairman.

7.5 Nondisclosure. No member of the committee or its staff shall disclose, in whole or in part or by way of summary, to any person outside the committee and its staff, for any purpose or in connection with any proceeding, judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in closed hearings, or any confidential materials or information, including the results of the committee's investigation and any proposed or otherwise nonpublic conclusions of the committee, unless authorized by the committee or the chairman.

7.6 Nondisclosure Agreement. All members of the committee staff shall agree in writing, as a condition of employment or agreement for the provision of services, to abide by the conditions of the nondisclosure agreement promulgated by the committee pursuant to section 5(a)(1) of Senate Resolution 82.

7.7 Violations. Allegations concerning unauthorized disclosure may be addressed by the committee or may be referred by a majority vote of the committee to the Select Committee on Ethics in accordance with section 8 of Senate Resolution 400 (94th Congress, 2d Session), as made applicable to this committee by Senate Resolution 185. Any member of the staff who fails to conform to the provisions of Rule 7 shall be subject to disciplinary action, including termination of employment or agreement for the provision of services.

7.8 Applicability of Rules. For purposes of Rule 7, committee staff include the employees of the committee, staff designated by the members, with the approval of the chairman, to work on committee business, other officers and employees of the Senate who are requested by the chairman to work on committee business, and detailees and consultants to the committee, including any person engaged to perform services for or at the request of the committee.

RULE 8. DETAILEES, CONSULTANTS, AND ASSISTANCE OF OTHER COMMITTEES

8.1 Detailees and Consultants. The chairman and vice chairman, acting jointly, shall

have authority to use on a reimbursable or nonreimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any department or agency of the United States and shall have authority to procure the temporary or intermittent services of individual consultants or organizations.

8.2 Assistance of Other Committees. The chairman and vice chairman, acting jointly, may request the chairman of any Senate committee or subcommittee for consent to utilize the facilities of any such committee or the services of any members of its staff for the purpose of enabling this committee to perform its responsibilities under Senate Resolution 82 and Senate Resolution 185.

8.3 Scope of Authority. Detailees, consultants, and staff of other committees who provide services to the committee pursuant to Rule 8 shall be deemed to be staff of the committee for all purposes under these rules.

RULE 9. FOREIGN TRAVEL

No member of the committee or its staff shall travel abroad on committee business unless specifically authorized by the President pro tempore, Majority Leader, or Minority Leader of the Senate, in accordance with Senate Resolution 179 (95th Congress, 1st Session). All requests for authorization of such travel shall first be presented to the chairman and vice chairman for approval and shall state the extent, nature, and purpose of the proposed travel. When the foreign travel of a member of the staff not accompanying a member of the committee has been authorized, all members of the committee shall be advised, prior to the commencement of such travel, of its extent, nature, and purpose.

RULE 10. EFFECTIVENESS OF RULES AND RULE CHANGES

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record.●

CHRISTOPHER COLUMBUS: OUR FIRST IMMIGRANT

● Mr. D'AMATO. Mr. President, the Columbus story is a series of tragic ironies. Both during his lifetime and on the eve of the quincentenary of his momentous voyages, Columbus suffered and continues to suffer humiliations and reversals of fortune. Born in Genoa, he left his native city as a teenager and went to Portugal, where he lived with his brother Bartholomew and learned the art of mapmaking. He remained in Portugal for at least 10 years, during which time he sailed along the African coast and into the northern waters near Iceland. For 7 years he then sought the support of the Spanish monarch for backing to sail west in order to find a shorter sea route to the riches of India. In October 1492 he found what he thought were the outer islands of Asia and India. He returned to Spain a hero; but his subse-

quent three journeys were wrought with difficulties and personal misfortune.

He returned to Spain in chains after the third voyage to answer a variety of charges. The fourth and last journey was perhaps the greatest letdown of all, for he was forbidden to set foot on Hispaniola, the first Spanish settlement he had founded in the New World. When he died soon after, in 1506, he had been pretty much forgotten.

Today, his name and accomplishments are once again being challenged. He has been accused of the most atrocious crimes and has been sentenced by special interest groups who have taken the opportunity to undermine not only the name of Columbus but the European and Western tradition for which he stands. The charges and accusations can easily be sloughed off; what should concern us all, as Americans, is the larger and more insidious suggestions that such charges contain.

Columbus discovered a new world for an expanding Europe. His conquest was, as all conquests are, not a placid and easy undertaking. But conquest is the history of the world and is going on today still—just as racial inequities, wars, and other injustices are still with us. To accuse Columbus of the frailties of human nature and the realities of our human condition is hardly fair.

Europeans brought disease into the new world, we are told. But an expanding world is subject to both good and bad influences. Such possibilities have never deterred courageous men and women in the past and never will. But if we speak of diseases, we must also mention such imports as European foods and the horse. Before the introduction of the horse in the new world, the native populations had to hunt for bison and other animals on foot. The horse changed the lives of the native populations forever. From their point of view, the introduction of the horse was a blessing. From some other point of view one could possibly argue that the horse helped speed up the destruction of the environment and contribute to the problem of endangered species. To accuse Columbus of having destroyed the environment is a desperate effort to undermine his great accomplishments.

Even the native populations must eventually see themselves as part of this great multiethnic society which Columbus made possible as the first immigrant to the New World. Surely no one Native tribe can assert with certainty that it was here first. There is much speculation about Asian invasions of the continent many centuries ago and conquests of that kind long before Columbus. Who was here first is not really the issue, nor should it be. Columbus was the first European to bring the Renaissance vision and daring to the new world. He made possible the kind of dream Sir Thomas More en-

visions in his great work "Utopia," and which so many nations of Europe expanded and realized in the following centuries. We should honor Columbus as the father of our multiethnic society, the first immigrant of the new world, one who suffered as many of our fathers and mothers and grandparents suffered when they first came to these shores. Columbus deserved to be honored for his courage, determination, and dream of a better life!

As the quincentenary approaches, Americans throughout this great part of the world should work together to pay homage to the Age of Discovery and the dauntless European navigators who brought the two great continents of Europe and America together. True, someone else would have accomplished that great feat sooner or later; but it was Columbus who came first and it is his name that must be honored in that connection. Those who are already here had undergone their own difficult transitions, conquests, wars, and deprivations. To blame Columbus for what already existed, and continued to exist even after the Age of Discovery was well under way is unjust and untrue.

In this context I wish to mention "Columbus Countdown 1992," the organization that began promoting this message back in 1984 and which still continues to encourage conferences, artistic events, plays and music, as well as puppet plays and poetry readings on themes connected with Columbus and the quincentenary. Dr. Anne Paolucci, founder of "Columbus Countdown 1992," deserves our thanks for having put into motion the kind of multicultural and multiethnic programs that will surely become an important part of the quincentenary archives and for insisting from the very beginning that we honor Christopher Columbus as the First Immigrant to the New World, the founder of our great multiethnic society.●

ISRAEL AND THE SOVIET UNION RENEW TIES

● Mr. SIMON. Mr. President, the restoration of full diplomatic relations between Israel and the Soviet Union on October 18 marked an historic watershed for both countries and for the Middle East.

The resumption of diplomatic relations between Israel and the Soviet Union after 24 years of severed ties ends a process that began in earnest only after Mikhail Gorbachev became President of the U.S.S.R.

The Soviets recently joined the United States in cosponsoring the Middle East Peace Conference scheduled to begin in Madrid on October 30, 1991. I commend the efforts of Secretary of State James Baker and Foreign Minister Boris Pankin in bringing all legitimate parties to the conference table to begin the long road to peace in

the Middle East. Clearly, Soviet recognition of Israel can contribute to progress in Madrid.

I urge all parties at the Middle East Peace Conference to take a reasonable and constructive approach during the discussions. All will benefit from a just and lasting settlement in the region. Such an outcome will permit Israel to exist securely within internationally recognized borders. It will also bring an end to the continuing tension and the violence which is in no one's interest. I hope that the spirit of healing, signaled by the new diplomatic ties between Israel and the Soviet Union, will carry the day in Madrid.●

TRIBUTE TO THE HOLY APOSTLES SOUP KITCHEN

● Mr. D'AMATO. Mr. President, I rise today to give recognition to the Holy Apostles Soup Kitchen in New York City. The Holy Apostles Soup Kitchen will commemorate its ninth anniversary on October 22, 1991. The soup kitchen is a program of the Church of the Holy Apostles, located at 296 Ninth Avenue at 28th Street in Manhattan.

The soup kitchen, the largest private onsite feeding program in the tristate area, will celebrate its anniversary by doing what it does every single week-day of the year—serving more than 1,000 hot nutritious meals to its guests.

The Holy Apostle Soup Kitchen began serving meals to the needy on October 22, 1982. On that day, approximately 35 meals were served. Since then the soup kitchen has increased both the meal size, from soup and vegetables then, to complete meals now, and the number of guests that are served.

The Reverend William A. Greenlaw serves as executive director of the soup kitchen. He is also rector of the Church of the Holy Apostles. Father Greenlaw, his 10 employees, and 20 to 30 volunteers per day are committed to being there "to help break the vicious cycle of poverty, hunger, and homelessness" by providing service every day.

Mike Neufeld is in charge of recruiting volunteers for the soup kitchen. Jimmy Novack coordinates the activities of volunteers once they are onsite. Volunteers come from all walks of life, from retired senior citizens to former guests.

The Holy Apostles Soup Kitchen serves as a symbol for a caring New York. As such, they are deserving of our recognition today and our best wishes and support for tomorrow.●

SIMON HIGHER EDUCATION FINANCE PROPOSAL

● Mr. BRADLEY. Mr. President, last week's news makes clear that we must not let the reauthorization of the Higher Education Act pass with mere incremental changes to a system of grants

and loans that does not offer any help to middle-income families. Last week's headlines told us what families already know—tuitions at America's public universities, which are supposed to be a bargain, jumped 12 percent last year. Average tuition at a private college crossed the \$10,000 mark.

We also learn from today's Wall Street Journal that the pay gap between college graduates and other workers grew dramatically in the 1980's. This, too, is something every family knows. College graduates earn more than 60 percent more than workers with only a high-school education. A college education has become indispensable to get ahead in today's economy. At the same time its costs are taking it further and further out of reach of middle-class families. Pell grants are available only to the poor, and the administration wants to narrow eligibility even further to the poorest. The only alternative, guaranteed student loans, leave graduates burdened with an inflexible debt that they cannot manage in this recessionary economy.

I rise to commend my colleagues, Senators SIMON and DURENBERGER, for joining the fight to create a new way to pay for college. We cannot accept the administration's narrow vision of college finance as a tradeoff between the have-nots and the have-not-enoughs among American families. We should stand with students and parents who refuse to accept Secretary Alexander's advice that they pick a cheaper college. We have to increase our investment in education and help students use the 60 percent higher income they will gain from education in order to pay for that indispensable education.

Their proposal shares some key features with the self-reliance scholarship option I introduced earlier this year. We all want to create a system that lets students invest in themselves by repaying not a flat monthly fee, but a percentage of income. Income-contingent repayment is essential if we are to help middle-income families overcome the barrier of college costs.

There are also important differences between self-reliance and this approach. Self-reliance would not sweep away the current system, but add a new option that would transform the way the whole system appears to the student. Self-reliance would begin with a new investment of \$1 billion a year paid for by a surtax on millionaires, and leverage it into \$120 billion of aid to more than 12 million students in the first 10 years. No graduate would pay back more than 5 percent of income, and graduates with little or no income would nonetheless pay a reasonable minimum payment for the education they received. Above all, the student would have a choice of repayment options with different percentages of income and different lengths of repayment.

The proposal my colleagues have introduced takes a different approach to the same objective. It would completely replace the current system, releasing \$2.7 billion that was trapped in the current system and going to banks or to waste, and transferring that money to students and their families. I have some misgivings about this feature because I would prefer to create a new pool of capital to supplement the current system. Also, the Simon-Durenberger proposal is based on a repayment table that allows those who earn little to pay nothing and requires those who do well to pay as much as 17 percent of their income each year.

I hope we will have the opportunity for a healthy and productive debate about the very different structures underlying our two plans. I know we will have hearings not only in the Labor Committee, but also in the Finance Committee to consider how best to use the tax system to collect repayment. In the meantime, I hope the administration recognizes that there is an unmistakable groundswell of support here for the idea of income-contingent student aid. We have a chance to pass a reauthorization bill that makes as big an improvement in students' opportunities as the original Higher Education Act of 1965, or even the GI bill. I am pleased that Senators SIMON and DURENBERGER have stepped forward in committee to make sure that the chance is not missed. I look forward to working with them as this amendment moves forward in committee and when the bill comes to the floor.

Before I conclude, Mr. President, let me pass on to my colleagues the words of a New Jersey woman, a single parent, who wrote me describing her long struggle to earn a bachelor's degree in accounting so she could get a better job. "My dream of ever going back to college is gone," she wrote. But the idea of self-reliance would be, she wrote, "the light at the end of the tunnel." Senator SIMON and Senator DURENBERGER are bringing the light closer to her dreams. I commend them for their proposal.●

SENATE RESOLUTION 196 CALLING ON SOVIET PRESIDENT GORBACHEV TO BEGIN NEGOTIATIONS ON THE IMMEDIATE WITHDRAWAL OF SOVIET TROOPS FROM THE BALTIC STATES, OCTOBER 18, 1991

● Mr. D'AMATO. Mr. President, I rise today to support Senate Resolution 196, calling on Soviet President Gorbachev to begin negotiations on the immediate withdrawal of Soviet troops from the now independent nations of Estonia, Latvia, and Lithuania.

With their new-found independence, these nations, former prisoners of the Soviet empire, can exercise the rights due all sovereign nations, the right of

complete and unhindered freedom from foreign intervention. No longer do they take orders from Moscow, no longer do they follow the dictates of a foreign power. The nations of Estonia, Latvia, and Lithuania are independent in almost all aspects, with the exception of the perilous presence of over 100,000 Red army troops stationed on their territory. Until this egregious injustice ends, the Baltic nations will never be totally free.

Soviet President Mikhail Gorbachev has gone far in granting the Baltic nations their independence, yet he must complete the transition to freedom by immediately withdrawing all Soviet troops from Estonia, Latvia, and Lithuania.

The presence of Soviet troops on the sovereign territory of the Baltic nations must end immediately. As long as Soviet troops remain, the territorial integrity of Estonia, Latvia, and Lithuania will continue to be violated. The presence of foreign troops on their soil represents a clear violation of all standards of international law. This must end immediately.

The Baltic nations have finally won their struggle for independence, and now complete and unobstructed sovereignty must be theirs. The Red army must pull out of the Baltic nations now! ●

MEASURE PLACED ON CALENDAR.

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 3033, the job training reform amendments, just received from the House, be placed on the calendar.

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

NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 340, designating National Red Ribbon Week for a Drug-Free America just received from the House; that the joint resolution be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that the preamble be agreed to.

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

So the joint resolution (H.J. Res. 340) was deemed read a third time and passed.

The preamble was agreed to.

HIGH-SPEED RAIL TRANSPORTATION ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 242, S. 811, the

High-Speed Rail Transportation Act of 1991.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 811) to require the Secretary of Transportation to lead and coordinate Federal efforts in the development of magnetic levitation transportation technology and foster implementation of magnetic levitation and other high-speed rail transportation systems, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "High-Speed Rail Transportation Act of 1991".

FINDINGS

SEC. 2. The Congress finds the following:

(1) An efficient, integrated transportation network is an essential element in assuring the economic progress of the United States.

(2) Our Nation's current transportation network faces increasing demands and limited capacity. The Federal interstate highway system is nearing completion and it has been over two decades since the construction of a major new airport in the United States.

(3) Conventional ground and air transportation systems rely heavily on fossil fuels, which are in limited supply.

(4) High-speed rail transportation technologies offer an innovative, energy efficient, and environmentally sound way to supplement existing transportation modes, increase system capacity, and support economic growth.

(5) While magnetic levitation (maglev) technology was pioneered in the United States, development since 1975 has been concentrated outside of this country.

(6) Cooperative research and development efforts among industry, the academic community, and government are necessary for the United States to regain a leadership role in the next generation of maglev and for high-speed rail transportation to become a reality in the United States. Federal efforts should be directed toward support for a domestic maglev industry and construction of viable maglev and other high-speed rail systems, including demonstration systems, as part of an integrated transportation network.

(7) The Department of Transportation has been charged historically with promoting advanced transportation systems through the High-Speed Ground Transportation Act and has responsibility for the safety of high-speed rail and newly emerging technologies pursuant to the Rail Safety Improvement Act of 1988.

(8) In order for high-speed rail transportation to achieve its potential within the United States, existing Federal efforts (including the National Maglev Initiative) need to be strengthened, with the Department of Transportation, in consultation with the Army Corps of Engineers and other interested agencies, leading these efforts.

RESEARCH AND DEVELOPMENT

SEC. 3. The first section of the High-Speed Ground Transportation Act (79 Stat. 893) is amended by designating the existing text as subsection (a) and by adding at the end the following new subsection:

"(b) Pursuant to the authority under subsection (a) to undertake research and develop-

ment in high-speed ground transportation, the Secretary, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the development of magnetic levitation (maglev) transportation technologies and shall foster the implementation of magnetic levitation and other high-speed rail transportation systems as alternatives to existing transportation systems."

COOPERATIVE AGREEMENTS AND FUNDING AGREEMENTS

SEC. 4. The High-Speed Ground Transportation Act (79 Stat. 893) is amended by inserting immediately after section 3 the following new section:

"SEC. 4. (a) In carrying out the responsibilities of the Secretary under the first section, the Secretary is authorized to enter into one or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wylder Technology Innovation Act of 1980, 15 U.S.C. 3710a), and one or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

"(1) conducting research to overcome technical and other barriers to the development and construction of practical high-speed rail transportation systems and to help advance the basic generic technologies needed for these systems; and

"(2) transferring that research and basic generic technologies to industry in order to help create a viable commercial high-speed rail transportation industry within the United States.

"(b) In a cooperative agreement or funding agreement under subsection (a), the Secretary may agree to provide not more than 80 percent of the cost of any project, including any technology demonstration project, under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

"(c) The research, development, or utilization of any technology pursuant to a cooperative agreement under subsection (a), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(d) The research, development, or utilization of any technology pursuant to a funding agreement under subsection (a), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

"(e) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to appropriate committees of the Senate and House of Representatives regarding research and technology transfer activities conducted pursuant to the authorization contained in subsection (a)."

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. Section 11 of the High-Speed Ground Transportation Act (79 Stat. 895) is amended to read as follows:

"SEC. 11. (a) There are authorized to be appropriated to the Secretary \$25,000,000 for fiscal year 1992, \$40,000,000 for fiscal year 1993, \$50,000,000 for fiscal year 1994, \$60,000,000 for fiscal year 1995, and \$30,000,000 for fiscal year 1996, to carry out the provisions of this Act.

"(b) Of the sums authorized to be appropriated under subsection (a)—

"(1) no more than 40 percent for fiscal year 1992, and no more than 30 percent for each of the fiscal years 1993, 1994, 1995, and 1996, shall be available for research and development; and

"(2) the balance for each of the fiscal years 1993, 1994, 1995, and 1996 shall be available for technology demonstration and implementation."

COMMERCIAL FEASIBILITY STUDY

SEC. 6. Section 13 of the High-Speed Ground Transportation Act is amended to read as follows:

"SEC. 13. (a) Within 18 months after the date of enactment of the High-Speed Rail Transportation Act of 1991, the Secretary shall complete and submit to appropriate committees of the Senate and House of Representatives a study of the commercial feasibility of constructing one or more high-speed rail transportation systems in the United States. Such study shall consist of—

- "(1) an economic and financial analysis;
- "(2) a technical assessment; and
- "(3) recommendations for model legislation for State and local governments to facilitate construction of high-speed rail transportation systems.

"(b) The economic and financial analysis referred to in subsection (a)(1) shall include—

- "(1) an examination of the potential market for a nationwide high-speed rail transportation network;
- "(2) an examination of the potential markets for short-haul high-speed rail transportation systems and for intercity and long-haul high-speed rail transportation systems, including an assessment of—

- "(A) the current transportation practices and trends in each market; and
- "(B) the extent to which high-speed rail transportation systems would relieve the current or anticipated congestion on other modes of transportation;

"(3) projections of the costs of designing, constructing, and operating high-speed rail transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

"(4) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant amounts of relocation of residential, commercial, or industrial facilities;

"(5) a comparison of the projected costs of the various competing high-speed rail transportation technologies;

"(6) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed rail transportation systems and the completion of a nationwide high-speed rail transportation network;

"(7) an examination of the effect of the construction and operation of high-speed rail transportation systems on regional employment and economic growth;

"(8) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed rail transportation systems, including the roles of regional economic development authorities;

"(9) an assessment of the potential for a high-speed rail transportation technology export market;

"(10) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed rail transportation;

"(11) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed rail transportation systems; and

"(12) any other economic or financial analyses the Secretary considers important for carrying out this Act.

"(c) The technical assessment referred to in subsection (a)(2) shall include—

"(1) an examination of the various technologies developed for use in the transportation of passengers by high-speed rail, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

"(2) an identification of those system concepts that might be appropriate for further development and implementation of magnetically levitated high-speed rail technology;

"(3) an examination of the potential of United States industries to participate in the development and manufacture of high-speed rail transportation systems, including the potential to 'leapfrog', or exceed, existing high-speed rail transportation technologies and produce a superior domestically designed product;

"(4) an examination of the work being done to establish safety standards for high-speed rail transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

"(5) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed rail transportation systems;

"(6) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed rail transportation systems, including the potential for the use of existing rights-of-way;

"(7) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed rail transportation systems; and

"(8) any other technical assessments the Secretary considers important for carrying out this Act."

HIGH-SPEED RAIL TECHNOLOGY DEVELOPMENT

SEC. 7. The High-Speed Ground Transportation Act is amended by adding at the end the following new section:

"SEC. 14. (a)(1) The Secretary, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, and the Assistant Secretary of the Army for Civil Works, shall develop detailed designs for those high-speed rail system technological concepts that, in the opinion of the Secretary, have the potential for successful application in the United States and have the potential for significant participation by United States industries in the development and manufacture of such technology, and that otherwise warrant further development.

"(2) In carrying out paragraph (1), the Secretary shall develop the detailed designs of not less than two, nor more than four, of the system concepts identified under section 13(c)(2) that, in the opinion of the Secretary, have demonstrated the greatest technical merit and greatest likelihood for resolving any outstanding technical issues, including the development of a full-scale prototype.

"(b)(1) The Secretary may award multiple grants or contracts for the development of the designs pursuant to subsection (a).

"(2) In awarding such grants and contracts, the Secretary shall consider such factors as the proposed design's likely ability to meet existing and future domestic transportation requirements; probable initial system capital costs; probable long-term system operating and maintenance costs; safety; environmental effects; the proposed design's likely ability to achieve sustained high speeds; the proposed design's likely ability to utilize available rights-of-way; the

proposed design's potential to contribute to technological advancement and innovation; the potential awardee's resources, capabilities, and history of successfully designing and developing systems of similar complexity; and the extent to which the potential awardee would share in the cost of the development of such a design.

"(3) Grants for the development of such designs shall be for activities the Secretary deems appropriate and may include, but not be limited to, the development, testing, and evaluation of scale models of systems and the development, testing, and evaluation of full scale prototypes of major system subcomponents.

"(4) No trade secrets or commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this section shall be disclosed.

"(5) The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this section, including the terms under which any technology may be licensed and the resulting royalties distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.). In addition, the Secretary may require any grant recipient to assure that research and development shall be performed substantially in the United States, and that the products embodying the inventions made under any agreement pursuant to this section or produced through the use of such inventions shall be manufactured substantially in the United States.

"(c)(1) The Secretary shall provide periodic reports to the appropriate committees of the Congress on the progress of activities performed pursuant to this section.

"(2) Not later than February 1, 1996, the Secretary shall transmit to the appropriate committees of the Congress a report that identifies which detailed designs, if any, warrant development as a full-scale prototype.

"(3) The report required by paragraph (2) shall include a detailed plan, schedule, and estimate for the development of any full-scale prototype as well as recommendations for mechanisms to fund the development of such a prototype in a manner that ensures that the maximum practicable amount of funding comes from non-Federal sources."

NATIONAL HIGH-SPEED RAIL TRANSPORTATION POLICY

SEC. 8. The High-Speed Ground Transportation Act, as amended by section 7 of this Act, is further amended by adding at the end the following new section:

"SEC. 15. (a) Within 6 months after the submission of the study required by section 13, the Secretary shall establish the National High-Speed Rail Transportation Policy (hereafter in this section referred to as the 'Policy').

"(b) The Policy shall include—

- "(1) provisions to promote the design, construction, and operation of high-speed rail transportation systems in the United States;
- "(2) a determination whether the various competing high-speed rail transportation technologies can be effectively integrated into a national network and, if not, whether one or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;
- "(3) a strategy for prioritizing the markets and corridors in which the construction of high-speed rail transportation systems should be encouraged; and
- "(4) provisions designed to promote American competitiveness in the market for high-speed rail transportation technologies.

"(c) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy."

HIGH-SPEED GROUND TRANSPORTATION OFFICE

SEC. 9. Section 103 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) There is established within the Administration the High-Speed Ground Transportation Office, which shall be headed by a Director, who shall report to the Administrator. It shall be the function of the Office, in consultation with the Army Corps of Engineers, the Federal Highway Administration, and the Environmental Protection Agency, to—

"(1) coordinate Federal activities related to high-speed rail transportation, including research and development and technology demonstration and implementation;

"(2) carry out the Administration's mandate to ensure the safety of high-speed rail transportation systems under the Rail Safety Improvement Act of 1988; and

"(3) on an annual basis make recommendations for such legislative or administrative action as may be necessary to facilitate the advancement and implementation of high-speed rail transportation systems."

DEFINITION

SEC. 10. For purposes of this Act, the term "High-Speed Ground Transportation Act" means the Act entitled "An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes", approved September 30, 1965 (Public Law 89-220; 79 Stat. 893).

Mr. HOLLINGS. Mr. President, today I am pleased that the Senate is considering S. 811, the High-Speed Rail Transportation Act of 1991, which I introduced earlier this year. This legislation is cosponsored by my distinguished colleagues Senators EXON, BRYAN, BREAUX, REID, MIKULSKI, SIMON, and ROBB.

High-speed rail is an important technology for our Nation's future. It offers the potential to relieve congestion, ease the burden on our crowded aviation and highway systems, and conserve energy relative to other modes of transportation. The success of Amtrak's high-speed Metroliners between New York and Washington, DC, the growing industry participation in the National Maglev Initiative sponsored by the Federal Government, and the increasing interest in high-speed surface transportation systems of States and metropolitan areas across the country amply demonstrate the appeal of high-speed rail.

It is now time for the Federal Government to reassert its leadership in promoting the implementation of this technology. In the 1960's and 1970's, the United States led the world in development of new high-speed surface transportation technologies, including magnetic levitation [maglev]. Recently other countries have eclipsed our efforts in this area. It is thus imperative for us as a nation to refocus our collective attention to refining existing high-speed rail systems, developing new technologies, and adopting a national strategy to assure our future competitiveness in transportation.

S. 811, the High-Speed Rail Transportation Act of 1991, offers just such a plan. This legislation maps the way for a well-thought-out Federal role to assist States and the private sector in building high-speed rail systems between our crowded metropolitan areas 200 to 500 miles apart. S. 811 also will advance a shared partnership between U.S. industry and Government to boost the pace of domestic research and development in all high-speed rail technologies and move the United States more rapidly to the implementation stage for new, more advanced high-speed surface technologies.

S. 811 directs the establishment of a comprehensive Federal policy for the development of maglev and other high-speed rail transportation within the United States. This legislation accomplishes several important goals. It provides the Department of Transportation [DOT] with a statutory mandate to lead Federal high-speed rail efforts in cooperation with other interested Federal agencies, including the U.S. Army Corps of Engineers. Within 18 months of the date of enactment of this legislation, DOT is to complete a study of the commercial feasibility of constructing one or more high-speed rail systems in the United States. Within 6 months after that date, DOT is to establish a national high-speed rail transportation policy to promote the design, construction, and operation of high-speed rail systems in the United States.

At the same time, S. 811 requires DOT, in consultation with other designated Federal agencies, to develop detailed designs for high-speed rail system technological concepts which have potential for successful application in the United States, and potential for significant participation by U.S. Industries in the development and manufacture of such technologies. DOT is to report to Congress on its progress, and to report by 1996 on which detailed designs, if any, warrant development as a full-scale prototype.

S. 811 also amends the High-Speed Ground Transportation Act of 1965 to permit DOT to enter into cooperative research and development agreements with industry, pursuant to the Stevenson-Wylder Technology Innovation Act of 1980. Under the provisions of the bill, the Federal Government could provide up to 80 percent of the funding for any cooperative research agreement or funding agreement entered into with industry.

In order to coordinate Federal activities related to high-speed rail research, development, demonstration, and implementation, and make recommendations for appropriate legislative and administrative action, S. 811 would establish a new High-Speed Ground Transportation Office within the Federal Railroad Administration. The bill also would authorize funding levels of

\$25 million in fiscal year 1992, \$40 million in fiscal year 1993, \$50 million in fiscal year 1994, \$60 million in fiscal year 1995, and \$30 million to carry out the provisions of the 1965 act as amended.

S. 811 offers us an opportunity to take advantage of a visionary technology, and to move forward with high-speed surface systems that can help the Nation meet its pressing transportation problems. We must face up to our Federal responsibility to ensure that various State and regional high-speed rail efforts are integrated effectively into our national transportation system, and to expedite the development of American-designed high-speed rail technologies, including advanced electromagnetic and superconducting maglev systems, to provide jobs and stimulate economic growth, and competitiveness.

Mr. President, S. 811 will accomplish these goals. I urge my colleagues to join me in securing Senate passage and enactment of this important legislation.

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I am pleased to join the chairman of the full Committee on Commerce, Science, and Transportation, Senator HOLLINGS, in support of S. 811, the High-Speed Rail Transportation Act of 1991. Other cosponsors of this bill include Senators BRYAN, BREAUX, REID, MIKULSKI, SIMON, and ROBB.

The United States faces a crisis of congestion. Unless we act boldly and with an eye to the future, gridlock on our highways and winglock on our airways will choke off economic growth and vitality. The problem is not confined to the densely populated areas of the Northeast or the west coast, but affects every part of this Nation, including my own home State of Nebraska. We are a transportation interdependent nation. For example, improved high-speed rail systems in the Northeast corridor would open up badly needed airport landing slots to enable improved air service from the Midwest. This is currently a problem for Omaha.

To meet this national crisis, we cannot simply pour concrete to build more highways and more airports. We also must explore and encourage new solutions such as magnetic levitation and other high-speed rail technologies. Only through new approaches can we as a nation stimulate the public and private partnerships critical to revitalizing our transportation infrastructure.

While the States and the private sector have to date led in the development of high-speed rail in the United States, the Federal Government must reestablish a leadership position, both nationally and internationally. It is a Federal responsibility to assist in coordinating the development of regional high-speed

systems, to ensure their safe operation, and to promote the development of new, cutting edge high-speed surface transportation technologies. Incorporating the multiagency national maglev initiative, the Federal Government must plan for the comprehensive development of high-speed surface transportation systems in the United States. We must not allow this technology and its application to be dominated exclusively by foreign nations.

S. 811, the legislation which I introduced with Senator HOLLINGS and our other original cosponsors, will require the Department of Transportation [DOT] to establish an appropriate Federal policy to assist States and the private sector in building high-speed rail systems. This will be a national high-speed rail transportation policy, and it will draw upon the findings of the commercial feasibility study also incorporated into S. 811.

To advance the pace of research and development of next generation high-speed rail technologies such as maglev, S. 811 will also require DOT, in consultation with other designated Federal agencies, to develop detailed designs for high-speed rail system technological concepts which have potential for successful application in the United States and potential for significant participation by U.S. industries in the development and manufacture of such technologies. DOT will report to Congress on its progress, and will report by 1996 on which detailed designs, if any, warrant development as a full-scale prototype. Under the provisions of the bill, the Federal Government could share up to 80 percent of the cost of any cooperative research agreement or funding agreement entered into with industry, pursuant to the Stevenson-Wylder Technology Innovation Act of 1980.

S. 811 would further establish a new High-Speed Ground Transportation Office within the Federal Railroad Administration to centralize Federal administrative oversight responsibilities. The bill would authorize funding levels of \$25 million in fiscal year 1992, \$40 million in fiscal year 1993, \$50 million in fiscal year 1994, \$60 million in fiscal year 1995, and \$30 million in fiscal year 1996 to carry out the provisions of the 1965 High-Speed Ground Transportation Act as amended.

S. 811 offers us a vehicle to help rebuild our transportation infrastructure, and to take advantage of worldwide developments in high-speed rail technology. Let us consider how we can integrate high-speed surface transportation systems utilizing existing technologies into the regional transportation mix. And if superconducting maglev systems represent the future of transportation in the 21st century, let us as a nation be in a position to capitalize upon these developments.

In short, S. 811 represents a plan to assure the economic competitiveness of

the United States through a modern, efficient—and high-speed— transportation infrastructure. I urge my colleagues to join me in voting for its passage.

Mr. SIMON. Mr. President, as an original cosponsor of the High-Speed Rail Transportation Act of 1991, I urge my colleagues here in the Senate to pass this bill. I wish I could say it was timely, but in the mind of many of the citizens in Illinois and throughout the Nation a national high speed rail system is long overdue. If individual nations in Europe can put together a modernized international state-of-the-art high-speed rail system, surely our States with the help of their Federal Government, can do the same.

Why then does the administration continue to drag its feet on promoting a promising new high-speed ground transportation system? That foot dragging is putting our Nation and our citizens further and further behind the Europeans who not only have the trains up and running but are exporting their technology as well. The French TGV, the German ICE, the British high-speed rail, the Spanish Talgo, and the Swedish tilt train represent state-of-the-art service tailored to each nation. Japan has had a bullet train in service for over 25 years and is moving now to complete a number of other high-speed rail projects.

Here we have vowed to rebuild rail passenger service during two oil crises and now a war while many good faith proposals in State after State continue to languish on the drawing board. I compiled a list of 22 of these high-speed rail service plans while I was pressing for highway-rail safety measures to permit those plans to go forward.

Since 1984, Illinois has been a member of the Midwest high-speed rail compact along with the States of Indiana, Ohio, Pennsylvania, and Michigan which studied the feasibility and cost of a number of interconnected Midwest high-speed rail services. Our Chicago-St. Louis route ranked among the highest in ridership and revenue raising potential in the Midwest. Illinois has also conducted its own studies of potential high-speed rail routes along with others needing traditional Amtrak service in the interim. Minnesota, Wisconsin, and Illinois are actively studying high-speed rail service between Minneapolis, Madison, Milwaukee, and Chicago.

If we focus on the future and are serious about relieving highway and airport congestion, saving energy, improving air quality, bringing good transportation back to many cities and towns, and giving a tremendous spur to our national economy, this bill is an important beginning. It not only paves the way for a national high-speed rail policy and plan but it allows us to look at all technologies capable of bringing this about.

Mr. DOMENICI. Mr. President, I am pleased to have the opportunity to say a few words in support of S. 811, the High-Speed Rail Transportation Act of 1991. In light of this Nation's desperate need to reduce foreign oil dependence, S. 811 is an especially topical matter to come before the Senate.

S. 811 was reported out of the Senate Committee on Commerce, Science, and Transportation, without objection on April 11, 1991. In full compliance with the Omnibus Budget Reconciliation Act, S. 811 authorizes to be appropriated a total of \$200 million over 5 years to support the research, development, design, and implementation of advanced high-speed rail technologies in the United States. Additionally, S. 811 will establish a High-Speed Ground Transportation Office within the Federal Railroad Administration.

The transportation infrastructure of the United States is a key component to prosperity and growth. Yet, it is clear that the United States cannot simply keep building more lanes on more highways. Further highway development is a less efficient and environmentally sound approach to meeting our Nation's transportation needs.

Rather, we must keep an eye to the future, and invest in technologies that utilize intermodal concepts, encourage mass transit, and that are energy efficient. Rapid rail is the solution.

Interestingly, the surface transportation legislation in the House does not address the issue of rapid rail projects. For this reason it is imperative that the Senate take the lead role in making rapid rail a reality.

This might surprise some of my Eastern colleagues, but even Western States recognize the feasibility and economy of rapid rail lines between major Western cities. In New Mexico, the Rio Grande Corridor Rapid Rail project has been widely embraced.

The Rio Grande Corridor Rapid Rail would link Albuquerque, our most populated city, to Santa Fe, our State capital. A \$100,000 study was recently performed on this concept. This study was funded by a mix of public and private dollars including: a State appropriation, Federal planning dollars, contributions from the city of Albuquerque, Bernalillo County, the Public Service Co. of New Mexico, the Catellus Development Corp., Sandia National Laboratories, Los Alamos National Laboratories, and Kirtland Air Force Base.

The Rio Grande Rapid Rail incorporates S. 811's intermodal goals. The Rio Grande Rapid Rail will link Albuquerque's intercity bus system, the city bus systems of Albuquerque and Santa Fe, and the Albuquerque International Airport. The rapid rail will greatly reduce the amount of congestion on Interstate 25 between Albuquerque and Santa Fe.

It is my sincerest hope that rapid rail will soon be a pragmatic component of

the U.S. transportation infrastructure. Passage of S. 811 is an important and timely step to meeting this goal.

Thank you for your consideration of my thoughts.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. If there are no further amendments, without objection, the bill is deemed to have been read a third time and passed.

So the bill (S. 811) as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote, and move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Members of the Senate and the public, we have been engaged throughout the day in an effort to proceed with respect to two important legislative matters.

The Federal Facilities Compliance Act, which would subject the U.S. Government to the same environmental laws and rules and enforcement thereof, is legislation which I have introduced and which I have been pushing for several years. We have now reached the stage in that legislation where all matters relevant to that bill have been completed and we are prepared for final passage on the bill. The only remaining amendments in order to that bill are amendments relating to the subject matter of unauthorized disclosure of information, which are unrelated to the bill but which was the subject of an amendment offered to the bill.

Last week, when this matter arose, we agreed that we would attempt to negotiate a bipartisan approach that would satisfy all concerned as to the subject of that investigation and would also permit us to pass the Federal Facilities Compliance Act.

Pursuant to that, I discussed the matter with Senator DOLE by telephone yesterday and then in person today. This morning, I provided a proposal to Senator DOLE, in writing, setting forth a possible approach to the subject of the investigation.

Following consultation with his colleagues, Senator DOLE returned this afternoon with a counterproposal and then, earlier this evening, after receipt of that counterproposal and consultation with my colleagues, I provided to Senator DOLE a revised version of our original proposal. That is where the matter now stands. Senator DOLE will review the latest proposal and consult with his colleagues over the evening and has indicated that he will respond to that tomorrow morning.

In the meantime, in parallel to that, we have attempted to proceed with the civil rights bill. As all Senators know, under the rules of the Senate, any one Senator, any one Senator can prevent the Senate from even beginning consideration of a bill by objecting to a unanimous-consent request to bring a bill up, and thereby forcing the Senate to delay for 2 days and then have a vote on whether or not to terminate debate on the motion to proceed to a bill.

That is what has occurred with respect to the civil rights bill. I sought consent to proceed to the bill. Our Republican colleagues objected. I made a motion to proceed to the bill and filed a cloture motion to terminate that debate, and that vote was held today. The vote was 93 to 4. The Senate has clearly expressed itself in terms of proceeding to the bill.

Under the rules, however, even after a vote occurs and 60 or more Senators vote to terminate debate on a motion to proceed and then to get to the bill, those who opposed getting to the bill may delay for an additional 30 hours. And I was unable to gain consent to terminate that 30 hours, and that time has been running since the vote occurred early this afternoon. Since then, I had asked that we get an agreement to go to the civil rights bill tomorrow at noon, which would not require us to stay here all night and run 30 hours. I have been unable to get that agreement.

However, the distinguished Republican leader has agreed to my suggestion that we recess for the night but count the time overnight as though the Senate were in fact in session, thereby running more of the 30 hours in what I think is our mutual hope—I would not want to presume to speak for the Republican leader—I think he shares the hope that we can then, tomorrow morning, reach an agreement on both matters and then proceed to start action on the civil rights bill, resolve the question of the inquiry into the unauthorized disclosures, and pass the Federal Facilities Act. That at least is my hope, that we will be able to do all three of those things tomorrow. And I look forward to continuing discussions, to see if we cannot resolve the matter of the inquiry because that, really, is the thing holding up the Federal facilities bill and also going to the civil rights bill.

So, Mr. President, that being the case, I have proposed and the distinguished Republican leader has agreed, that we go out tonight, the time count as though we were in session, that we come back tomorrow morning in the hopes that we can resolve each of the matters to which I have referred. And I can report, having been involved in the discussions, that it has been a good faith and genuine effort on both sides, and considerable progress has been made toward reaching an agreement.

Many of the initial areas of disagreement have been resolved. There remain, really, one or two issues with respect to which we are still in discussion. But based upon what has occurred today I am quite hopeful that we will be able to resolve the matter tomorrow in a bipartisan and fair and responsible way.

ORDERS FOR TOMORROW

Mr. MITCHELL. Accordingly, Mr. President, I now ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. on Wednesday, October 23; that, following the prayer, the Journal of proceedings be deemed approved to date, and that following the time for the two leaders there be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with the following Senators permitted to speak therein under the following time limitations: Senator BOREN for 15 minutes; Senator WIRTH for 10 minutes; Senator LIEBERMAN for 5 minutes; and that any other Senator then be permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that the time under cloture on the motion to proceed to S. 1745, the civil rights bill, continue to run during the time the Senate is in recess.

I am advised by staff that this is agreeable to the distinguished Republican leader.

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

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess until 11 a.m. on Wednesday, October 23, 1991.

There being no objection, the Senate, at 7:13 p.m., recessed until Wednesday, October 23, 1991, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 22, 1991:

THE JUDICIARY

LILLIAN R. BEVIER, OF VIRGINIA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

TERRENCE W. BOYLE, OF NORTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF STATE

JOHN KENNETH BLACKWELL, OF OHIO, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

SECURITIES AND EXCHANGE COMMISSION

J. CARTER BEESE, JR., OF MARYLAND, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1996, VICE PHILIP R. LOCHNER, JR., RESIGNED.

U.S. SENTENCING COMMISSION

MICHAEL S. GELACAK, OF VIRGINIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997. (REAPPOINTMENT)

EXECUTIVE OFFICE OF THE PRESIDENT

KAY COLE JAMES, OF VIRGINIA, TO BE ASSOCIATE DIRECTOR FOR NATIONAL DRUG CONTROL POLICY, VICE REGGIE B. WALTON.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. JEREMY M. BOORDA xxx-xx-x. U.S. NAVY.

THE FOLLOWING OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601 AND 5141:

To be chief of naval personnel

To be vice admiral

REAR ADM. (1H) RONALD J. ZLATOPER xxx-xx-xxxx U.S. NAVY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

LAURENCE FARNEN, JR. WILLIAM D. YORK

IN THE NAVY

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

HUGH L. MIDDLETON PAUL M. NITZ

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

SCOTT E. ALTORIER RAYMOND R. BUETTNER
WILLIARD H. BERRIEN, III JOHN E. BURPEE

DANIEL E. CRIFE
JAMES M. GENT
FRANK W. HATCH
ANDREW M. LEIDY
JAMES T. MCGUIRE

KEVIN M. MCLAUGHLIN
STEPHEN H. MURRAY
PAUL W. ROHDE
DAVID A. WAINWRIGHT

THE FOLLOWING NAMED FORMER U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

DONALD H. GREENE DOUGLAS W. RAINFORTH
JAMES E. O'ROURKE

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 583:

STANLEY B. GETZ, JR. BENJAMIN R. HASTY

THE FOLLOWING U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

MILES L. WILHELM

THE JUDICIARY

Robert L. Echols, of Tennessee, to be U.S. District Judge for the Middle District of Tennessee vice a new position created by Public Law 101-650, approved December 1, 1990.

Thomas K. Moore, of the Virgin Islands, to be a Judge of the District Court of the Virgin Islands for a term of 10 years vice Almeric L. Christian, retired.

Henry C. Morgan, Jr., of Virginia, to be U.S. District Judge for the Eastern District of Virginia vice a new position created by Public Law 101-650, approved December 1, 1990.

WITHDRAWAL

Executive message transmitted by the President to the Senate on October 22, 1991, withdrawing from further Sen-

ate consideration the following nomination:

CORPORATION FOR PUBLIC BROADCASTING

KAY COLES JAMES, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING, WHICH WAS SENT TO THE SENATE ON AUGUST 1, 1991.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 22, 1991:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

JAMES C. KENNY, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1993.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RUSSELL K. PAUL, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

FEDERAL DEPOSIT INSURANCE CORPORATION

WILLIAM TAYLOR, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING FEBRUARY 28, 1993, VICE L. WILLIAM SEIDMAN.

WILLIAM TAYLOR, OF ILLINOIS, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING FEBRUARY 28, 1993, VICE L. WILLIAM SEIDMAN.

NATIONAL CREDIT UNION ADMINISTRATION

SHIRLEE BOWNE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING APRIL 10, 1997.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.