Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

SENATE—*Tuesday, November 26, 1991*

(Legislative day of Saturday, November 23, 1991)

The Senate met at 10 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:

Because that, when they knew God, they glorified him not as God, neither were thankful; but became vain in their imaginations, and their foolish heart was darkened. Professing themselves to be wise, they became fools * * *—(Romans 1:21, 22).

Eternal God, Creator, Sustainer and Consummator of history, the Apostle Paul reminds us that to be ungrateful is to forget the blessings of God which come to us daily. In effect, we assume the plenty that surrounds us is the result of our own efforts and genius. Forgetting the resources which God alone gives, we fail to express our appreciation to Him. Give us grace this week to examine our lives in light of all the blessings of life and liberty which come to us with such common regularity. And forbid that familiarity with these blessings should make us indifferent to Your love, Your goodness, Your mercy.

"O beautiful for spacious skies,
"For amber waves of grain,
"For purple mountain majesties
"Above the fruited plain!
"America! America!
"God shed His grace on thee,
"And crown thy good with brotherhood
From sea to shining sea!"

("O Beautiful for Spacious Skies," Katharine L. Bates, 1893.)

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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 26, 1991.

To the Senate:

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SCHEDULE

Mr. MITCHELL. This morning, following the period for morning business, which will continue until 10:30 a.m., under the order entered yesterday at 10:30, the Senate will proceed to the consideration of H.R. 3595, the Medicaid moratorium legislation. There is the likelihood of votes, if amendments are offered to the bill this morning; and as of late last evening, I anticipate that there will be some amendments. Under an order entered yesterday, I received the authority to proceed to the unemployment compensation conference report at any time today following consultation with the Republican leader.

It is my hope that we will be able to proceed to that bill today. And, under the order entered last evening, the Senate will be in recess from 12:30 p.m. until 2:15 p.m. to accommodate the party conferences.

As I indicated yesterday, and on each of the previous days, it is our hope to be able to complete the necessary action before the Senate in time to adjourn for the Thanksgiving Day recess. If we are to do so, I think we all know that it means a very long day today, possibly stretching into tomorrow, and so Senators should be aware of that in preparing their schedules for the next 24 hours. There could very well be votes throughout the day and the evening, today and tomorrow.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL addressed the chair.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be deemed approved to date.

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

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware, Senator ROTH.

'TWAS THE NIGHT BEFORE RECESS

Mr. ROTH. Mr. President, on this day, the day before we are expected to recess, I have authored a verse for my colleagues in both Chambers, as well as our friends at the other end of Pennsylvania Avenue. My poem is called, "'Twas the Night Before Recess."

'Twas the night before recess and all through the land
The economy was stagnate, employees were canned.
The Congress was wrapped up all tight in its words;
At home angry voices of voters were heard.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

While lobbyists with smiles and special interests with grins
Went off to vacation to boast of their wins.
When out in the States there arose such a clatter;
People were sick of political chatter.
Polls all reported rebellion ahead;
For Congress the choice was be quick or be dead.
Tax cut talk flew both furious and fast,
While in hallowed chambers Members sat on their * * * chairs!
The White House was silent until the Union they would State,
Hoping by then the problem would abate.
When, what to my wondering eyes should appear,
But born-again taxcutters to allay voter fear.
More rapid than eagles the cutters they came,
Each whistling and shouting and calling his name:
Now Clinton, now Bradley, now Downey and Gore;
On Rosty, on Cuomo, on Moynihan, more.
From children's tax credits to rates that will fall
Now, cut away! Cut away! Cut away all.
Their voices were many, their attempts so sincere,
But the fact of the matter was recess grew near.
Congressional bags packed, plane engines they roared;
Off to their Thanksgiving turkey they soared.
So back to their districts the Congressmen flew
With bags full of goodies and porkbarrel, too.
While out in the heartland taxpayers were pinched;
Instead of receiving they felt rather grinched.
Despite all the rhetoric, it was more of the same:
The spending continued but no tax cut came.
The voters were weary, anger in mass,
They said give us relief or you're out on your * * * chair!
Perhaps this time their message will be heard
And Congress will come back to live up to its word.
It can be done, it's been done before,
Kemp-Roth brought recovery—jobs, growth and more.
I know I'm no poet, but my tax message is clear:
If we don't cut them now we must cut them next year.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Senator BINGAMAN is recognized.

INDIAN ARTS AND CRAFTS ACT OF 1990

Mr. BINGAMAN. Mr. President, as we near the end of the 1st session of the 102d Congress, I would like to draw the attention of my colleagues to a bill we passed in the closing hours of the 101st Congress: the Indian Arts and Crafts Act of 1990. I would like to urge my colleagues to work with me, with the administration, and with American Indian tribal leaders, artists, and crafters to ensure that the rights of individual artists are not trampled in the effort to enforce this law.

Known today as Public Law 101-644, the Indian Arts and Crafts Act of 1990 was introduced and enacted with the best of intentions. Its purpose was clear and laudable: To prevent fraud in the Indian arts and crafts market and to preserve and foster traditional American Indian arts and crafts. I support these goals wholeheartedly, and I have worked since coming to the Senate in 1980 to enact legislation and gain enforcement of policies aimed at putting an end to the counterfeiting of American Indian arts and crafts. Because of this great concern, I am troubled by reports I have heard recently about the disruptive impact misapplication of this legislation is having in my home State of New Mexico and in art centers around the country.

After looking into these reports, observing the act in practice in New Mexico and other States, and discussing it with some of my Indian constituents, I have reached the conclusion that the Congress—and the American Indian community—should take a serious, in-depth look at this legislation. We should thoroughly discuss its provisions and explore all its potential effects on Indian artists and Indian tribes. Then we should make an educated decision about whether the act should be allowed to stand as is, or whether it should be amended or even repealed. During the upcoming recess, I will undertake such an examination. I will discuss this legislation with Indian leaders, Indian artists, and other concerned individuals and organizations in my State. Then I will decide whether I think we can find a more effective, less divisive way to protect both the consumers and the practitioners of traditional American Indian arts and crafts.

Mr. President, let me briefly explain this act: Public Law 101-644 makes it unlawful for anyone to sell or offer to sell any work of art as Indian made, or as an Indian product, or the product of a particular Indian or Indian tribe, unless the artist who produced it is an enrolled member of a federally or State-recognized Indian tribe or has a certificate from a tribe stating tribal affiliation. Severe criminal penalties—up to $250,000 and 5 years in jail for the first offense—are imposed for violations of the act. A civil cause of action is given to the attorney general and Indian tribes to be brought on behalf of a tribe, an individual tribal member, or a tribal arts and crafts organization.

Unfortunately, this seemingly innocuous statute has proved to be disruptive to Indian arts shows and galleries. The act's somewhat vague definitions and broad scope are beginning to polarize Indian artists, tribes, museums, and gallery owners; and by all indications, the situation will probably grow worse over the next few months as the Department of the Interior attempts to draft implementing regulations. Instead of helping to improve the economic status of American Indians, I believe the long-term effect of this act could be to significantly harm individual Indian artists and entire Indian tribes. If it is ever fully implemented as currently drafted, I believe this act could deprive tribes of some of their constitutionally guaranteed right to sovereignty and could rob many American Indian artists of their livelihood and their right to free speech, simply because they are unable or unwilling to produce, upon demand, a card documenting their ethnicity.

Already, a number of well-respected Indian artists with longstanding careers have been labled fake Indians because they do not have tribal enrollment cards, yet continue to truthfully discuss their ethnic and cultural heritage in connection with their art. In New Mexico, self-appointed art police are approaching gallery owners and operators of art shows implying that they will suffer grave legal consequences if they do not remove the work of the so-called fake Indians. In my view, the act as it currently exists could be setting the stage for battle: already, widely publicized disputes have erupted over the definitions of real "Indian art" and real "Indians." All of this is far removed from the original intent of the act, which was simply to prevent non-Indians from making products that appeared to be genuine, traditional Indian arts and crafts that deceive consumers and deprive legitimate Indian crafters of their rightful place in the market.

I am troubled, Mr. President, because I believe the act raises serious constitutional questions. Its current language is very broad and appears, to me, to limit freedom of speech. Under the act, even truthful comments about one's cultural heritage could be unlawful if the speaker—the artist—does not back his comments and work with an Indian census card or certificate. As every first year law student knows, when the Government acts to curtail speech, even in a commercial context, the regulation must be drafted as narrowly as possible to achieve the legitimate legislative goal. I fear, however, that the 1990 act may violate this fundamental principle because it clearly attempts to regulate both traditional Indian arts and crafts, such as Navajo rugs and Zuni jewelry, as well as non-Indian fine art, such as paintings and sculptures. These sculptures, oil paintings, water colors, and other types of European-influenced art forms have been widely adapted for artistic expression and sale by Indians and others, and they are included within the scope of the act. Yet, in my view, a clear, significant difference exists between fine art and traditional arts and crafts.

The fine arts market simply does not need the same type of protection need-

ed in the market for traditional Indian crafts. In the latter market, a great deal of the inherent value of the work comes from its genuineness. People who travel to New Mexico to visit and purchase traditional Indian art, such as Navajo rugs or Acoma pottery, do so in some substantial part because their purchases represent the American Indians' unique contributions to our national culture. In addition to beauty, traditional Indian art represents a unique and irreplaceable way of life. Similar pieces made by non-Indians, or Indians of tribes for which the particular art has no inherent significance, would simply not be as valuable, no matter how skillful the imitation.

In fine art, however, the same criteria do not apply. The value of the works are more exclusively in their aesthetic appeal, or value as investments, rather than in the cultural identity of the artist. For example, there is no identifiable style of Acoma oil painting, as there is with Acoma pottery. People cannot readily be deceived into believing that they are purchasing genuine Acoma oil paintings in the same manner that they can be deceived into thinking they are purchasing genuine Acoma pottery.

Attempting to regulate fine art as we do traditional crafts has, in my initial view, merely injected Congress into the debate over who has the right to call himself or herself an Indian and whose style of painting or sculpture is more true to the Indian sensibility. I do not believe the Federal Government belongs I that debate. It is a debate left, under the Constitution, to the Indian tribes as sovereign entities. And to the extent the Indian Arts and Crafts Act of 1990 involves us in that debate, I believe it should be repealed or amended.

In addition to these problems, I believe the act, as it is now being implemented, has the appearance of creating categories based on racial characteristics. To the courts, all such categories are inherently suspect and subject to strict judicial scrutiny. Although I have not yet thoroughly examined every constitutional argument to the contrary, I am inclined to believe that the act may not survive such scrutiny when the inevitable legal challenge comes. If this is true, it would most definitely save time, expense, and a lot of heartache for all concerned, if we, in the Congress, began working to correct the mistakes of the 1990 act as soon as the second session of the 102d Congress convenes early next year.

Basically, the act creates a distinction between artists who can label their work "Indian" and those who cannot. The classification is predicated upon enrollment in, or certification by, a recognized Indian tribe. The purpose of the classification is to protect the Indian arts and crafts market from "non-Indian" counterfeits. However, and for several different reasons, the fact is that many American Indians are not enrolled in their respective tribes.

Historically, some Indians have been dissuaded from enrolling by officials who sought to keep enrollment numbers low. The nature of some reservations, where people often lead isolated lives, discourages registration and the documentation necessary to achieve it. Early on, many Indians were reluctant to enroll due to distrust, or fear, of white government. Also, philosophical, cultural, and political reasons have made some Indians reluctant to participate in registering themselves. It is offensive to some that they must be enrolled on a governmental list and assigned a number to claim their cultural and ethnic birthright. For an example of some of these reasons, and their effect, I respectfully request that an article from The Indian Trader, dated August 1991, be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1)

Mr. BINGAMAN. Mr. President, obviously, such nonenrollment has nothing to do with genuineness of the artists' relationship to their tribes or the Indianness of their artwork. Yet, in the absence of enrollment, these artists are totally barred from asserting their ethnic heritage as part of a discussion of their art. It is true that the act authorizes nonenrolled artists to seek certification of their standing as Indian artisans from their respective tribes. But the exact same reasons that militate against enrollment also militate against applying for certification. Certification provides no relief for artists who religiously or philosophically oppose having to join a group to assert heritage, nor does it remedy the situation of artists who lack the paper credentials to achieve certification. The act, therefore, could disenfranchise authentic Indian artists from asserting their heritage in the name of protecting the market from counterfeits. And in my view, it may not be sufficient to allow the act's language to stand and state, instead, in regulations or floor statements that nonenrolled Indians can go on with their art, so long as they refrain from talking about it in connection with their heritage. No other artist suffers this restriction.

My initial analysis has also led me to conclude—perhaps incorrectly and I would appreciate discussing this with my colleagues—that the act appears to create other forms of classification based on race, and that it may unconstitutionally delegate Congress' authority to recognize Indian tribes. Mr. President, I understand that under existing law a court could certify the act's classifications as political, rather than racial, and thus find them technically permissible. But when the effect of the classifications is so immensely harmful and their appearance so extreme, I believe the underlying act merits reexamination. In retrospect, the classifications may be deemed unnecessary or in need of amendment or clarification.

With respect to this act, I would like to discuss three classifications:

1. INDIAN AND NON-INDIAN ARTISTS AND CRAFTERS

Under my interpretation of the act, only nonenrolled, or noncertified, Indians are prohibited by law from discussing their heritage in connection with their art. Enrolled Indian artists, and all non-Indians, are allowed to freely express themselves about the relationship between their heritage and their art without fear of imprisonment or lawsuit. In my view, it simply is not sufficient or logical to say that nonenrolled Indians can continue with their art, so long as they refrain from talking about it in connection with their heritage. As I stated earlier, no other artists suffer this restriction. No law requires Americans of Irish descent who record Irish folk music to be certified as genuine Irish-Americans. Nor are African-Americans who market African design clothing required to carry papers showing that they are African-American. How can we, in good conscious, impose such a burden on Indians, who like the Mestizos of New Mexico can trace their heritage in this land to the 15th century and beyond, but because of centuries of mixed Spanish and Indian blood belong to no formally recognized Indian tribe? Yet, this is what we have done.

Unfortunately, the act appears to create the odious spectacle of requiring American citizens to carry paperwork establishing their racial or ethnic purity before they can fully practice their chosen profession. Only Indian artists are required to meet this burden. However laudable the underlying goal of the act, this classification is precisely the sort of intentional, insidious separate treatment based on the race that the Constitution, in all other cases, forbids.

2. DISCRIMINATION AGAINST ARTISTS OF CERTAIN TRIBES

The 1990 act requires enrollment, or certification, as a perquisite to adopting the label Indian artist; and, therefore, appears to discriminate against members of certain tribes who have chosen art as their profession. This is because each tribe sets its own standards for enrollment as an act of its inherent sovereignty. These standards vary widely. One tribe may require merely one sixty-fourth tribal ancestry—or blood quantum—for enrollment, and another tribe may require one-third, or, one-half, or whatever level it deems fit. Some tribes do not base enrollment on blood quantum; they base enrollment on treaty signatories or on parental lineage at key times in the tribe's history; thus hav-

ing the effect on denying one tribal member an enrollment number, while granting a number to another tribal member with a blood quantum level equal to—or even less than—the denied member.

For political, cultural, and historical reasons, some tribes seek to encourage enrollment and others do not. Mr. President, I do not mean to diminish the tribes' right to make this type of decision. I fully respect and will always defend their sovereign right to do so; I am merely pointing out the application of these facts in the context of this act and an individual Indian's decision to pursue an artistic career.

I believe the act creates the very real possibility of one Indian artist being able to speak freely about his culture and his art, while another Indian artist of the same quantum of Indian ancestry, but from another tribe, could be jailed for doing so. The only difference between them is tribal affiliation. The solution to this dilemma, according to the Department of the Interior-Indian Arts and Crafts Board's "fact sheet" is to compel all Indian tribes to adopt the same criteria for tribal "certification." This is the goal the arts and crafts board has announced it will work toward in January. But in my view, it is a goal the Congress must reject and a solution the tribes should renounce because of the degree to which it infringes on each tribe's inherent sovereign right to set its own standards for membership.

3. DISCRIMINATION AGAINST INDIANS WHO CHOOSE ART AS A PROFESSION

Finally, Mr. President, I want to discuss the fact that only Indians who choose artistic careers are required by law to show proof of heritage before making reference to their identity in connection with their work. For example, in my home State of New Mexico, we have some law firms that represent themselves as specializing in Indian law and, in one instance, as "an Indian law firm." These attorneys are not required to certify their degree of Indian blood, nor must they carry any special paperwork to hold themselves out as Indian lawyers. Obviously, if such an attorney misrepresented himself, he would be subject to ethical sanctions and other legal action from those injured. But the sanctions would flow from the deceit, not from the attorney's heritage. Under the Indian Arts and Crafts Act, however, an Indian of the same blood quantum as the Indian attorney, but who lacks an enrollment card, is subject to punishment for honestly discussing his heritage.

Mr. President, I find myself wondering if any of these classifications are necessary to achieve the goal of eliminating fraud in the Indian arts and crafts market. Perhaps that goal can be achieved, as some have speculated, by more vigorously enforcing the prohibition against misrepresentation found in the original Indian Arts and Crafts Act. Certainly, this is something we need to look into, and if lax policies exist, we need to make changes. Additionally, since the House committee reports accompanying the 1990 act devote considerable attention to the problem of imported Indian arts and crafts imitations, perhaps we need to look into strengthening the Commerce Department's authority to regulate the importation of Indian-style crafts.

Between 1984 and 1988, I worked with my colleague from New Mexico, Senator DOMENICI, to ensure that the Commerce Department had the authority—and that it exercised that authority—to strictly regulate the importation of native American-style jewelry. Our amendment to the omnibus trade bill specifically directed the Department to promulgate regulations requiring the permanent marking of country-of-origin on imported Indian-style jewelry. Those much-needed and long-awaited regulations were just beginning to be implemented when the Indian Arts and Crafts Act of 1990 was introduced in the House.

Mr. President, I have talked long enough. The Congress is on the eve of adjournment for the balance of this year. I will conclude by pledging that during this recess, I will discuss this act with Indian leaders and Indian artists in my State and throughout the country. When we reconvene next January, I will work with the distinguished chairman and members of the Select Committee on Indian Affairs to ensure that we meet—and preserve—the original intent of the 1990 act. And as I have done in the past, I will continue to work toward the goal of protecting traditional Indian arts and crafts without abridging any individual's constitutionally protected freedoms. I urge my colleagues to join with me in the next session to cure the act's defects, clarify its objectives, and take positive action to protect all Indian artists and consumers of Indian arts and crafts from fraud and deception.

EXHIBIT 1

[From the Indian Trader, August 1991]

NEW INDIAN ARTS AND CRAFTS ACT BRINGS DISSENSION

OKLAHOMA CITY.—Bert Seabourn was an Indian first and then an artist. But because of a new federal law, he no longer can claim to be an Indian artist.

Throughout the United States, but primarily in the Southwest, dozens of Indian artists such as Seabourn are snared by a law that was designed to protect them from look-alike imitations, much of it from the Orient. Instead, they say, the law is hampering their efforts to earn a livelihood and is dividing Indian from Indian.

"It has caused a lot of confusion, a lot of bad will," said Shirley Wells, owner of an Indian art gallery at Sapulpa in northeast Oklahoma. "Some innocent people are being hurt and the law doesn't really help anyone."

The Indian Arts and Crafts Act of 1990 specifies that nothing can be claimed to be Indian-made unless the artist can prove Indian heritage. Both the artist and gallery can be fined for violations up to $10,000 in some instances.

Seabourn and the others do not have that documentation, the so-called "Indian card" that fits in a billfold and lists the degree of Indian blood. That card is the passport to the free benefits available under federal law.

Their ancestors, because of distrust of the white government, pressure or a lack of knowledge, never signed the government rolls. That signing was what started the documentation process that led, generation by generation, to holders of today's Indian cards.

"I don't know if my ancestors even knew about it," said Seabourn, whose work hangs in the Vatican's permanent collection. He said his Cherokee ancestors were farmers down in Texas, many days' ride from where the rolls were being signed in northeast Oklahoma.

PROVISION MADE FOR CURRENT ARTISTS

The law does make provision for established artists that do not have their documentation. It allows federal- or state-recognized tribes to decide whether someone can be called an artist from that tribe.

A special committee set up by the Cherokee Nation studied Seabourn's case and recommended unanimously that he be granted such recognition.

But some tribal members protested the ruling. They contended that the committee was deciding who could be a Cherokee and that certification decisions should be voted on by tribal members.

A week later, Principal Chief Wilma Mankiller vetoed the resolution and proposed instead that Seabourn be named a goodwill ambassador for the Cherokee Nation.

IN DANGER IF THEY TOLD

Seabourn, who through the years has donated supplies and works to the Cherokees and conducted art classes for them, said lack of knowledge wasn't the only reason the rolls weren't signed. He said other Indians at that time still remembered the tales told by relatives and friends of their forced removal from their homes in the Southeast and elsewhere.

"So many of the old people felt they were in danger if they wrote down where they were," added Woyneve Cassidy, a stained glass artist from Pagosa Springs, Colo. "I understand that."

But Ron English, a Chippewa painter and a former leader of the militant American Indian Movement, sees it differently. He says undocumented Indians were the result of "people who did not want to be identified as Indians when it wasn't a good idea to be Indian. Now they want back in" when much of that stigma has been erased.

A PROUD PEOPLE

"Indians are a proud people and know enough not to go where they are not wanted," English said. "If I am not wanted in a show, I will go away. I will not gripe. I have to live with myself. I have to be able to sleep at night."

One thing is certain. The law has made artists and galleries alike wary of what they say.

At this year's Red Earth celebration in Oklahoma City, billed as "America's largest Native American festival," prospective buyers were given a disclaimer stating that the art was not guaranteed to be "produced by, or products of, an 'Indian,' as that term is defined" in the law.

Similar disclaimers have been posted in many galleries, and some galleries have even gone to the extraordinary lengths of placing similar notices on individual shelves of "Indian" works.

Seabourn said he had taken the additional step of writing each gallery that handles his work, offering to remove it. In each case, he said, the galleries said they wanted to keep representing him.

Because of the new law, Red Earth this year decided originally to ban all artists who did not have their proper documentation. Festival planners later relented to the extent that they allowed those who had exhibited there previously to exhibit again this year, once the disclaimers were printed.

The change in mind did not come soon enough to allow Seabourn and several others to get back into Red Earth. They already had committed to an alternate showing several blocks up the street specifically for those without Indian documentation.

There is a lot at stake.

Indian art in the past 20 years has moved from tourist trinkets and road stand souvenirs to highly sought after—and expensive works ranging from the traditional to the most modernistic. It is not unusual to see paintings sell for $5,000 and up, prints starting at $100 and sculpture at $15,000 and above.

Artists work in all mediums, from oils and water colors to welded iron.

The popularity of Indian art has prompted some galleries and museums to open Indian wings, and the desire for Indian art has spread outside the continental boundaries. Doc Tate Nevaquaya, an Indian painter who lives in southern Oklahoma, has sold a painting to Queen Elizabeth II: Other Indian artists have had showings in Great Britain and the Orient.

Rep. Ben Nighthorse Campbell, D-Colo., the only Indian member of Congress and an artist, co-sponsored the Indian Arts and Crafts Act of 1990 in an attempt to make sure that only true Indians could mine this bonanza. The act, in reality, is just a strengthening of a law first passed in the 1930s.

"The act was designated to be as inclusive as possible and to protect the Indian artist," said Carol Knight, Campbell's press secretary. "It is a huge business. It's just simply not fair to a true Indian artist to have other people selling things they're claiming is Indian-made."

A CONSUMER PROTECTION BILL

As for changes in the law to take care of situations such as that of Seabourn, Ms. Knight said: "The Indian tribes are sovereign. They have sole control over their internal operations. Whenever you're dealing with Indian legislation, you have to deal with sovereignty. You can't pass a law in Washington to tell the tribes how to deal with this."

Some Indian artists dismissed the new law as only a "consumer protection bill" that did nothing to help them. Still others said it would devalue the works of artists who, like Seabourn, could no longer claim to be Indian artists.

"I don't think anyone buys Indian art because the artist is an Indian," Wells said. "They buy it because of the artist, the technical aspects of the painting. I don't think the value increases or decreases because the artist is an Indian or not."

Ms. Knight and several gallery owners said that, as might be expected from the state with the largest number of federally recognized Indian tribes and a large number of Indian residents, Oklahoma has generated the most protests to the new law.

"But I'm sure that there are artists out West who have been hurt that we don't know about," Ms Wells said.

SOME NOT HAPPY WITH THE NEW LAW

Even some of the Indian artists who have their card aren't happy with then new law.

It took artist Nick Brokeshoulder about two months to complete the paperwork needed to gain admittance to some art works. Brokeshoulder, a young Hopi from Arizona, carves traditional kachina dolls, the representatives of Hopi gods. "Why do I need to prove it when I know I'm an Indian? Black artists aren't asked to prove they're African-Americans."

Benjamin Harjo Jr. of Oklahoma City, the grand award art winner at the 1988 Red Earth, was even more outspoken.

"I think the government was concerned that the Indian people are making this money," Harjo said. "They came up with this law to further divide the Indian people."

Even state Sen. Enoch Kelly Haney, the only Indian artist in the Oklahoma Legislature and a supporter of the law, said he though some changes needed to be made. And he does not doubt that Seabourn is an Indian, despite the lack of documentation. Haney is a Creek-Seminole.

Indian people respect the words of their elders, and the last word may have come from George "Woogie" Watchataker, a 75-year-old Comanche painter.

"Anyone can go ahead and paint Indian if they want to," Watchetaker said.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2056 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who seeks recognition?

The Chair recognizes the Senator from Idaho, Senator CRAIG.

ECONOMIC PROBLEMS

Mr. CRAIG. Mr. President, a lot of people are looking for a new idea to solve our Nation's economic problems.

Maybe we should try an old idea instead. Sometimes they work better. And when I say "old," I mean a really old idea—a couple of hundred years. In fact, it was only 10 years after our Constitution was written that Thomas Jefferson said:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of the Constitution; I mean an additional article taking from the federal government the power of borrowing.

The point of Jefferson's statement is far more profound than any of the statutory tinkering with the budget that we have seen in recent years. And it is certainly relevant to the challenges facing us today. No matter how complex we might make the relationships seem between modern economic forces, some basic premises are as true as they were 200 years ago: The impact of Federal fiscal policies is a matter of revenues and expenditures, and when we spend more than we have, we upset our Nation's economic system. It was true then. It is true now. It simply has not changed.

I might add, there are also certain political realities that have not changed. Without a spending limitation, Members of Congress can accommodate one spending interest and gain political capital without reducing other spending programs and facing political disadvantage that can result. The political costs of excessive spending are deferred, resulting in deficits and ultimately higher taxes—while the political benefits of the spending are immediately enjoyed by those affected by the program and the Members of Congress who supported it. Year after year we have fresh proof that, no matter how bad times get, politicians will never give up their right to attempt to purchase votes by borrowing dollars from the general economy.

Statutory reforms by themselves, whether in tax law or spending restraint, are not capable of exchanging the basic forces of Federal fiscal policy. These reform proposals are all embrace an underlying assumption that a new fiscal responsibility can result if we can simply control these forces. Looking for some lasting economic guarantees, to form a Federal Government that is politically driven to withstand spending impulses simply does not work. The motivation is never there, because, Mr. President, as we have seen in the past and as we are seeing now we can always pass go.

Mr. President, there is nothing more certain to keep the engine of American economic prosperity moving than the basic principles of individual free enterprise, and there is nothing more certain to provide for that than a return to the principles Jefferson spoke of. To do that, we need to enact an amendment that fundamentally changes the focus of the forces that shape Federal budgetary policy—an amendment endorsed by a majority of the American people and a majority in Congress—an amendment that is not a "new idea" but is nevertheless, in my opinion, a good idea.

What I mean, of course, is the balanced budget/tax limitation amendment to the U.S. Constitution. How simple; but frankly, Mr. President, very profound. This idea that the American people speak so often about and ask us to be responsible for, I have been working and promoting for nearly a decade. In that time, I have seen it grow from an academic concept to a nationwide grassroots movement. Together with my colleague in the other body, Representative CHARLIE STENHOLM of Texas, I helped build a bipartisan, bicameral congressional coalition that brought along sometimes reluctant cosponsors and pushed continually for a full debate and vote on this issue.

We have had some success. This amendment was considered in either,

or both, the House of Representatives and the Senate in 1982, 1986, and just last year—and it passed every time. Although we have not always achieved the constitutionally required two-thirds majority, we are continuing to gain support.

Mr. President, had we enacted a balanced budget amendment even 5 years ago, this country would be the economic engine driving the entire world economy today. We would still be the home of the world's largest banks. We would not be the world's biggest debtor. We would not have to worry about extending unemployment benefits or caring for exploding numbers of homeless people.

That is why I believe that the American people will respond even more strongly now to the call for a true, balanced budget amendment. We have such an amendment pending in this Senate on our calendar and that is Senate Joint Resolution 18. And our distinguished ranking member of the Judiciary Committee, Senator THURMOND, has been pushing for a commitment to bring this matter to the floor for a vote. I heartily support his effort in that regard.

If we are successful in choking off Congress' ability to overspend, some Members of Congress may have to find another way to convince the voters, Mr. President, that they are actually governing. They might have to try a little bit of statesmanship.

Perhaps now, before the fact, is the time for us to start practicing that historic effort.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who seeks recognition?

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alabama, Senator HEFLIN.

Mr. HEFLIN. I thank the Chair.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 2051 and S. 2052 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. Does any Senator seek recognition?

If not, the Chair, in his capacity as a Senator from the State of Virginia, notes the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FEDERAL MANDATES

Mr. SEYMOUR. Mr. President, this morning I would like to speak about a problem that is having a greater and greater impact on my State of California. Very specifically, the problem is Federal mandates. That is, the Federal Government passing laws, setting up new social programs, sometimes promising funding for them and then pulling the rug and leaving the State in a lurch.

California is not alone in this problem. Certainly, in the 8 years I spent as a State senator in the California State Legislature, I saw plenty of times when the State government was mandating to local governments. So mandates at every level of government are not new.

As a matter of fact, I am reminded of the golden rule. The golden rule is: He or she who has the gold rules.

And so the Federal Government in this case sets up mandates and says, "We have the rules. We are going to tell you what to do and when to do it and how to do it." Then they pass the law and they start off keeping their promise and keeping their word. Then things get a little tight, and they start cutting. But they do not cut or reduce the Federal mandate. So a State such as mine, and many others, have no choice but to pick up the ball the Federal Government dropped when it broke its promise.

The bottom line in the State of California, Mr. President, as a result of Federal mandates, is $1.4 billion a year. No small sum. In fact, right now Congress is considering over 100 measures that would impose new or expanded Federal mandates on the States.

When I was a State senator, I was able to get State legislation through that says if you are going to mandate something, put up the money. And if you will not put up the money, then we do not have to do it. Maybe it is about time, Mr. President, that we in the Congress consider some fiscally responsible action in the same direction.

The social demographics of California are changing. California for years has been a very attractive State because of its climate, because of its robust economy, because of the environment, its mountains, its beaches. California is a dream. That dream is now in danger because people have been coming to California in ever increasing numbers.

Let me be specific. During the 1990's, California's population is projected to grow by 6.3 million people. Fifty-five percent of that growth will be internal, 44 percent will be from foreign immigration, and 1 percent from domestic migration.

Forty-four percent—that gets me to one of the Federal mandates in California. You will recall, Mr. President, that it was not long ago—as a matter of fact, 1986—that Congress passed the Immigration Reform and Control Act. A component of that was to say "We will grant amnesty to illegal aliens who may be residing in your State. But we are going to pay you for the services that they require, whether it be education, whether it be medical costs—those social costs to your State, we will reimburse." That was the bargain. That was the agreement.

Earlier this year, Mr. President, I argued right here on the floor that Congress was not putting one red cent into that program. They had reneged on their bargain.

To my State of California, what does that mean: $400 million from the State of California, already pushed to the wall, like we all are, because of the recession, already pushed to the wall because of ever-increasing numbers of illegal immigrants coming to the State. These refugees have every right to come to and reside in the State of California, but not being provided the Federal financial support that we had been promised—in the fiscal condition California is in—forces the State to make some very, very difficult decisions. Why? Because the Federal Government has not kept their promise. The check is in the mail. Sure, the check is in the mail.

I also spoke of refugee settlement. The bottom line on refugee settlement relative to a number of programs is twofold, where the Federal Government has broken their promise. The Federal Government started out by saying "We will provide you financial support, State of California, for helping the refugee families get settled." And they do need time to get settled. If we were transferred or moved to another State, we would need time to get settled. It is particularly hard on a refugee family.

So the Federal Government started off by saying "We will give you 36 months' support." That sounded reasonable; not too long a time, but time to get settled.

Do you know what it is today, Mr. President? Four months. How would any one of us like to pick up our roots, go to some foreign country, having language difficulties—move to a new country, a new State, expect to settle that family, find a new job, and be self-sufficient in 4 months? The Federal Government has broken its promise again.

Another area, Mr. President: aliens who commit crimes in California. Right now it is estimated that we have in our State prisons in California over 9,600 aliens who have been convicted of some felony. That is more than 6 percent of our total prison population in California.

In our California Youth Authority we house more than 750 minors who are designated as deportable. So what does that cost the State of California, because the Federal Government is unwilling to enforce our borders?

I argued here on the floor for an amendment and lost by 8 votes. That amendment was very simple. It said

cut the overhead from the Department of Commerce and the Department of Justice by less than 1 percent. That will give us $40 million. That $40 million can be used to protect our border and restrict the numbers of illegal aliens, estimated to be 1,500 a day, coming across the border. Less than 1 percent—300 new border patrol officers—and it lost by 8 votes. Why? Because today California may be on the short end of the stick.

But the message I want to bring to my colleagues this morning is this: Tomorrow you are going to be on the short end of the stick, because this problem is not going to remain in California. It is spending. It is spreading to Illinois, it is spreading to Ohio, it is spreading to Pennsylvania, it is spreading to Texas, it is spreading to Florida.

So next year, when we return, I will be back here arguing that either we put our money up—as the Federal Government has promised—or we shut up and remove the mandate.

We cannot have it both ways. The fiscal crisis in our States is too great. Certainly the States cannot be expected to look to their taxpayers, their producers, and say, "Sorry, the Federal Government has withheld their promise. We are going to raise your taxes so you can pay for it." We cannot do that and we will not do that.

What we can do is work toward a policy that says if you are going to mandate a program to a State or a local government, then you put up the money. When you stop putting up the money, the mandate comes off.

It is time that we recognize that States, like my State of California, have in their Constitution a requirement to balance the budget. They do not have the spending luxury that we have here in Congress of just adding to the deficit. "Just add that to the deficit, that is a nice thing to do, just add it on, that is OK, add it to the mortgage."

Of course, I disagree with that policy. I think we ought to have a constitutional amendment requiring the federally balanced budget. But be that as it may, the States, and my State, do not have that privilege. They have to cough it up, and pay-as-you-go. It is about time that Congress, the Federal Government, start paying as we go.

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

The ACTING PRESIDENT pro tempore.

The assistant legislative clerk proceeded to call the roll.

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

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

ECONOMIC GROWTH AND FAMILY TAX FREEDOM ACT

Mr. KASTEN. Mr. President, right now, the economy is still weak—and the threat of unemployment is causing worry to thousands of working families in Wisconsin and millions across this Nation.

The worst part of our economic crisis is this: It does not have to be this way. This recession could—and should—have been avoided by the continuation of progrowth policies at the Federal level.

Last year, Congress imposed the largest tax increase in American history on the economy. As a result, our national economic pie got smaller. Budget deficits got bigger. And millions of working people lost their jobs.

The Washington establishment turned its back on the record of economic growth sparked by low taxes—and the economy stopped dead in its tracks.

I think it is time for us to enact the same kind of progrowth tax cuts advocated by statesmen as diverse as Presidents Calvin Coolidge, John F. Kennedy, and Ronald Reagan.

Representative VIN WEBER, Minnesota Republican, and I have introduced the Economic Growth and Family Tax Freedom Act of 1991, S. 1920 and H.R. 3744, that builds on the approach of former Presidents Coolidge, Kennedy, and Reagan.

Our legislation provides tax cuts for families with young children with a $1,000 tax credit for children under age 6, and tax incentives for growth including a cut in the capital gains tax, increased tax deductions for business investment, restored tax incentives for investors in real estate, and Federal enterprise zones.

With the U.S. economy mired in recession, there is now a consensus in Washington to cut taxes. But let us make sure that we enact a tax cut that not only provides relief to working families but promotes economic growth as well.

I ask unanimous consent that recent articles on the economic and budgetary impact of the Economic Growth and Family Tax Freedom Act by Daniel J. Mitchell of the Heritage Foundation and Lawrence Hunter of the U.S. Chamber of Commerce be printed at this point in the RECORD.

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

HOW THE KASTEN-WEBER TAX CUT WILL SPUR ECONOMIC GROWTH

The deep and painful recession afflicting America is the result of seriously flawed economic polices supported by George Bush and Congress. Record tax increases, costly new regulatory burdens, and unprecedented increases in federal spending all have combined to discourage job creation and entrepreneurship. Even though the evidence is clear that the economy remains stagnant, Bush Administration economic advisors actively are opposing growth legislation. And Bush apparently is following their bad advice. Warned The Wall Street Journal this week in an editorial: "Even as lusty a beast as the U.S. economy can take only so much punishment from its political masters in Washington. The long and short of it is: The world's most important economy is in the grip of economic incompetents." As long as it remains in their grip, American workers and families will remain condemned to lower living standards and rising unemployment.

Yet the economy can grow again if policy makers remove the shackles placed on it last year by the tax and spending increase. To do so, lawmakers must reverse course and correct the mistakes that are causing the recession and adopt policies that encourage job creation and increase incentives to work, save, and invest.

A good start is the Economic Growth and Family Tax Freedom Act of 1991 (S. 1920, H.R. 3744) introduced by Senator Robert Kasten of Wisconsin and Representative Vin Weber of Minnesota, both Republicans. The Kasten-Weber growth package cuts the tax on savings and investment, technically known as the "capital gains tax," lowers taxes on business investment, expands Individual Retirement Accounts (IRAs), offers real estate tax relief, and establishes enterprise zones. Kasten-Weber also relieves the tax burden on families by granting a $1,000 non-refundable tax credit for children under age 6 and a similar credit of $300 for children age 6 to 18. The credit significantly would reverse the rising tax burden on families caused by inflation's erosion of the dependent exemption over the past four decades.

With the economy mired in recession, the portion of the Kasten-Weber package designed to promote economic growth is particularly critical. Its key features:

15 Percent Capital Gains Tax—Germany, Hong Kong, the Republic of China on Taiwan, and South Korea do not tax long-term capital gains, the difference between an asset's purchase and sale price. In Japan, the maximum tax on capital gains is a mere 5 percent. In the United States, by contrast, capital gains are subject to a 28 percent tax. To make matters worse, the tax code ignores the fact that much of the higher sales prices and profits on savings and investments are due to inflation. American investors cannot use indexing to ensure that taxes only are paid on actual gains rather than changes in asset value caused by inflation.

The Kasten-Weber proposal would cut to 15 percent the gains tax for savers and investors in the upper tax brackets and to 7.5 percent for those in the lower bracket. To prevent the unfair taxing of gains that reflect only inflation, the legislation also permits indexing. By calling for a lower rate and including indexation, the Kasten-Weber capital gains proposal goes well beyond the anemic proposal endorsed by the White House and would provide a much stronger stimulus to the economy.

Washington-based economists Gary Robbins and Aldona Robbins of Fiscal Associates, Inc., estimate that lowering the tax to 15 percent would create more than 900,000 new jobs over ten years and boost gross national product growth by an average of 0.36 percent for each year over the ten-year period. Other economists find similar impact from a capital gains tax cut. Allen Sinai, Chief Economist of The Boston Company, estimates that a 15 percent capital gains tax would boost employment by 600,000 within five years and increase the gross national product by 0.2 percent annually. Reducing the capital gains tax also would boost asset

values, thus strengthening American banks and homeowners as well as reducing the cost of bailing out the federal government's savings and loan deposit insurance scheme.

Neutral Capital Cost Recovery—Kasten-Weber increases the amount of deductions businesses can take for investment expenses by adjusting "depreciation" schedules for inflation and the value of money. This reform substantially would boost capital formation by reducing the after-tax cost of investment. Under current tax law, businesses cannot deduct the cost of investments in the year when they are incurred. Instead these costs must be "depreciated" over time, up to 31 years. Eventually, of course, the business is permitted to deduct the entire nominal amount invested. But the true value of this deduction is eroded enormously by inflation.

The Kasten-Weber neutral capital cost recovery approach would address the tax code's bias against business investment. If a business originally was supposed to depreciate $10 million of an investment in the second year, for instance, Kasten-Weber might increase that depreciation to $10.8 million, with similar adjustments in following years so that the value of the deduction would keep pace with inflation and the cost of funds. Correctly structured, neutral capital cost recovery would provide the same incentive for increased investment as plans permitting immediate deductibility of business investment in the first year. This would remove some of the current penalty on productive investment.

IRA-Plus—Kasten-Weber expands upon current IRAs by giving all taxpayers the option to invest in Individual Retirement Accounts. Savers, moreover, would get the option of investing in IRAs that would allow for tax-free withdrawal of both principal and interest income upon retirement. Taxpayers taking advantage of this "back-ended" IRA, however, would not be able to deduct contributions in the year they are made. In addition to allowing tax-free withdrawals upon retirement, Kasten-Weber would permit 25 percent of the IRA to be withdrawn before retirement for initial home purchases, education, and medical emergencies.

Passive Loss Reform—As part of the 1986 Tax Reform Act, so-called passive investors in real estate, those defined as not principally engaged in the business, cannot use rental properties losses to offset other income. Many experts say that this provision has helped trigger the decline in American real estate values and thus has increased the cost of the savings and loan deposit insurance bailout. Kasten-Weber would reform passive loss rules for real estate so they more closely resemble guidelines for other business investments.

Enterprise Zones—To encourage economic growth in impoverished urban centers and other particularly depressed sectors of the country, Kasten-Weber would allow the creation of 50 enterprise zones. Employers opening operations in the zone would receive a tax credit for workers in the zone. No taxes would be levied on capital gains in the zone, and investments in zones could be immediately deducted from taxes in the year they are incurred. These zones especially would help create jobs in inner cities.

Bush Administration and congressional policies have made it unprofitable for businesses to hire new workers and for investors to put their money at risk. Excessive taxation and over regulation have ground the economy to a halt and pushed nearly two million additional Americans into unemployment lines. Meanwhile, Washington policy makers seek not answers, but how to assign blame elsewhere. Bush clumsily blames credit card issuers for high interest rates, while liberals in Congress think higher taxes on the "rich" will spur growth.

There is no mystery about how to restore growth: simply reduce or remove government penalties on job creation, savings, and investment. The Kasten-Weber bill will not solve every economic problem created by policy mistakes, but enactment of the pro-growth legislation would stimulate increased economic activity and reduce the tax burden on families.

DANIEL J. MITCHELL,
John M. Olin Senior Fellow.

[From the Washington Times, Nov. 21, 1991]

BACKED INTO A CORNER * * * AND HESITATING

(By Lawrence Hunter)

There is a famous old radio routine where a street thug approaches Jack Benny with two choices, "your money or your life." Apparently unable to decide which fate would be worse, the notoriously tightfisted Benny character says nothing.

The Democratic leadership in Congress has recently backed President Bush into a similar corner, saying, in effect, "abandon the budget agreement and pass a growth package or we will use your apparent lack of concern to murder you at the polls." Faced with what seems like an obvious choice, the president, like Jack Benny, is hesitating.

The budget agreement is the Bush administration's mantra, but it is also a political albatross; its corpse hangs around the necks of the American electorate. That legislation imposed five years of new and higher taxes and pushed federal spending to more than 25 percent of the gross national product, just as the economy was slipping into the dark waters of recession. President Bush personally defended this so-called "deficit-reduction" package, at great political cost, predicting that "if we fail to act, next year alone we will face a federal budget deficit of more than $300 billion, a deficit that could weaken our economy further and cost us thousands of precious jobs."

Nearly one year later, the economy lies listless, exhausted by recession. According to the Congress Budget Office, the deficit for the current fiscal year is expected to reach an unprecedented $362 billion. If you take into consideration the effect of discouraged workers on the overall unemployment rate, 3.24 million people have already been put out of work since the recession began. And with little to move it forward, the economy could well slip back into recession in the fourth quarter this year.

Ironically, the same ill wind that originally pushed us into the economic doldrums is now preventing us from drifting, let alone sailing, back out. The budget agreement's "pay as you go" enforcement rule, which in effect prevents taxes from being reduced, is keeping past government policy mistakes from being corrected. Mr. Bush, who seems willing to defend the budget agreement and "deficit reduction" at any cost, is caught in a fiscal Catch-22. Because he believes he cannot support tax reductions for fear of breaking the deal and increasing the deficit, he has no means of stimulating new economic growth and the higher tax revenues and lower deficits that inevitably would follow. Meanwhile, the economy sits, and deficit swells uncontrolled, and the American people continue to strangle under the weight of the budget agreement.

Alarmed by the state of the economy a number of legislators, both Democrats and Republicans, have proposed various legislation intended to provide middle class tax relief and encourage new economic growth. Sen. Lloyd Bentsen, Texas Democrat, for instance, has proposed a $300 tax credit for each child, and Individual Retirement Accounts for every American. According to Mr. Bentsen, "The tax credit would put money in the pockets of American consumers and help jump-start an economy that is dead in the water. The expanded IRA would encourage savings and investment needed to help sustain growth."

The objectives of any economic growth package must be to lift the heavy hand of taxation that stifles capital formation and frightens entrepreneurial spirits. It must also be broad-based, offering relief for families, workers, savers, investors and entrepreneurs. Building on the Bentsen plan, a package that meets these criteria is the "Economic Growth and Family Tax Freedom Act" proposed by Sen. Bob Kasten, Wisconsin Republican, and Rep. Vin Weber, Minnesota Republican. Its components include: family tax relief providing a $300 non-refundable tax credit for children between the ages of 6 and 18, and a $1,000 credit for children under the age of 6; a reduction in the capital gains tax to a top rate of 15 percent for individuals and corporations, and to 7.5 percent for lower bracket individuals; a Neutral Cost Recovery System; an IRA-Plus plan; repeal of the passive loss limitation for all active participants; and creation of enterprise zones.

The positive economic impact of such a package would be substantial. According to former Treasury economist Gary Robbins, such a combination of tax incentives would increase the GNP by an average of 1 percentage point per year over the next five years, while creating 1.4 million new jobs.

An additional boost to both job creation and middle class tax relief would result from a reduction in Social Security taxes. A 2 percentage point cut in the payroll tax (1 percent each for both workers and employers) has been proposed by in both houses as the Economic Growth and Jobs Creation Act (S. 381 and H.R. 960).

There are numerous other good ideas that might be added to such a package or substituted in place of one of the above ideas. Regardless of what the specific components are, the final package must be broadbased and it must be aimed at encouraging more productive activity, not just putting more money in everybody's pocket.

But how to pay for the package? The big obstacle to passing any tax cut this year is the administration's insistence, backed up by the Republican Congressional Leadership, that any tax package fit within the strictures of the budget agreement. "Pay as you go," remember, requires that tax cuts that result in static revenue losses be accompanied with either cuts in politically sensitive entitlements or higher taxes. But they seem to recognize that higher offsetting taxes are out of the question: The one lesson everyone should have learned from last year's disastrous budget agreement is that it is impossible to tax our way out of the deficit. Genuine deficit reduction can only be achieved through a combination of economic growth and spending restraint. The Reagan administration got the first half right but was unable, and the Congress unwilling, to control spending; the Bush administration thus far has failed to attain either.

On the spending side, Mr. Bentsen has suggested reducing defense outlays by approximately $55 billion over the next five years.

Sen. Jim Sasser, Tennessee Democrat, has suggested a 6 percent peace dividend that amounts to about $70 billion. In addition to such defense budget savings, an effective economic growth package would generate a permanent growth dividend.

The Kasten-Weber package, for instance, would increase GNP growth by an average of 1 percentage point per year over the next five years. Given the kinds of proposals currently being proposed on Capitol Hill, it would be possible to improve on this. (The 40-year growth trend is 3.0 percent a year and the recent trend, prior to the onset of the slowdown three years ago, is about 3.3 percent. The average rate of growth during the first year of recovery from a recession is about 5.5 percent. Based on these historical averages, an average annual growth rate of 4 percent a year over the next five years should be a reasonable expectation.) But to be conservative in our estimates, let's assume that we achieve no more than an increase in the annual rate of economic growth from the 2.5 percent average forecast by the Blue Chip Consensus to 3.5 percent. Such an objective is not unreasonable.

If we set as our objective a 1 percent increase in the rate of economic growth, the Congressional Budget Office estimates that the increased economic growth alone would reduce the deficit by $258 billion over five years. In other words, by CBO's own estimates, it should be possible to reduce taxes on average by $50 billion a year, spurring new growth and producing more new jobs without increasing the deficit. If we add a $70 billion peace dividend, that means it should be possible to reduce taxes by $328 billion over five years, or almost $66 billion a year with no adverse effect on the long-term deficit. A tax package along what is outlined above falls well within these limits. On a static revenue basis, the total cost of the Kasten-Weber package would be about $202 billion or $40 billion a year—well within the bounds of a modest peace-growth dividend, the remaining $123 billion might fund a scaled-down 1 percent cut in the Social Security tax, or other tax cuts.

An increase of 1.5 percentage points in the average annual growth rate, to 4 percent growth, could finance even larger tax cuts, without an increase in the deficit. Using CBO's rule of thumb, an increase of 1.5 percentage points on average annual growth rate would generate $387 billion in deficit reduction over five years. The full 2 percentage point FICA rollback would cost $263 billion over five years (again, on a static basis). If we succeed in increasing growth by an average of 1.5 percentage points a year, that additional economic growth dividend could be used to fund the full 2 percentage point reduction in Social Security taxes.

In 1961, a determined John F. Kennedy promised to place an American on the Moon and return him safely to Earth, all before the end of the decade. That President had a vision, and it was fulfilled. By comparison, it seems a rather modest goal to set out to reignite entrepreneurial spirits and launch the economy back to its postwar growth trend—boosting the average annual real growth rate to 4 percent, increasing productivity to 3 percent, bringing inflation down to earth at 2 percent, and lowering unemployment to 3 percent, returning Americans safely back to work.

In 1991, President Bush has a unique opportunity to foster sustainable economic growth without abandoning the spirit of deficit control intended, though never achieved, by the budget agreement. But to do so, the President must choose to reject the economics of austerity in favor of the low tax, middle class populism that embodied the best of the Reagan era. For now, he is hesitating—unwilling to decide, fearing failure.

If Mr. Bush's kinder, gentler economic malaise persists, voters may very well start questioning why, if a Democrat can put an American on the Moon, can't a Republican put a few Americans back to work?

WAR CRIMES SPEECH

Mr. REID. Mr. President, last winter I stood before this body as the first member of my party to speak in support of the President's proposed course of action in the Persian Gulf. As that time I said that we should "strike now, while the coalition stands firm and our convictions and morale are high."

I urged that we "achieve a clear cut victory, and get our troops out of the Middle East, before they become bogged down in interminable defensive or occupation duties."

Some days later, Mr. President, I again spoke to this body. At that time I set forth in considerable detail the awful litany of crimes against the laws of war which had been commited by the Government of Iraq and its military forces. I called upon our Government, as a permanent member of the Security Council: "to introduce a resolution creating an international tribunal empowered to investigate and prosecute those crimes committed by the Iraqi leadership, both civilian and military, as well as by those brutes who carried out their orders."

I noted that it was not a day too soon: "to put Saddam Hussein, his government, and the armed forces of Iraq on notice that the nations of the world will exact full justice and complete retribution for every misdeed."

Unfortunately, Mr. President, the Government failed to follow through on that suggestion. If the White House and the Cabinet had done so, the world might now be faced with one less major problem, and the White House might not now be bemoaning the public perception that it failed to take advantage of our Armed Forces' stunning victory in Iraq.

It was, with considerable interest, Mr. President, that I read in the Washington Post that President Bush and his advisers, due only to worries about those public perceptions, are considering covert actions to destabilize and overthrow the thugs who run Iraq. I would like to offer them another path to follow, one I feel is more in the interest of our Nation and of the world.

Let us forget, in this case, the language of covert operations. Instead, let us approach the problem of Saddam Hussein in the forthright fashion espoused by the President when he acted as the leader of a grand coalition against aggression. President Bush then spoke stirringly. If that is to mean anything, it should be a commitment to a rule of law, not one to secret agreements with people whose only recommendation is that they are the enemy of our enemy.

Mr. President, at the conclusion of combat in the gulf, the Congress mandated the preparation of certain reports. Among those was a report on the potential for prosecution of war crimes. I believe we asked what crimes had been committed and what proof we had of who had committed them.

Based on unclassified information, including the treatment of allied POW's, the devastation of Kuwait and the systematic looting by Iraqi forces of that unhappy nation, as well as the grossest sort of crimes against the environment and against world peace, it is clear to me that Saddam Hussein and his ministers are liable to indictment before an international tribunal. I also believe there is sufficient evidence to convict those men and to subject them to the punishments they so richly deserve.

Let America take the lead in convening such a court Mr. President. I believe that a fair and open trial requiring adequate evidence and the right of confrontation and crossexamination, would serve as a vastly better example to our newly democratic friends and our former foes tentatively emerging from totalitarianism, than any exercises in the forceful overthrow of the Iraqi regime.

President Bush proposed a new approach. I supported him in that nobel endeavor and whether or not he is still committed to it, I most definitely am. Let us stick to the rule of law, to what is right and just and fair. If we do Mr. President, we and all those throughout the world who have finally profited by our example, can only be the better for it.

MARGARET L.A. MACVICAR

Mr. KENNEDY. Mr. President, several weeks ago, the Nation lost one of its most distinguished educators and scientists when Margaret L.A. MacVicar of the Massachusetts Institute of Technology died of cancer. She was 47.

Margaret MacVicar was born in Canada and later moved to Flint, MI. She was in the seventh grade when the launch of sputnik in October 1957 triggered major changes in American science education. With her extraordinary intellect, she was soon taking college level science courses and worrying about the cost of college. Thanks to the generosity of a neighbor in Flint, she enrolled at MIT in the fall of 1961 and received a bachelor's degree in 1964, and a Ph.D, in 1967. After completion of her graduate studies, she was a postdoctoral fellow in the Cavendish Laboratory at Cambridge University.

Dr. MacVicar returned to MIT in 1969 as a physics instructor and was ap-

pointed to the faculty the next year. Professor MacVicar immediately distinguished herself as an educator and a scientist. The focus of her research was superconductivity. She was first to achieve electron tunneling into single crystals of several transition metal superconductors.

But Dr. MacVicar was much more than a scientist. She was that rare combination of a world class researcher who was deeply committed to undergraduate education. As MIT's first dean of undergraduate education, she guided the restructuring of the institute's undergraduate academic program.

In her quest to improve the undergraduate experience at MIT, Professor MacVicar established the Undergraduate Research Opportunities Program [UROP] in 1969. Before the establishment of UROP, there was little opportunity for undergraduates to do hands-on research. The UROP Program was designed to give undergraduates the chance to do research in collaboration with faculty members. Since its creation, the program has become an integral part of MIT's undergraduate curriculum and has been widely imitated. About three-quarters of the undergraduates at MIT have participated in UROP; many regard it as the most significant element of their undergraduate education.

Professor MacVicar was an educational innovator who believed that education should be structured to fit into the context of a student's life and should make students aware of their societal responsibilities. At MIT, she sought to increase the diversity of the undergraduate body by encouraging increased admission of women, minorities, and students with a variety of different interests and experiences.

Her dedication to increasing the access of all students to higher education was directly related to her personal experience. When she first entered MIT as a student in 1961, she was one of roughly 20 women. In the 30 years since she entered, MIT has been transformed; women now comprise 27 percent of the student body. Much of the credit for this reform must be given to the tenacity and drive of Margaret MacVicar.

When asked about the perception that she was driven to reform American Education, Dr. MacVicar replied:

> I have that reputation because I am persistent, energetic, and impatient. I think it's very, very rare that something can't be done, assuming that it's not illegal, and I am intently focused on the ball game. I do not think of my office as being in a stable operational mode. It's not. We are in a campaign mode, and the campaign is an academic ideas campaign.

Professor MacVicar's academic ideas campaign can be clearly seen in her work toward the improvement of science education in the public schools. Having benefited directly from the renewed emphasis on science education in the late 1950's, she was firmly committed to strengthening and expanding these programs for students today. She was instrumental in formulating MIT's national initiative for primary and secondary science education.

As her efforts on behalf of elementary and secondary schools illustrate, Margaret MacVicar's educational vision was not limited to higher education. In 1983, she was appointed vice president of the Carnegie Institution in Washington, DC. She was later cochair of Project 2061, a study designed to develop a completely new science curriculum for elementary and secondary education that was sponsored by the American Association for the Advancement of Science. She has recently served as chair of the advisory committee on education and human resources of the National Science Foundation. She was a member of the Corporations of the Charles Stark Draper Laboratory and of the Woods Hole Oceanographic Institution and a trustee of Radcliffe College and the Boston Museum of Science.

Many words come to mind in describing Margaret MacVicar. Ability, insight, energy and leadership are all appropriate for this woman who accomplished so many things. There is no question that the academic community at MIT has suffered a terrible loss. But neither is there any doubt that her contributions to education and science—both at MIT and across our Nation—will be long remembered.

TOXIC SUBSTANCES

Mr. REID. Mr. President, in October 1976, the Toxic Substance Control Act [TSCA] was enacted. It was to have been a powerful tool in restricting and controlling harmful chemicals from entering the marketplace and the environment. The concepts behind the legislation were sound. The Environmental Protection Agency [EPA] was required to establish an inventory of all chemical substances being manufactured or processed; manufacturers were to report to EPA before introducing new chemicals, and EPA was given the authority to require testing of chemicals, and to restrict, control or prohibit their use or distribution. EPA's Office of Toxic Substances was to have served as the primary gatekeeper for keeping toxic chemicals in check.

Fifteen years after the enactment of TSCA, however, few toxic chemicals have been controlled or prevented from entering the environment and a recent court ruling has made it clear that the act is so inherently flawed that it is unlikely that many chemicals will be regulated in the future. On October 18, 1991, the fifth Circuit Court of Appeals overturned EPA's regulation to ban most remaining uses of asbestos under the authorities of section 6 of TSCA. This was a landmark decision for several reasons.

Asbestos has long been known as a lethal substance to human health. Perhaps more evidence exists on the harmful effects of exposure to asbestos than any other substance in the environment. Unfortunately, much of that evidence is empirical. The shipyard workers of the 1940's were left with a sad legacy of lung cancer, and other diseases for their heroic efforts to equip the armed services during World War II. Today, the Government is spending hundreds of millions of dollars to abate asbestos materials in the Nation's schools since early exposure to asbestos may manifest in disease 20 to 30 years after the exposure occurs.

After a decade of work, EPA finally promulgated a rule in 1989 to bring the use of asbestos in brake linings, floor tile, and construction materials to a halt. Soon thereafter, the asbestos industry filed suit to block implementation of the ban. In issuing an opinion, the fifth Circuit Court of Appeals in no way attempted to refute the danger that asbestos pose to human health. It found, however, that EPA had failed to meet the strict dictates of TSCA and that the Agency's rulemaking methodology was flawed.

Mr. President, if EPA can't stop the use of asbestos under TSCA, it most assuredly won't be successful in restricting the use of lead or any other very toxic materials. Under the present circumstances, the agency can't be faulted if it does not even attempt further regulation of chemicals through TSCA. Congress, bears a good share of the burden for this turn of events. Since, enactment, we've essentially abdicated responsibility for TSCA despite abundant evidence that the statute wasn't working very well. Rather than trying to reform the law, we have legislated around it.

The only significant changes to TSCA in its 15-year history have been chemical specific provisions addressing the problems of radon exposure and asbestos abatement in schools. For the most part, we're managing toxics by establishing maximum levels for their presence in the air, water, and land, and by curtailing certain disposal practices. This is a remedial, very expensive, and backward approach to a problem that should be handled through prevention.

We've been hearing for a long time that problems with TSCA reside with its implementation, not with the act itself. The fifth Circuit Court of Appeals decision proves otherwise. We can no longer ignore the need for significant changes to TSCA. And that process is going to require a lot of time and effort.

As chairman of the Toxic Substances, Environmental Oversight, Research and Development Subcommittee, it is my intent to start the legislative process moving with hearings early next year. I harbor no illusions that we can

enact a bill before the close of the 102d Congress. In my view, it would be pointless to try and move legislation either mandating an asbestos ban or making merely cosmetic changes to TSCA. The act needs to be reworked in a comprehensive, deliberate, and thoughful manner and that will require time.

I speak today, to put my colleagues, the chemical industry and the public on notice that I am committed to meaningful reforms in the way we screen and regulate toxic substances. I encourage interested parties to come forward with constructive proposals to assist my subcommittee in meeting this objective.

THE CRISIS IN YUGOSLAVIA

Mr. KERRY. Mr. President, before we conclude this session of Congress, I want briefly to address certain aspects of the tragic crisis in Yugoslavia.

It is vital, first of all, to make it clear that although no side is blameless, the primary responsibility for the recent violence rests with the Republic of Serbia and the Serb-dominated federal army. Serbian leaders have consistently failed to comply with cease-fire agreements and they have undertaken aggressive and wholly illegitimate military actions, such as the shelling of Dubrovnik and the siege of Vukovar.

It has become more and more obvious, with each passing month, that the Army's goal is to seize and hold substantial amounts of Croatian territory no matter how many are killed, no matter how many are wounded, no matter how many are forced to leave their homes. It also has become more and more obvious, as cease-fire agreement after cease-fire agreement has been signed and ignored, that neither peace nor stability will return to Yugoslavia unless the Serbs are persuaded—or pressured—to forgo further military aggression.

It is clear—and truly tragic—that international efforts to bring the war in Yugoslavia to an end have thus far been frustrated. The economic sanctions recently imposed by the European Community [EC] are not likely to be effective, nor are they directed—as I believe they should be—solely at the Serbian side. The most recent cease-fire, negotiated by former Secretary of State Cy Vance, is fragile and may not hold.

Accordingly, I call upon President Bush to take the following actions:

First, I urge the President to speak out personally on this issue. It is not enough for second or third tier Officials at the State Department to express concern about the violence in Yugoslavia. The level of killing and the magnitude of suffering have reached the point where Presidential involvement is urgently required.

Second, the administration should admit the obvious, which is that Yugoslavia is no longer a single nation. We should be prepared to recognize formally the independence of Croatia, Slovenia, and other Yugoslav republics upon request and upon their demonstration of a capacity for self-government as required under international law.

Third, we should put the issue of violence in Yugoslavia before the Security Council of the United Nations. Economic sanctions against Serbia will be effective only if they are worldwide in nature. Further, it is growing clearer with every passing day that international peacekeeping forces are needed, and the sooner the better.

Fourth, we should work with the United Nations, the EC, and the leaders of Serbia and Croatia to negotiate a permanent settlement to the violence. Such a settlement must begin with a genuine cease-fire; it must include a recognition of the independence of the republics and an agreement on boundaries; and it requires an enforceable commitment on the part of all republics to respect minority rights. It would be naive to assume that such a settlement will come easily or quickly. It will inevitably be a step-by-step process. But the first step—an end to the killing—can and should be taken now.

Mr. President, the war in Yugoslavia has gone on too long. It is no longer possible for our country to look the other way. We cannot say this is simply a Yugoslav problem or a European problem. It has become a matter of worldwide humanitarian and political importance. We must do more. We must do everything we possibly can. And we must do it now.

RESTORING DEMOCRACY IN HAITI

Mr. KERRY. Mr. President, before we conclude this session of Congress, I would like to address the ongoing crisis in Haiti.

Since the September 30 coup against elected President Jean-Bertrand Aristide, Army leaders have established a reign of brutality and terror. Hundreds have been murdered; thousands have been beaten; hundreds of thousands have been threatened or intimidated into silence. The National Assembly, which should have led the fight to restore democracy, instead has acquiesced in the selection of an illegitimate puppet regime.

For the past 7 weeks, the Organization of American State [OAS] has been working to end the crisis through the imposition of tough economic sanctions and talks with military and political leaders. This past weekend, negotiations broke down because of the outrageous refusal of Assembly representatives to acknowledge Father Aristide's Presidency.

In recent days, the tragedy in Haiti has extended beyond the island to the sea. Terrorized by the Army and crushed by the burden of economic sanctions, thousands of Haitians have sought to flee their country by boat. Since September 30, more than 3,000 have been picked up by the Coast Guard. Last Saturday, an incredible 246 men, women, and children were found packed like human sardines into a single sailboat. The Bush administration has responded by asking democratic Caribbean governments to accept some of the refuges, while seeking to return others to Port-au-Prince.

Under the current circumstances, it is immoral for the administration to repatriate refugees by force to Haiti. We have an obligation to provide at least temporary sanctuary to those fleeing a repressive and undemocratic regime. The administration is right, however, to fear the possibility of a massive boatlift from Haiti if the current crisis is not resolved. Were that to occur, thousands more Haitians surely would drown.

It is essential, therefore, that we move beyond the debate over the treatment of refugees to a debate over how we alter the conditions that create refugees; Haiti must be made safe for Haitians once more. We must work with Haitian leaders in that country and in the exile community here in the United States to restore democracy and subsequently to provide emergency humanitarian assistance, encourage private investment, and institutionalize respect for human rights.

The economic sanctions imposed on Haiti as a result of the September 30 coup are necessary but cruel. They cannot be extended for long without bringing unbearable hardship upon the Haitian poor and causing permanent damage to the already weak Haitian economy. Nor, however, can the sanctions be lifted until democracy is restored and the results of the last Presidential election respected.

Father Aristide is the legitimate President of Haiti. He must be returned to office, through negotiations if possible, by force if that becomes absolutely necessary. The Organization of American States [OAS] has been attempting to negotiate his return for more than 7 weeks. Those negotiations are making progress, but resistance to Aristide's return remains strong within the army, among some political leaders, and within the small Haitian elite. That resistance must be overcome and overcome soon.

It is argued by the army and by some opposition politicians that President Aristide violated the Constitution and failed to respect human rights. The President has been justly criticized for some of the speeches he has made, and it is true that the human rights record of his administration was far from perfect. He has a responsibility to do bet-

ter and he has promised to do so. But let's be clear. The Aristide administration has the best record of respect for human rights of any administration in Haiti during this half century. And the army leaders who seized power from him are responsible for murdering hundreds—perhaps thousands—of unarmed citizens in cold blood.

The situation in Haiti is grave and the potential for a new round of violence is real. There is no sure way to restore democracy and ensure peace. But the best hope lies in strong diplomacy founded on the proposition that the constitutional order in Haiti must and will be respected, whatever it takes.

I urge President Bush to speak out personally, urgently, and immediately on the Haitian crisis. I urge him to make it clear to the leaders of the Haitian Army that their future depends on choices they must make and make soon. We must make it clear that the international community will not lift economic sanctions until democracy is restored; but neither are we willing indefinitely to inflect economic hardships upon the Haitian people. Time is running out. The army must accept President Aristide's return; the army must accept democracy; the army must respect the Constitution; the army must back down; or the army's own future will be at risk.

Mr. President, the United States has a strong national interest in seeing that democracy in Haiti is restored. We have an urgent humanitarian interest in alleviating the suffering of the Haitian people. We have taken steps during the past 7 weeks to achieve both goals, but those steps have not been enough. We must reevaluate our options. We must take a harder line. We must act. And we must act soon.

HUMAN RIGHTS IN IRAN

Mr. PELL. Mr. President, in the past several years reports have surfaced periodically in the international press that Iran has embarked on a policy of improving its relationship with the West. In these reports, we hear that Iran wants to upgrade its economic and diplomatic ties with the United States, so that Iran might rehabilitate its economy—ravaged by nearly a decade of war with Iraq—and, presumably, emerge as a responsible and powerful force in the Persian Gulf and the Near East.

A wide range of evidence has been put forth in support of the contention that Iran is reaching out to the rest of the world. First, we are told that the Iranian President Ali Akbar Hashemi Rafsanjani's consolidation of power in Iran is indicative of the emergence of a more moderate Iranian leadership. Next, some contend that Iran's neutrality in the Persian Gulf war, coupled with its effort to be included in the postwar regional security arrangements, shows that Iran is willing to work with its neighbors to achieve stability in the gulf. Finally, the positive movement during the last year on the hostage issue in Lebanon has been attributed to an effort by Iran to shore up its international image.

In truth, Mr. President, in spite of the progress that may have been achieved in recent years, it is clear that many aspects of Iran's behavior remain cause for serious concern. Iran's involvement in international terrorism, its activities in nuclear and chemical weapons proliferation, and its role in opposing the Middle East peace talks are but a few examples of Iran's actions that remain worrisome to the international community.

Perhaps in no other area, however, has Iran's behavior been more troubling than in its blatant disregard for the human rights of its own citizens. In its 1990 "Country Reports on Human Rights Practices," the State Department notes that abuses included summary executions of political opponents—of the regime; widespread torture; repression of the freedoms of speech, press, assembly, and associations; arbitrary detentions; lack of fair trials; continuing repression of the Baha'i community; denial of citizens' right to change their government; and severe restrictions on women's and worker rights. In other words, by virtually every standard, the Government of Iran has been judged by the State Department to be "a major violator of human rights."

Mr. President, the United States has actively supported measures in the United Nations to promote respect for human rights in Iran. Last year, for the first time, Iran accepted a visit from a United Nations special rapporteur, who investigated the human rights situation and reported on his conclusions. That reported noted credible evidence that "* * * human rights violations occur frequently in the country and that Government action to prevent and remedy such violations has not been sufficient to put an end to them." This year, the United States is again supporting a visit by the special rapporteur and is working to see that a strong resolution concerning Iran is adopted in the U.N. General Assembly.

The U.S. Congress, too, has been an active participant in efforts to address the human rights problems in Iran. One area of particular concern has been Iran's treatment of its minority citizens. For instance, during the past 10 years, the Senate Foreign Relations Committee has approved several resolutions dealing with the persecution of adherents to the Baha'i faith in Iran.

By the tenets of their faith, the Baha'is are a peaceful and nonviolent community and pose no threat to the government of Iran. In the past, they have been subject to abuse, stripped of property, threatened with execution, and denied the ability to practice their faith. While there is some evidence that the oppression of the Baha'is has abated somewhat in recent years, the stark truth remains that the Baha'is are a persecuted minority. The brutal treatment of the Baha'is and other minorities in Iran continues in spite of Iran's professed adherence to the Universal Declaration of Human Rights.

Mr. President, surely my colleagues in the Senate recognize the importance of Iran in the affairs of the Persian Gulf, the Near East, and South Asia. The question remains, however, whether Iran can play a constructive role in the region. If we are to judge Iran, our standard must be its actions, and Iran's actions continue to be cause for concern. I therefore believe the United States administration and the Congress ought to continue their firm efforts to promote responsibility and respect for human rights in Iran.

TRIBUTE TO PEGGY NAGEL ON THE OCCASION OF HER RETIREMENT

Mr. BURDICK. Mr. President, I rise with sorrow and celebration to pay tribute to Peggy Nagel, a staff member of the Environment and Public Works Committee. Peggy will be retiring in December after having served the Environment and Public Works Committee for 21 years. Her service spanned three chairmen—Democrats as well as Republicans. Peggy started in 1970 as a secretary on the Subcommittee on Air and Water Pollution of the Public Works Committee under Chairman Jennings Randolph. In 1979 she was asked to take on the responsibility of financial clerk for the expanding Environment and Public Works Committee. Peggy has been balancing our books without flaw and managing our budget with precision and competence ever since.

The demands placed on a chief clerk of a large committee are many and burdensome. Peggy carried out her responsibility with fairness and firmness, managing to accomodate every Senator and staff member. I know that all of the Senators and committee staff share my feelings of sorrow and celebration as we say farewell to Peggy. We feel sorrow because we will be losing an energetic, fun loving, and talented staff member who performed her duties with grace and dedication even during times of awesome circumstance. Yet we know that no one else deserves this retirement more than Peggy and that she anticipates it with peace and exhilaration.

Good luck to you, Peggy, in the years to come. Our heartfelt thanks for an outstanding job.

A TRIBUTE TO MARGARET MURRAY SCHWENSEN

Mr. BURNS. In our daily hustle and bustle of doing the business of this Nation, we sometimes have to slow up and recognize what I think is a tragedy that will affect us all here on the Hill.

Mr. President, I rise today to pay tribute to Margaret Murray Schwensen, who passed away unexpectedly last Sunday. Margaret had represented the agricultural community, including the Independent Crop Insurers, rural telephones, and the sugar industry among other clients.

She was a valuable member of a small group of people who provide the expert advice that makes things go on the Hill. At a time when more and more Americans have no idea how much wheat is in a loaf of bread or where a gallon of milk comes from, Margaret provided that rural expertise.

Today, there are too few like Margaret, too few who take their responsibility to the American farmer as seriously as did Margaret, too few who know and understand agriculture and the myriad laws that govern it. Margaret knew, and did her job as an expert. She will be missed. Margaret leaves behind a loving husband, a young son, and hundreds of friends on and off the Hill.

Mr. SASSER. Mr. President, I hereby submit to the Senate the First Budget Scorekeeping Report for Fiscal Year 1992, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $15.2 billion in budget authority, but exceed the budget resolution by $3.2 billion in outlays. Current level is $2.6 billion above the revenue target in 1992 and $3.6 billion above the revenue target over the 5 years, 1992–96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $351.8 billion, $0.6 billion above the maximum deficit amount for 1992 of $351.6 billion.

I ask unanimous consent that the report be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 25, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report, my first for fiscal year 1992, shows the effects of Congressional action on the budget for fiscal year 1992 and is current through November 23, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF NOV. 23, 1991

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level [1]	Current level + resolution
ON-BUDGET			
Budget authority	1,270.0	1,254.9	−15.2
Outlays	1,201.6	1,204.8	+3.2
Revenues:			
1992	850.4	853.0	+2.6
1992–1996	4,832.0	4,835.6	+3.6
Maximum deficit amount	351.2	351.8	+.6
Debt subject to limit	3,982.2	3,639.9	−342.3
OFF-BUDGET			
Social Security outlays:			
1992	246.8	246.8	
1992–1996	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–1996	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS NOV. 23, 1991

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			850,405
Permanent appropriations	784,740	723,462	
Outlays from prior year appropriations	0	234,906	
Offsetting receipts	(186,675)	(186,675)	
Total enacted in previous sessions	598,065	771,693	850,405
ENACTED THIS SESSION			
Appropriation legislation:			
Agriculture (Public Law 102–142)	51,219	36,382	
Commerce-Justice (102–140)	21,425	16,016	
Offsetting receipts	(119)	(119)	
District of Columbia (Public Law 102–111)	700	690	
Energy and Water (Public Law 102–104)	21,875	12,961	
Interior (Public Law 102–154)	12,253	7,949	
Legislative Branch (Public Law 102–90)	2,309	2,063	
Military Construction (Public Law 102–136)	8,563	2,931	
Transportation (Public Law 102–143)	14,302	12,217	
Treasury-Postal Service (Public Law 102–141)	19,695	17,027	
Offsetting receipts	(6,079)	(6,079)	
Veterans, HUD (Public Law 102–139)	80,941	42,469	
Emergency Supplemental for Humanitarian Assistance (Public Law 102–55)		(1)	
Dire Emergency Supplemental Appropriations, 1991 (Public Law 102–27)		511	
Other spending legislation:			
Extending IRS Deadline for Desert Storm Troops (Public Law 102–2)			(5)
Veterans' Education, Employment and Training Amendments (Public Law 102–16)	2	2	
Higher Education Technical Amendments (Public Law 102–26)	(56)	(56)	
Veterans' Health Care Personnel Act (Public Law 102–40)		(1)	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS NOV. 23, 1991—Continued

	Budget authority	Outlays	Revenues
Veterans' Housing and Memorial Affairs (Public Law 102–54)		5	
Veterans' Benefits Improvement Act (Public Law 102–86)	3	3	
Intelligence Authorization Act, FY 1991 (Public Law 102–88)	(1)	(1)	(1)
Veterans' Educational Assistance Amendments (Public Law 102–127)		(1)	
Extend Most-Favored-Nation Status to Bulgaria (Public Law 102–158)			(2)
Unemployment Compensation (Public Law 102–164)	3,825	3,825	2,600
Discretionary estimating adjustment	(233)	(5,823)	
Total enacted this session	230,625	142,974	2,593
PENDING SIGNATURE			
Defense (H.R. 2521)	269,911	176,492	
Labor, HHS, Education (H.R. 3839)	182,964	146,777	
Offsetting receipts	(39,658)	(39,658)	
Defense Authorization Act (H.R. 2100)		(7)	
Intelligence Authorization Act, fiscal year 1992 (H.R. 2038)	(1)		
Total pending signature	413,217	283,604	
CONTINUING RESOLUTION AUTHORITY, PUBLIC LAW 102–163			
Foreign Operations (expires March 31, 1992)	14,034	5,496	
Offsetting receipts	(41)	(41)	
Total continuing resolution authority	13,992	5,454	
MANDATORY ADJUSTMENTS			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	(1,041)	1,105	
Total current level	1,254,858	1,204,830	852,998
Total budget resolution	1,270,021	1,201,600	850,400
Amount remaining:			
Over budget resolution		3,230	2,598
Under budget resolution	15,163		

[1] Less than $500,000.

Note.—Numbers may not add due to rounding.

SEND US AN ADVOCATE

Mr. BUMPERS. Mr. President, the Senate receives a lot of criticism from the White House about the time we take to act on the President's nominees to various government posts. However, the Senate cannot give consent or advice if the President fails to nominate, as he has for almost 2 years now, for what is one of the most important posts in government in the eyes of millions of small business owners.

Once again, a full session of Congress has passed without President Bush having submitted a nominee for chief counsel for advocacy in the Small Business Administration. Last year about this time, I took to the Senate floor to urge that the President act promptly to send us his choice for this important post. A full year has passed, and nothing has happened. SBA has been without a chief counsel for advo-

cacy for virtually the entire Bush administration.

As Senators may recall, we had a nominee for this job a couple of years ago. Without belaboring the history of that choice, suffice it to say that the nominee withdrew in February 1990. Since then, we have been patiently waiting for the President to send up another nominee.

In the last year, the Senate Small Business Committee has acted promptly on President's Bush's nominees for SBA Administrator, inspector general and Deputy Administrator. We recently went to extra trouble to waive Senate rules and confirm the Deputy Administrator, Mr. Cooksey, in time for him to attend an important SBA conference. That annual conference, incidentally, was sponsored by the Office of Chief Counsel for Advocacy, which remains unoccupied. To underscore the problem most dramatically, this year's conference was, for the third year in a row, hosted by an acting chief counsel.

Every poll of small business people and every statement by small business groups says that the chief counsel is the most needed job in SBA. The reason is simple. Under the statute establishing this office, which was written by Congress in the late 1970's, the chief counsel is the independent watchdog within the administration on behalf of the Nation's small business community. He is not beholden to OMB, he is not beholden to the administrator of SBA, and he is not beholden to Congress. He is charged under the law with speaking out and commenting on proposed regulations and legislation without regard to the official administration line. The chief counsel plays a crucial, constructive role in ensuring that small business owners' voices are heard above the noise of Washington. As Congress approaches difficult issues concerning economic development, tax policy and health care reform, the need for a small business advocate is crucial.

I have a recent Wall Street Journal article by Jeanne Saddler concerning small business views on the chief counsel post and the administration's performance generally which I will ask unanimous consent be included in the RECORD at the conclusion of my remarks.

Mr. President, I strongly urge the President to submit a nominee for this critical position. I pledge to expedite hearings and work with the administration so that the interests and concerns of American small business owners are fully represented at the SBA.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

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

[From the Wall Street Journal, Nov. 20, 1991]

SMALL-BUSINESS OWNERS FEEL THEY'VE BEEN BETRAYED

(By Jeanne Saddler)

If big-company chiefs are angry with President Bush and Congress these days, they have plenty of company among the country's millions of small-business owners. But the two groups have somewhat different reasons for their anger.

"We're ticked off: I feel let down," says David Pinkus, who owns North Haven Gardens, a Dallas, Texas, landscape-construction concern. He and many other business owners give the president and Congress low marks on handling the economy.

Asserting that President Bush lacks "backbone," Mr. Pinkus charges: "He caved in [to Congress] on the passage of a civil-rights bill that will create a lot of litigation, not jobs for minorities, and he caved in on controlling spending. It was all smoke and mirrors."

Many small-business owners are particularly concerned about the new civil-rights bill, which Mr. Bush has said he would sign. Among other things, it strengthens the prohibition against employment discrimination. Although the bill exempts very small companies (employing fewer than 15), many business owners fear that the legislation will lead to litigation that they—unlike big companies—can't afford.

At a small-business conference in San Antonio last week, the prevailing mood among both Republican and Democratic business owners was anger at politicians for failing to lead during an economic crisis. While the crisis is slashing profits at some big companies, it is putting thousands of small firms out of business entirely. Owners of small companies, who are often poorly capitalized, frequently feel the effects of a decline in confidence before it starts affecting the pocketbooks of big-company managers. Although most owners still blame Congress more than the Bush administration for the nation's economic woes, there is a fresh sense of disappointment aimed at the president.

Many owners charge that Mr. Bush is neglecting small business, which gave him considerable support in his presidential election. Owners are particularly annoyed that after two years the administration still hasn't filled the Small Business Administration job most important to them, chief counselor for advocacy. The holder of this post is supposed to speak independently of Congress and the White House on policy matters. Failure to fill the job makes critics ask whether the president is truly concerned about small business.

"I talked to George Bush in 1985 about the need to hook up with small business, says George Abbott, who heads two management-consulting firms in Omaha, Neb. "Historically, the advocate is a great liaison for the administration; [President Bush] missed a golden opportunity.

Susan Hager, a partner in a public-relations firm in Washington, D.C., and president of the advocacy group National Small Business United, says the vacant job shows that the administration officials "don't even do the public-relations end of it—[so we can forget] the substance."

Until lately at least, the small-business lobby generally has supported President Bush, while attacking the Democratic-controlled Congress for pressing changes, such as a higher minimum wage, that would increase small-business costs.

But now, "there's a different tone," says Ms. Hager. "Before, some Republicans bought the idea that a Democratic Congress was to blame; now people aren't any more enamored of the Republicans than of the Democrats." She says she gives both Mr. Bush and Congress a D on handling the economy.

Mr. Abbott, who heads the Nebraska consulting concerns, says he would give grades of C+ to the president and D to Congress. "Even though I'm a lifelong Republican, I can't accept the fact that he [President Bush] hasn't done anything for small business," he says.

Small-business owners say they want tax-policy changes to encourage investments that will lead to jobs. Many favor a cut in capital-gains taxes, and others want additional moves as well.

Revising the 1986 tax act to restore value to real estate is critical, argues Mr. Pinkus, the Texas business owner. Although one of the aims of the 1986 act—to shut down real-estate tax shelters—was a good idea, the act had highly adverse effects on many real-estate investments, he says. He also supports an income-tax cut to encourage consumers to spend again.

The lack of available credit for small and medium-sized concerns also is adding to business owners' irritation with Washington. William Pinkerton, president of Project Services International, a Pittsburgh, Pa., company that provides training and engineering services to the steel industry, says he had to close a new office in Corpus Christi, Texas, three months ago when his bank refused to extend his line of credit.

"I guess I'd blame [Congress and the administration] for not doing something sooner on the credit crunch," says Mr. Pinkerton. "Our revenues are down 50% from where they should be. Right now, we're down to one major project, and we should have four or five," he adds. He says the company has 27 employees and about $3 million in annual revenue.

Recently, Mr. Bush met with about a dozen small-business owners to discuss a broad range of issues, including a capital-gains tax cut, reform of the health-insurance market for small companies and the credit crunch. At a recent meeting with reporters, SBA Administrator Patricia Saiki said the use of SBA loan programs has risen significantly of late. The dollar value of the agency's loan guarantees rose 12% in the fiscal year ended Sept. 30 to $3.8 billion. Moreover, SBA loans to exporters more than doubled last fiscal year to $107 million from $42 million.

"I told our lenders to commit to as many loans as possible" and to let the SBA worry about increasing its guarantee authority, Mrs. Saiki said. She said she is telling colleagues in the administration that SBA programs should become the "economic toolbox" to ease the credit crunch.

But for some, help may arrive too late. Elizabeth Newlon, who owns a personnel-recruiting firm in Pittsburgh, says the slow economy is very likely to put her out of business.

But "I'll be kind; I'll give the president a D on the economy," she says. "I may need to go to him for a job."

TRIBUTE TO JUDGE STANLEY KANE

Mr. DURENBERGER. Mr. President, Stanley Kane died Sunday night of cancer. He spent 83 busy years on this planet, most of them with a woman who was so much a part of his life it's hard to imagine one without the other.

Stanley Kane was admired by everyone that knew him personally; his reputation is admired by those who did not have that privilege.

I knew him best not as a judge, but as a Eucharist Minister in our church in downtown Minneapolis.

I first became acquainted with him through his wife Betty. She was a DFL activist, and I am a life-long Republican. But in our State of Minnesota, party labels usually aren't barriers; partisans often come together in search of good public policy. Betty reflects Stanley's love for the law and his deep concern for the rights and responsibilities of people. And I'm sure much of what we admired in Stanley has its roots her life and values as well.

It is part of the history of this place that it was said about the great Senator New Hampshire: "No man could ever be as great as Daniel Webster looked." That was how Stanley Kane looked. And he "judged" better han he "looked."

He was that rare kind of individual that made you want to be a better person just being in his presence.

Mr. President, David Chanen has written a sensitive obituary of Stanley Kane for the Minneapolis Star Tribune, and I ask unanimous consent that it appear at this point in the RECORD.

JUDGE STANLEY D. KANE, DIES; NOTED FOR COURAGE AND UNUSUAL SENTENCES

(By David Chanen)

Lawyers enjoyed bringing their cases before Stanley D. Kane. Whether the case was civil or criminal, big or little, the Hennepin county District Court judge had a reputation for being fair in his decisions and taking a common-sense approach to the law.

During his 25 years on the bench, he wasn't afraid to be courageous in his decisions. In 1965 he decided that a long-standing Sunday-closing law, which permitted only specific types of businesses to open, was unconstitutional.

He also fashioned unusual sentences, such as the 1976 case in which he ordered a white man convicted of assaulting a black man to study minority history, take university courses on the subject and watch the television show "Roots."

He served until the mandatory retirement age of 70, but continued to work nearly full time as a judge until stepping down in 1988.

Kane died of lung cancer Sunday at his Minneapolis home. He was 83.

"He was student of the law and he made sure that his decisions were based upon law," said Rolf Fosseen, former chief justice of the Hennepin County District Court. "If he was unfamiliar with an issue, he'd go right to the books.

When he retired, Kane received a page from the county public defender's office, the first ever given to a judge. It read, "To Judge Kane, before whom all people are treated with dignity, fairness and compassion.

During his swearing in ceremony, Hennepin County District Court Judge Michael Davis said "he intended to model himself after Kane because 'he was a judge's judge, a lawyer's judge, a people's judge.'"

Kane was involved in his share of controversial cases. In 1966 he placed a Richfield dentist who admitted killing his wife on probation for 15 years. He gave him no prison time, explaining that the man would not be dangerous to himself or the community if allowed to continue living with his children and practicing his profession.

In 1972 Kane ruled that a driver whose car was caught for two hours in the old Metropolitan Stadium parking lot after a Vikings playoff game could sue for false imprisonment.

"He was extremely conscientious, legally and as a man," said Eugene Minenko a Hennepin County District Court judge. "I don't know anybody who he worked with in the court system that didn't like him.

Kane heard an early environmental lawsuit. In 1969 he refused Fry Roofing Co. an injunction to stop the city from tagging it for violating the city air-pollution ordinance, saying that the company's asphalt roofing plant in north Minneapolis had "literally been a stench in the nostrils of the community" for many years.

He reversed several controversial decisions by the Minneapolis City Council. He granted a permit for People Inc., a group home for epileptic youths, which had met with neighborhood opposition. In 1983 he declared a city ordinance requiring a $10 fee for newspaper racks unconstitutional.

"The tougher the case, the more he liked it," said Jack Provo, Hennepin County court administrator. "He might have to listen to 25 motions in a day, but that didn't bother him."

Kane grew up on the north side of Minneapolis. His father, a Minneapolis fire captain, died in a fire after rescuing nine people when Kane was an infant, Kane earned bachelor's and master's degrees in romance languages from the University of Minneapolis where he was editor of the student newspaper, the Minnesota Daily. He received a law degree from the old Minnesota College of Law now William Mitchell College of Law in St. Paul). and later became a faculty member.

From 1943 to 1947 he was an attorney for the National Labor Relations Board, he also was general counsel for the North Central Allied Association of Motion Picture Exhibitors before his appointment to the bench by Gov. Karl Rolvang in 1963.

His wife Betty, also has had a high-profile life. Who served for several years as Minnesota's DFL chairwoman, worked with the League of Woman Voters and was a legislative lobbyist.

Kane was a member of the board of trustees of the Hennepin County Law Library and was active with the Variety Club Heart Hospital. After he retired he took several history and art classes at the university.

Besides his wife he is survived by a daughter, Kathleen Kane, and a son, Daniel, both of Minneapolis.

Services will be held at 10:30 a.m. Wednesday at St. Olaf Church, S. 8th St. and 2nd Av., Minneapolis. Visitation will be held from 4 to 8 p.m. Tuesday at Thomson Brothers Funeral Home 2535 Park Av. at 26th St. Memorials are suggested to Variety Club Heart Hospital or St. Olaf Poor Fund.

U.S. COMMITTEE FOR REFUGEES ANNUAL WORLD REFUGEE SURVEY DESCRIBES PLIGHT OF UPROOTED CIVILIANS

Mr. PELL. Mr. President, I want to call attention to the 1991 World Refugee Survey—the U.S. Committee for Refugee's comprehensive annual analysis of the situation of the world's refugees and internally displaced people. The Survey is supported by religious bodies, foundations, voluntary agencies, refugees, and private citizens nationwide—bearing testimony to the respect USCR has won from those who work with uprooted people.

No other group does what USCR's energetic staff takes on each year, visiting dozens of refugee emergencies worldwide to document the protection and assistance needs of civilians who have fled conflict and persecution. There reports are a catalog of the world's most dangerous trouble spots: southern Sudan, Liberia, Sri Lanka, Burma, Somalia, Iran, Peru. Senators concerned about refugees know they can depend on USCR for constructive guidance in finding ways to respond to these most vulnerable human beings.

I ask that the thoughtful "Year in Review" by USCR's distinguished Director, Roger P. Winter, printed in this year's Survey, pages 2 to 6, be printed in the RECORD at this point.

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

THE YEAR IN REVIEW

(By Roger P. Winter)

The year 1990 was one of lost innocence, shedded naivete. As 1989 closed, for many of us there was boundless hope—essentially, knowledge—that with the demise of the Cold War, the world could look forward to a rosier future. There would be opportunity to focus on improving the quality of life for all, international cooperation that would make multilateralism work, usher in peace, and perhaps even give rise to peace dividends. We believed that "liberty and glasnost for all" had set in motion democratizing and peacemaking trends that would never be reversed.

A year later, the world has engaged in a major war in the Persian Gulf that even before the outbreak of hostilities in 1991 had displaced more than a million people. In the aftermath of that war, the world has been forced to confront the hopelessness and helplessness of refugees and displaced people in new, high profile ways, with thousands dying in the process. In the Soviet Union, the architect of glasnost has in the Baltics countenanced the rise of violent militarism as an instrument of domestic policy, the Union itself appears to be rushing toward collapse, and perhaps millions are poised to leave at the first opportunity. Despite the apparent end of the Cold War, the world's refugees had increased to nearly seventeen million by the end of 1990 and were significantly higher immediately thereafter. The reality of war and conflict for much of humankind remains unchanged, the prospects for much more—in the Soviet Union, Yugoslavia, the Middle East, India, Sudan, Burma—portend even higher numbers of refugees and displaced people. We remain in a well-weaponed world.

This spiritual and emotional rollercoaster has implications on the largest of scales. In the refugee field, they are all-defining. Geopolitics has consistently dominated the international refugee machinery. Many have conceived of refugees exclusively in Cold war terms. Although that should never have been the case, in truth, the Cold War, including the third world proxy battles it spawned, was the major producer of refugees in the post-

World War II era. We perceived its passing to mean that fewer refugees would be created and that millions who lost their homes and homelands would be able to return.

The past year has produced several developments, revelations, and trends that, at minimum, muddy the clarity of our earlier prognostications. For one, we are now aware of the post-cold war lag factor. It has been more than two years since the Soviets left Afghanistan, but there is no peace, and the refugees have not gone home. While small progress has been made in some other regional conflicts, such as Angola, Mozambique, Cambodia, in almost all the dying and suffering go on. Only in Namibia and, less securely, in Nicaragua, is peace actually "on line." Extricating the world from passing conflicts is not at all simple or quick.

For another, the absence of the Cold War framework, perhaps properly, undermines the certitude with which too many of us approached the world. Robert J. Samuelson recently wrote that the United States, "since the 1940s, communism has been the great simplifier . . . it made our foreign policy a great morality tale of good versus evil . . . now, [with] communism's collapse . . . we are less sure of our foreign interests." Freed from the Cold War framework, ethnic hatred, nationalism, and other forces raise their negative sides unbridled, without the discipline inherent in the old framework. While many share a feeling that there will be less (simplistic) clarity on why new populations of refugees and displaced people emerge, it is increasingly clear that the forces unleashed by the world's changes will in fact produce new displacement in significant numbers.

There is increasing evidence that the apparent demise of the Cold War and the fear of collapse in the Soviet Union have combined to cost most refugees and displaced people whatever strategic value they may once have had. Several observers have suggested with respect to refugees, and displaced people that, because the conceptual structure that defined "our interests" has changed, so too has our will to respond. It is increasingly clear that for many in the best-off nations of the world the humanitarian needs of the poorest of the poor, those of least strategic importance, are fading from the even miniscule view they were formerly afforded. For most of us, the plight of Africa's victims, for example, is just not an issue, just as the gassing of the Kurds was not when it first came to world attention in 1988. If anything, too much attention continues to be focused on walling others out so that they don't impinge on us. The UN High Commissioner for Refugees (UNHCR) respected Director of International Protection Michel Moussalli recently pointed out that "the budget of UNHCR for the 15 million refugees in the world amounted to roughly $500 million in 1989. The financial resources devoted by the administrations of the Western countries handling their asylum procedures amounted for the same period to roughly 5 billion dollars." With respect to UNHCR, the abrupt departure of High Commissioner Stoltenberg in October further unsettled the institution that has suffered immensely during the last few years. Bureaucratically, it may seem that the worst of UNHCR's budget crunch has passed. But that would be a shallow view indeed. It may be more comfortable in Geneva because the substantial deficit carried forward from 1989 to 1990 has been liquidated, and staff who were going to be let go are gone. But at what a price! Refugees worldwide—but especially in the less visible spots—have seen their actual level of care degraded, education of their children eliminated, their dependency deepened.

It is critically important for those interested in humanitarian concerns generally, and humanitarian concerns in the third and fourth worlds specifically, to fight back, to organize to ensure that whatever "new world order" emerges from today's confusion and change adequately responds to the vulnerable uprooted victims of human conflict.

In that regard, I suggest that a five-point common agenda be pursued during the next several years:

1. Strengthen the multilateral humanitarian institutions. The UN High Commissioner for Refugees, the International Committee of the Red Cross, and other international entities that deal with refugees and displaced people have emerged from the last few years in a weakened state. In terms of their mandates, capabilities, financial resources, and available diplomatic support, that trend needs immediate reversing. While it is important that the UN system generally works better now, with fewer East versus West blockages to its peacekeeping and conflict resolution capacities, it is also critically important that these particular UN and international agencies actually work well. They are the institutions charged with protecting and assisting those who are already victims.

2. Advance and institutionalize international protection and assistance for internally displaced people. States are legal entities that often have no inherent validation by the people who live within them. Glenn Frankel has written that most nation-states are "jury-rigged contraptions that owe their existence to the twentieth century collapse of the Ottoman, Hapsburg, British, and French empires. . . . More than 90 of the UN General Assembly's 159 member states were born after World War II." He quotes Francois Heisbourg, director of the International Institute for Strategic Studies: "Will nation-states fade away? I don't think so. Will state sovereignty fade? My answer is yes."

One area in which sovereignty should fade is where a government's abuse of its own citizens so onerous that it breaches some well-defined standard of international acceptability. We need a system that codifies an international interest in the people in such cases and legalizes an appropriate international protective response. To be politically feasible, such an approach would likely need to be limited to clearly aberrant or rogue governments and also limited in the responses that could be triggered. One example might be the provision of a legal umbrella for cross-border relief operations to civilians being starved out by their government in a civil war without that government's approval. Such victims would be of international concern and would be fed with international resources if they had been able to cross a border. Is it really logical to force them to do that to survive?

At the other end of the response continuum would be a mechanism that triggers UN Security Council consideration of a humanitarian disaster. When millions of a country's citizens are viciously abused by that country's government, Security Council consideration is justified and intervention may be warranted. Any "new world order" worth its salt would provide for this.

In any event, now is the time to move in the direction of institutionalizing improved international protection of internally displaced civilians; the tragedy of Kurdish and Shi'ite civilians in Iraq has shown for all to see the inadequacy of the world's current response to the internally displaced. The stage for improvement has been set. You can hear the possibilities in President Bush's own words:

"Some might argue that this decision [of April 16 to field military forces to protect internally displaced Kurds] is an intervention into the internal affairs of Iraq, but I think the humanitarian concern, the refugee concern is so overwhelming that there will be a lot of understanding about this."

3. Promote successful repatriation and reintegration of refugees and internally displaced people. The combined numbers of refugees and displaced people uprooted by some conflicts, such as in Afghanistan and Mozambique, are so great that they could overwhelm such countries if and when they do achieve some semblance of peace. Because most repatriation is spontaneous, "repatriation emergencies" could occur as large numbers and internally displaced people surge towards home areas that are entirely devastated. There is a universal vested interest in assisting such countries to reconcile and develop in the hope that peace is sustained. Today, the international community is not addressing this need at all well.

4. Ensure that victims of human conflict in the poorest, least strategically important countries of the world don't continue to be ignored. All the signs are already in place that they will be ignored unless NGOs and religious institutions collaborate to change the trend. One recent report indicated that charitable contributions in some European countries for humanitarian programs in Africa are down by more than 90 percent, while contributions to meet needs in the Soviet Union related to problems of food distribution there are flooding in. There will always be such strategic priorities that get a response, and not undeservedly so. However, religious bodies and NGOs are the natural constituency of those that have no other constituents. Recent developments indicate that many people will die or be permanently blighted if we are not up to the task. In the Horn of Africa, forty percent of the entire population are refugees or internally displaced people.

5. Fight the construction of Berlin Walls around the liberal, rich democracies of the West that attempt to cut themselves off from asylum seekers from the second and third world. As the West European nations move toward "harmonization" of their asylum policies and free movement among themselves, there is immense pressure to create barriers to prevent "nonmembers" from penetrating the "clubhouse" they are creating. But all too often, the consequences are a shirking of their responsibility to examine asylum claims and to protect deserving refugees. Instead, the tendency is to "pass the buck" to the frontline first asylum states, where protection is precarious and the resources are badly strained.

On the ground in 1990, the largest new population of refugees and displaced people in *Africa* was that of *Liberians*. In a hellacious blood-letting, 1.2 million people were uprooted. In the critical period, when massive numbers of refugees first arrived in poor, remote locations in Guinea, Cote d'Ivoire, and later Sierra Leone, the international community did not respond quickly or well to the refugees' needs. Without the generosity of local people, who opened their homes and shared their meagre resources with the refugees, there would certainly have been a major catastrophe. Months later, when the international community finally got its act together, those same local people found

themselves frozen out of the assistance that arrived, even though they had depleted their own food reserves to assist the refugees.

Meanwhile, life remained horrific for those displaced inside Liberia. Some 125,000 people were trapped inside Monrovia, which turned into a battleground between government troops and various rebel and other armed forces. For months, there was no food or water. Killings and even massacres became commonplace. When a multi-national West African peace-keeping force restored some order, hundreds of thousands more displaced people flocked to the city in search of food and security. Once again, international response did not keep up with the explosion of need, and in December 1990, malnutrition and hunger were rife in the Liberian capital.

An uncannily similar scenario played out beginning in December in *Somalia's* capital, Mogadishu. There too government troops and rebels fought for control of the city. There too dead bodies lay on the street, and terror and mayhem ruled. As 1990 ended, Somali refugees—as well as Ethiopian refugees who had been living in Somalia—were fleeing to neighboring countries. Hundreds of thousands became internally displaced. And with the country still in chaos, help was nowhere on the horizon.

Besides these new emergencies, during 1990 there was substantial deterioration in already existing refugee and internal displacement situations in Africa. Most dramatic among those was in *Sudan*, where relief experts were forecasting that hundreds of thousands could begin to starve to death beginning in spring 1991. The government of Sudan's long-term denial that a large-scale famine was developing, its hindering of relief efforts by international and private organizations, and its undermining of Operation Lifeline Sudan, all contributed to the potential for large-scale starvation in 1991.

In *southern Africa*, an average of 6,000 *Mozambicans* per month continued to flee to *Malawi*, bringing the total number of refugees in that tiny country to more than 900,000. While the dismantling of many of the laws that shaped the apartheid system in *South Africa* kindled hope for a more equitable South African society and for the repatriation of more than 40,000 South African refugees, it did not help the 250,000 Mozambican refugees whom South African authorities still view as illegal migrants subject to deportation.

A small-scale repatriation program through which several thousand *Angolan* and *Zairean* refugees returned home in 1990 was suspended due to the poor security situation in Angola, where war and drought have also put large numbers at risk and have thwarted relief efforts. Although peace talks in both the *Angolan* and *Mozambican* conflicts move forward, albeit slowly, repatriation of refugees from those countries is not imminent

With the signing in June of the Schengen Supplementary Agreement by *France*, *Germany*, and the *Benelux* countries as well as the signing that same month the EC states of the Dublin Convention on the state responsible for examining an asylum request, the European Community has moved significantly closer to a harmonized policy on asylum and entry as part of its overall plan to abolish internal customs and passport controls within the EC by the end of 1992. The effect of this on asylum seekers in Europe in 1990 was of diminished opportunity to register asylum claims and of a continuing downward trend in the number of asylum cases decided favorably. Harmonization, all too often, has meant that nations once more generous than their neighbors, now are introducing restrictive measures so that they may stand shoulder to shoulder with those European states that have sought to deter the entry of asylum seekers.

Western Europe's restrictive turn, while motivated in large part by the presence of asylum seekers from the Middle East, Africa, South Asia, and Europe's own southeastern region, also reveals a concern about the prospect of a new, large wave of asylum seekers from the *Soviet Union*.

The disintegration of the Soviet Union picked up speed during 1990, as nearly all Soviet republics declared their sovereignty or independence. Outbreaks of ethnic or nationality-based violence during the past two years have caused more than half a million people to become displaced within the USSR, the majority of whom are Armenians. Azerbaijanis, Meskhtian Turks, Tatars, other Caucasian nationalities, and ethnic Russians living as minority groups in outlying republics have joined the ranks of the displaced as well. Many of the displaced are returning to areas from which they had been forcibly moved during the Stalin era, as each of the nationality patches that comprise the Soviet quilt becomes more ethnically homogeneous.

A resurgence in anti-semitism and fears of political and ethnic violence compelled more than 200,000 Jews to exit the Soviet Union during 1990, most to Israel, but thousands were generously received in the United States and Germany as well. This was the first year of direct resettlement processing of 50,000 Soviets to the United States, who were processed out of the American embassy in Moscow, instead of Vienna and Rome. The new system had glitches, particularly for hundreds of Christian Evangelical families who still had Israel listed as the country of destination on their passports, the well-understood ruse that had once enabled them to reach Vienna.

Despite the added security threats from the Gulf conflict, the migration of Soviet Jews to Israel continued at the highest rate in decades. Israel's housing and social services were severely strained by the admission of about 184,000 Soviet Jews in 1990, and double that number are expected in 1991.

While welcoming the largest influx of Jews in decades, Israel's housing and social services were severely strained by the admission of about 184,000 Soviet Jews during the year, and the prospect that this number could double in the year ahead. The influx of Soviet Jews was a cause of increasing wariness among Palestinians in the occupied territories, including more than 900,000 UNRWA-registered refugees.

The most dramatic event in the Middle East in 1990 occurred with the invasion of Kuwait. The invasion and subsequent occupation touched off an exodus of more than 300,000 Kuwaitis and caused more than a million nationals of other countries to vacate the area. This put a tremendous strain on Jordan, which—due to the presence of 929,000 Palestinian refugees—already had the highest ratio of refugees to native population of any country in the world before the conflict began.

New political and military developments in the region had little impact on the Afghan war and the more than six million Afghan refugees in Pakistan and Iran. Although Soviet troops have been out of Afghanistan for two years, a civil war chugs along delaying still longer the reconstruction of Afghanistan and the return of her people.

Important victories were won during the year on behalf of asylum seekers in the *United States*. After a decade of bickering, the Immigration and Naturalization Service published regulations to implement the asylum provisions of the Refugee Act of 1980. Under the new system, a specialized corps of asylum officers will hear asylum claims in a nonadversarial setting, supported by a documention center, open to information from nongovernmental agencies. Those denied asylum will still be able to have their asylum claims heard by an immigration judge in the course of a deportation or exclusion hearing. Congress also filled a gap in the 1980 refugee law by creating a category of temporary protected status, and designated an 18-month safe haven period for Salvadorans. Finally, the settlement of a class-action suit in December allows for new adjudications of up to a half million *Guatemalan* and *Salvadoran* asylum claims.

The United States also admitted more refugees from overseas in 1990 than in any year since 1981. Fully 75 percent of the 122,325 refugees who were admitted represented two nationalities. Soviets and Vietnamese.

In South Asia, at least one million people were internally displaced in *Sri Lanka* as a long-running civil war between the Sri Lankan government and Tamil separatists flared violently in June 1990. By the end of the year, about 125,000 Tamils had fled across the Palk Strait to seek refugee in southern *India*. The government in New Delhi has so far resisted efforts by UNHCR to provide assistance to the Tamils. India has more than 400,000 refugees—from Tibet, Bangladesh, Afghanistan, Burma, as well as Sri Lanka—most of whom receive no international aid or protection.

A new crackdown on Tibetan Buddhist monks and nuns compelled several thousand to cross the high mountain passes into *Nepal* in search of asylum or transit to India. In the last five months of 1990, Nepal involuntarily repatriated 167 Tibetan asylum seekers, some of whom were imprisoned by Chinese authorities.

Despite persistent entreaties from the United States, UNHCR and USCR, *Malaysia* has pushed back more than 9,000 Vietnamese boat people since May 1989. Not a single arrival has been counted since July 1990, testament either to the success of the interdiction or the despair of the refugees.

As the civil war in *Cambodia* escalated in scope and violence, more than 30,000 refugees arrived in Thailand, some bringing horror stories of rampant disease and hunger in the Khmer Rouge "liberated zones." More than 150,000 people have been internally displaced by the fighting.

The number of refugees in *Thailand* swelled to nearly 460,000, including 325,000 *Cambodians*, 70,000 *Laotians*, and 16,000 *Vietnamese*. Persecution and civil war in *Burma* has forced more than 45,000 Burmese students and ethnic minority peoples to flee into Thailand. The ethnic groups, principally the Karen and Mon, have clustered in camps and villages along the border, while most of the students have sought refuge in Bangkok.

Throughout the year, the boat people population in *Indonesia* hovered near 20,000, prompting concern of a backlash. But despite repeated reports of mistreatment of Vietnamese by Indonesian authorities on Kuku Island, the government's commitment to asylum remained unchanged.

The world remains confronted with a myriad of humanitarian and refugee situations. It is unfortunately the case that no government can be trusted to do the humanitarian thing at any particular time or in any specific situation. Governments always act according to their perception of their interests.

The litany of refugee tragedies in 1990—newly created or dragging on—has already unfortunately proven to be only a prelude to 1991's refugee tragedies. And this is the way it will continue unless people East and West, North and South demand of their governments a new world order, with new, more humane priorities, thus making it in governments' individual and collective interests to function on a higher, more moral plane. Upholding human rights, seriously confronting poverty, discrimination, and violence, eliminating crushing debt on the poorest of the world's countries, promoting sustainable, environmentally respectful development—these are all goals common people can appreciate; they are all in "the peoples'" interests.

So, too, are protecting and caring for refugees and displaced people.

MAKING USE OF A NATIONAL RESOURCE: MEMBERS LEAVING THE MILITARY SERVICES

Mr. NUNN. Mr. President, as the Department of Defense reduces the size of the military services over the next few years, many soldiers, sailors, marines, and airmen will be leaving active military service. It is my strong hope that these personnel reductions can be accomplished on a voluntary basis, and that the military services will not have to separate any member through involuntary reductions in force. It is also my strong hope that our Nation will be innovative in using the talent and leadership of our military personnel who will be leaving active service in private enterprise and public service.

With regard to avoiding involuntary reductions in force, we have included in the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993 authority for a program of incentives to encourage certain categories of military personnel to voluntarily separate. These incentives include lump sum or annuity payments for certain career personnel who face the possibility of being involuntarily separated, and who choose to separate voluntarily. I have described these incentives in a previous statement on the contents of the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993.

Mr. President, I think that it is very important for us to realize that military personnel who will be leaving active service over the next few years are a valuable resource of this country. These officers and noncommissioned officers have much to offer in the way of skills and leadership, not only in private enterprise, but in public service. We can help by being innovative, and by aggressively seeking out opportunities where arrangements can be established that are mutually beneficial to the military and our communities.

For example, we have asked the Department of Defense, in the conference report on the National Defense Authorization Act for fiscal years 1992 and 1993, to propose a program that would permit the early retirement of certain military personnel who would volunteer to retire to accept a position in public service, such as teaching, or working in community service with our youth where the technical and leadership skills they have gained in the military can be put to effective use. In this regard, I believe a partnership arrangement could be modeled along the lines of the Junior ROTC Partnership Program where schools can hire a military retiree by paying the difference between the retirees retired pay and the regular teaching salary of the position to which the military retiree is hired. The compensation for such personnel could also include some form of further credit for military retired pay based on contributions to the military retirement fund by the employer, the employee, the Government or any combination of the three.

Mr. President, there are many officers and noncommissioned officers who will be subscribing to the program of voluntary separation incentives we have included in the conference report on the National Defense Authorization Act for fiscal year 1992 and 1993. I believe that it is very important that the Department of Defense act expeditiously to encourage these separating personnel seeking opportunities in public service, and to assist them in securing alternative, nontraditional job certification if necessary for their employment.

Mr. President, there is interest and support in our communities for innovative programs such as this. For example, Prof. Bill Hobby, a former Lieutenant Governor of Texas, who teaches at the Lyndon B. Johnson School of Public Affairs at the University of Texas, wrote an article in the November 24, 1991, issue of the Washington Post entitled "From the Armed Forces to the Classroom." In his article, Dr. Hobby proposes an innovative, "nontraditional" program for qualifying military personnel who are leaving active military service to teach in our schools. I ask unanimous consent that the article be included in the RECORD at this point.

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

FROM THE ARMED FORCES TO THE CLASSROOM—MILITARY VETERANS ARE GOOD PROSPECTS FOR HIGH SCHOOL TEACHERS

(By Bill Hobby)

Within the next few years, hundreds of thousands of highly trained men and women will be mustered out of the armed forces.

Of the 750,000 soon-to-be veterans who will leave military service during the next five years, about 150,000 are commissioned, warrant and senior noncommissioned officers. They are trained in vital technical skills and are natural leaders.

Though well qualified, many will not be able to find jobs that use those skills. Typically, these veterans will have spent one-quarter of their military careers as students or instructors in their specialties. Many of them will be men, many of them minorities.

They are in their forties and fifties, with twenty-odd productive years ahead of them. The nation has invested hundreds of millions of dollars in their professional training. In short, they are fine prospective high school teachers.

With the proper incentives, 75,000 might become teachers.

That many new teachers would not only be readily absorbed in the next five years, but welcome into the classroom. About 90,000 potential new teachers a year now graduate from colleges of education. School districts hire more than 175,000 new teachers a year. The deficit is filled by the return of former teachers, teachers who have never taught despite being qualified to do so and new teachers from alternative certification programs.

More than 1 million new teachers will be needed in the next five years. Colleges of education will provide about half a million. Well-qualified veterans can help fill the gap.

With the growing dissatisfaction with the teachers profession and the pressure to find new sources of teachers. Texas and many other states have begun qualifying teachers in nontraditional ways.

These "nontraditional" teachers have done just as well as, or better than, education graduates on certification tests and on the job.

About 28 states now have such programs. These programs are an integral part of the President Bush's "America 2000" program for education. In his recent report to Congress, the president said: "The solution to the problem of attracting talented teachers is not to regulate the industry further but to open it up to the competitive process and to reduce certification requirements in ways that do not threaten but instead encourage excellence in teaching."

The inclusion of veterans in the president's solution for the teacher shortage makes sense.

Can people who have not graduated from college teach in high school? A college degree indicates maturity and knwoledge. So does 10 or so years of service in the armed forces. I have never known a chief petty officer who could not teach a high school class. For centuries, noncoms have spent most of their time educating adolescent boys.

Teacher programs don't have to take years. College graduates in the Teach America program enter inner-city classroom after three months of training. Could not mature veterans with 10 to 20 years of military service be trained in the same length of time? Of course. They could be teaching in the classroom in a matter of months.

The success of this program will be determined by the quality of the soon-to-be veterans willing to enter it. The qualify will be determined by the incentives offered, most logically through the military retirement system.

Veterans leaving the service have pension benefits ranging from none for those with fewer than 20 years service, to 50 percent to 75 percent of final pay for those with 20 to 30 years of service and 75 percent for those with more than 30 years of services. The pensions, of course, are in addition to medical benefits of enormous value.

Under this approach, a qualified veteran who becomes a teacher would earn military retirement credit in the classroom. The credit could be either on a year-for-year basis or proportional. The cost of the additional benefit would be deferred until retirement of the teacher-veteran, who would also earn credit

in the individual state's teacher retirement system.

A more costly alternative would be to offer the 15-year veteran a flat 40 percent pension (2.5 percent per year) for as long as the veteran teaches. The enhanced pension (50 percent) would be payable at the completion of five years in the classroom. This relatively small pension would compensate for the low entry-level pay of teachers.

Fedeal, state and local efforts would be needed to coordinate the program. Specific actions would include: promotion of the program within the military, modification of the retirement system, creation of state programs of alternative certification, mobilization of the colleges and universities and involvement of school districts in need of trained personnel.

Employing trained military personnel at or nearing retirement is a logical way to address several of our problems; the reduction of the armed forces, the need for more teachers and the stagnation of the economy present a unique opportunity for the nation.

Another group that is interested in tapping into the leadership and skill resource of military personnel who will be leaving active service is The Cities in Schools Program. The program is targeted at reclaiming youth who are drop outs from schools or who are potential drop outs. Separating military personnel returning to their communities can take local leadership positions in this worthwhile effort.

Mr. President, we have challenged the Defense Department to work with us to develop programs such as these in our conference report on the National Defense Authorization Act for fiscal years 1992 and 1993. I am pleased to note that the Army leadership has begun initiatives to develop programs such as these. I expect that such efforts will broaden to the other military services under the oversight of the Defense Department. Obviously, as Dr. Hobby noted in his article, these programs will require Federal, State, and local coordination to be effective. It is my hope that we will be successful in enacting such a coordinated program early next year.

ON PROMOTING FOREST LAND CONSERVATION AND FOREST-RELATED ECONOMIC DEVELOPMENT IN THE NORTHERN FOREST LANDS OF NEW ENGLAND

Mr. LEAHY. Mr. President, New Englanders are often characterized as proud, tough-minded, self-reliant and—above all—reserved. But when they have got something to say, those same Yankees get right to the point.

I was reminded of that this summer at a public hearing in Lyndonville, VT. Hundreds of New Englanders came to discuss the future of the northern forest lands—26 million acres of virtually continuous woods stretching from eastern New York, across Vermont and New Hampshire into northern Maine.

My goal at the hearing was to find out what people thought about a draft bill that Senator JEFFORDS and I crafted with the Senators from the other three States. The bill was designed to promote forest land conservation and forest-related economic development in the northern forest lands. This was not an idea hatched in Washington. It came from people in the four States who were concerned about the conversion of large tracts of working forest to nonforest uses.

In drafting the bill, we built on the recommendations in the Governors' task force report that was issued last year as a companion to the Forest Service's Northern Forest Lands Study. The task force, which was comprised of landowners, environmentalists, and State foresters, recommended the creation of a four-State council and a program to research, identify, and inventory the resources of the northern forest lands. The report was enthusiastically endorsed by the four State Governors.

Throughout this process, I have tried to be sure the legislation we drafted in Washington reflects the views of those who live and work in the northern forest lands. That is why we waited to introduce the draft bill until all interested parties reviewed it and had a chance to voice their concerns at hearings in Vermont and Maine. After all, there is no sense in introducing something that hurts the region it is designed to help.

We were not then—and I am not now—suggesting, even indirectly, that any property owners be forced to give up their land. To the contrary, we are developing State and Federal assistance programs to help landowners overcome financial and technical problems and keep their forests healthy and productive. We are also trying to find new ways to market forest products and make constructive changes in our State and Federal tax system to promote forest retention.

From the hearing testimony and the hundreds of letters I've received, it is clear that the vast majority of Vermonters are concerned about the future of their forests. People love the forests for the hiking, fishing, and hunting they offer. And people believe the northern forests should continue to provide New Englanders with jobs, forest products, and our unique quality of life.

While most Vermonters think the northern forest lands deserve our attention, not everyone agrees on the best way to proceed. It is no secret that a vocal faction opposes any effort to protect the northern forest lands. I respect the views of these people, but I am deeply troubled by the misinformation being spread to further their cause. Among other things, these people have suggested that our efforts will lead to the condemnation of houses and churches. Nothing could be further from the truth.

The reality is this: If we are serious about protecting the northern forests, we have to put aside the rhetoric and start taking substantial action. Senator RUDMAN and I worked hard again this year to secure funding to keep the northern Forest Lands Council intact and to continue its research, inventory, and resource identification programs. While I could continue to seek appropriations without legislation, taxpayer interests would be better served if legislation were enacted to authorize our efforts.

In the coming months, I will be proposing changes to the draft that I hope will resolve many of the issues raised during the hearings and public meetings this year. The many thoughtful suggestions we received will ensure that we proceed in a way that more accurately reflects the views of Vermonters and others throughout the region. Two suggestions I wholeheartedly support are local-interest representation on the Council from each of the four States and a provision specifying that the Council will not have any land acquisition or regulatory authority.

Thus, the Council would be comprised of 17 members. Each of the four Governors would appoint four members to represent the State's conservation agency, environmental community, private forest landowners, and local interests. A USDA Forest Service representative would also participate.

In the meantime, I believe the Council should move forward with the guidelines it recently adopted. In addition, the Council should proceed in the following manner:

The Council should: Develop and approve consistent standards and methodologies for resource inventory efforts by the States; identify opportunities for interstate cooperation; share relevant information among the four States; develop and recommend to the States and Congress a set of actions to further natural resource planning and land conservation within the northern forest lands; involve the public in further forest land deliberations; and report annually to Congress, the Secretary of Agriculture, and the Governors of the four States on the progress of northern forest lands programs.

A citizens advisory committee should be established with representatives from local government, consulting foresters, environmental organizations, the forest products industry, forest landowners, land-trust organizations, labor organizations, recreation organizations, and others deemed appropriate by the Council.

The Council should hold public meetings, publicize them well, and encourage comment on its actions.

The Council's research program should examine relevant forest land conservation topics, produce a research base, outline future research needs, and

allocate research funds to public and private research organizations.

The Council should be sure its inventory work takes advantage of existing material and provides data consistent with standards and guidelines used in the northeastern States' inventories and by the Forest Service; State and Federal agencies and public and private research organizations should help gather and analyze the data.

The Forest Service should designate a northern forest lands liaison from its State and private forestry program to assist the Council and coordinate the research, resource inventory, and analysis program. The Forest Service should also coordinate the work of all Federal agencies that provide technical assistance to the Council.

I hope that most people would be able to support these principles. Unfortunately, it still will be difficult to allay the concerns of those who are convinced that this effort is merely a Federal land grab by outsiders. While I support Federal acquisition programs, that support is based on making land available on a willing seller, willing buyer basis.

Mr. President, the Senate's northern New England delegation has worked closely on this issue for the last 2 years. In fact, all four Governors and eight Senators in the four-State delegation supported northern forest lands appropriations requests. While some may see my comments today as a break with that coalition, they should know that I remain committed to passing a bill we can all support.

My action today reflects the sense of urgency I feel about protecting our northern forests. While the recession has lowered property values and taken away the immediate threat of land speculation in the region, the problem has not disappeared. So now that we have the chance, we should act. If we wait until the economy rebounds, we will not have a say. By then the fate of the northern forests will be determined for us—and not by us.

But if we work together—small landowner, conservationists, the forest products industry, and local, State, and Federal Government—we can keep our northern forests and forest-based economy healthy for future generations.

PROTECTING THE ANCIENT FORESTS AND RURAL COMMUNITIES OF THE PACIFIC NORTHWEST

Mr. LEAHY. Mr. President, a long-simmering crisis in the Pacific Northwest forests is reaching the boiling point. And if we do not do something about it—if we do not get this issue off Congress' back burner—then things are going to boil over sooner than later.

The sad reality is that this crisis, and the painful transition it has caused workers in the Pacific Northwest, could have been avoided.

But the Reagan and Bush administrations wouldn't turn off their saws long enough to hear the foresters who had long warned that ancient forests on the region's private lands were rapidly disappearing. As the private timber supply dwindled, pressure mounted to cut the oldest, biggest and most profitable trees in our national forests.

While national forests provide important timber for our use, most Americans want more from their national forests than two-by-fours. Americans go to national forests to fish, to hunt, to hike, to canoe, and to just get away from the rigors of their daily lives. Those are things we cannot generally do on private lands.

The Reagan administration, however, had a different view of ancient forests. When Fish and Wildlife Service biologists recommended that the northern spotted owl, which depends on the ancient forests, be listed as a threatened species, administration officials kept the report under wraps. It is a sad commentary that it took a U.S. district judge, William Dwyer, to make the administration acknowledge that it was breaking Federal forestry laws.

Despite a flurry of legal activity on this issue, it wasn't until 1991 that court decisions significantly reduced timber sale levels in the Pacific Northwest. Prior to that, starting in fiscal year 1985, Congress attached riders to the annual appropriations bills that limited citizen rights to question certain Pacific Northwest timber sales.

In the 1990 appropriations bill, Congress limited such judicial remedies for all of Washington, Oregon, and northern California. I decided not to fight that rider, but not before agreeing with my distinguished colleague from Oregon, Senator HATFIELD, that this rider would be the last "quick fix" to be attached to an appropriations bill.

Senator HATFIELD and I also agreed to work together on a long-term ancient forest solution that: First, ensured sustainable ecosystems; second, did not limit citizen access to the courts unless all parties agreed; and third, was worked out through the authorizing committees.

As promised, I directed my staff to talk with all interested parties about developing a long-term solution to protect our ancient forests. My staff met with environmentalists, labor and forest products industry representatives, officials from State, county, and local government, Pacific Northwest delegation members and others.

The forest products industry would not agree to proceed on a regional solution. The forest products industry said it would talk, but only if the legislation provides limitations to citizen access to administrative appeals and the courts on all national forest matters. Because I believe citizens in a democracy should always have a way to voice their opinions, that precondition was unacceptable.

So now here we are. The Nation is in the middle of a recession. The Forest Service's Region 6 harvest levels in Washington and Oregon have dropped from 5.4 billion board feet in 1988 to an estimated 3.1 billion board feet this year. Fortunately, there is still 5.3 billion board feet under contract that can be cut at any time. That means that the drop in the harvest level to 3.1 billion board feet is largely due to the recession—not the spotted owl, as some claim.

Still, the administration's failure to comply with the law has essentially shut down the region's timber sale program in 1991. That is a serious matter and one we must resolve.

To do so, we need to cut through the rhetoric and deal with the economic and ecologic realities. I realize that will not be easy. I know that jobs are hanging in the balance. I know that the future of our ancient forests, salmon runs and spotted owls are also threatened. But if we can set aside our differences long enough to find some common ground, I'm convinced we can develop a mutually satisfactory blueprint for the future of our national forests.

For starters, I will be drafting legislation with Senator ADAMS over the recess to provide a long-term solution to the ancient forest issue. I will work with Senator ADAMS because he is trying to protect both jobs and forest ecosystems without sacrificing basic constitutional rights.

In developing a long-term solution I will work to meet three principles: ancient forest sustainability, constitutional rights, and economic stability.

This effort will not be easy. We cannot save every job and we cannot save every ancient tree. We can, however, develop a program to bring Forest Service management into compliance with existing environmental laws, protect the region's forest products industries, and provide a smoother transition to those individuals and communities whose livelihoods are disrupted by timber harvest reductions.

PACIFIC NORTHWEST FOREST COMMUNITY RECOVERY AND ECOSYSTEM CONSERVATION

Mr. ADAMS. Mr. President, I am deeply pleased that Senator LEAHY has committed his leadership and expertise to resolving the forest management crisis in the Pacific Northwest. His work on behalf of rural communities is well known. His experience with forest management issues is widely respected. As chairman of the Agriculture, Nutrition, and Forestry Committee, he will help focus the Senate's efforts on developing a long-term solution to this extremely difficult problem.

The Congress has wrestled with this issue for several years. A final resolution has eluded us. We have tried all of

the quick fixes. All of the political solutions have failed. The economic and environmental realities in the Pacific Northwest have now removed all other options.

If we are to restore economic and environmental stability to the region, we must have a legislative solution in this Congress.

We clearly cannot rely on the Bush administration for a solution. By avoiding the issue, the Reagan and Bush administrations created the crisis. They refused to heed the warnings sounded by professional foresters as long as 10 years ago. The foresters warned us the intensity of timber harvest was destroying the forests' ability to maintain other public values. If Reagan and Bush had listened, forest policy could have been adjusted to minimize economic impacts to our rural communities.

Instead, we must now make major adjustments to protect water quality. To protect recreation, fish and wildlife. And to protect other public values required by law on our national forests.

Over the last several months, Congress has received a wealth of information from forest scientists. They tell us that it is possible to maintain timber production without degrading other public values. This will require, however, that we amend our forest management objectives. They must be made more sensitive to the natural system of interrelationships among the trees, soil, water, plants, and animals.

There is no need to fear such a change. There are many excellent professionals in the Federal land management agencies who are capable of bringing about this change in a responsible manner. What we should fear are shortsighted, partisan political actions that would prevent such change.

I urge my colleagues to join with me and Senator LEAHY. Join us in giving careful consideration to an ecosystem-based approach to resolve this issue. This is the only viable approach to Federal forest management in the Pacific Northwest. It will provide a secure and solid base for sustainable production of timber and timber related jobs without threatening the other public values we expect from our public lands.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is closed.

Mr. SPECTER. I ask unanimous consent that I may speak as in morning business for a period of not to exceed 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized as in morning business for up to 7 minutes.

INCOME TAX CUTS FOR MIDDLE AMERICA

Mr. SPECTER. Mr. President, I have just come from a hearing of the Finance Committee which was considering income tax cuts for middle America, IRA legislation, and other means to stimulate consumer purchasing power. I think it is worthwhile to address this subject very briefly for my colleagues generally and for those who may be watching our proceedings.

The subject matter of the hearing was a proposal by the distinguished Senator from Texas, Senator BENTSEN, to reduce tax rates on middle-income Americans, a proposal that I heartily support. The hearing was also on proposals for IRA's. I testified before the Finance Committee, urging them to take action on legislation introduced last week by Senator DOMENICI and myself which would provide that taxpayers could withdraw from existing IRA's up to $10,000 now without any penalty or tax this year, the taxes to be paid in the next 4 years, providing those funds were used on certain consumer items.

This idea is an expansion of proposals which are now pending, where IRA's would be utilized on items like first-time home buying, medical expenses, and college tuition.

From that general position, which has wide acceptance, Senator DOMENICI and I offered an amendment last week which would allow middle-income taxpayers, individuals with earnings up to $75,000 or married couples with earnings up to $100,000, to use existing IRA's and other deferred-income plans. It is estimated that some $800 billion are in such accounts. Our amendment was not successful on the Senate floor last week, largely because the matter was initiated in the Senate as opposed to the House.

I argued then, Mr. President, and will repeat the argument now, that we ought to move beyond the jurisdictional considerations to these issues at the present time. We have a very serious economic problem in the United States of America. Whatever one may wish to call it—"a recession," "not quite as bad as a recession," "something worse than a recession"—there is absolutely no doubt that there is a very, very serious situation in the U.S. economy now.

Two weeks ago, Mr. President, I urged that the Senate not adjourn after Thanksgiving but that the Senate and the House should stay in session during the month of December to address these problems.

I raised that same issue this morning in the Finance Committee hearings, realizing full well that on this, what is scheduled to be the last day of the session, it is highly unlikely we will be staying in session.

When I moved outside and left the hearing room, I was asked a question by a reporter about Congress staying in session. One of the reporters informed me that Speaker of the House FOLEY had said that all it would take would be a telephone call from the President for the House to remain in session.

I was asked what I thought about that. I responded that I thought the Speaker of the House—I say this respectfully—ought to initiate the call himself. He has a telephone which calls out as well as one which receives incoming calls. We ought not to stand on protocol. The matter ought to be initiated by the legislative leaders in the House and in the Senate.

During the proceedings before the Finance Committee, I had said the proposal which Senator DOMENICI and I had suggested had been discussed broadly with the administration. We discussed it with Secretary of the Treasury Nicholas Brady. We discussed it with Chairman of the Federal Reserve Board, Alan Greenspan. We discussed it with the chairman of the President's Council of Economic Advisers, Michael Boskin. We discussed it with the Chief of Staff of the White House, Gov. John Sununu. As I said on the floor last week, there was a lot of interest, although not a commitment, by those officials.

During the course of my conversations with ranking officials in the administration, it has been noted—and this has been widely reported in the news media as well—that the administration's plan is to advance their economic proposals in the State of the Union speech.

I respect that judgment from the administration, but as a Senator, speaking only for myself, I have a differing point of view. My sense is that we ought to be acting now and that if the ideas are proposed in January or in early February, the Congress will take February and March and April and May and June and July and beyond, whatever time is available. But, if the ideas are advanced now, with the impending Christmas season upon us, there would be a good chance the Congress and the administration could come up with some solid proposals to stimulate a recovery.

The idea, again, which Senator DOMENICI and I had proposed is a very sound one. I have yet to hear anyone offer an argument on the merits against the idea, except perhaps it would deplete savings, and it would do that to a limited extent. With $800 billion in those savings I suspect that our proposal would not really make a serious encroachment on the savings in this country.

In any event, savings are for a rainy day. I suggest that there is a cloudburst outside. There is a cloudburst, Mr. President, in the form of a very serious economic situation in this country.

Mr. President, in testifying before the Finance Committee this morning

on Senate bill 612, I noted that the bill was introduced on March 12 and that the bill had 74 cosponsors, with a generous representation from both political parties. This could be a starting point. Or the bill which Senator DOMENICI and I introduced could be a starting point. We need a starting point.

I know, Mr. President, when I travel through Pennsylvania—and in the course of the past several weeks I have been in all parts of my State: Erie, Scranton, Pittsburgh, Philadelphia, central Pennsylvania—there are a lot of Pennsylvanians who are hurting and there are a lot of Americans beyond my own State who are hurting.

I frankly do not want to return home. I do not want to go back to Pennsylvania and have my constituents say, "Why don't you men and women in the Congress do something constructive?" I think we ought to be here and in session making every possible effort to solve our economic problems.

In that vein, I wonder why we have not acted on S. 612, which, as I said, was introduced in March 12 and has garnered 74 cosponsors.

To repeat, when a reporter says to me that the Speaker of the House, Mr. FOLEY, suggested that all the President has to do is pick up the phone to keep Congress in session, I reply, respectfully, that Speaker FOLEY ought to pick up the phone. I do not think Congress ought to go out of session and fail to address these economic problems for want of having one party or another pick up the phone.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MEDICAID MORATORIUM AMENDMENTS OF 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3595, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3959) to delay until September 30, 1992, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider specific taxes by States as a source of a State's expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Moratorium Amendments of 1991".

SEC. 2. MORATORIUM ON THE ISSUANCE OF FINAL REGULATIONS AND ON THE USE OF DONATIONS AND PROVIDER-SPECIFIC TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS UNDER MEDICAID.

(a) MORATORIUM ON ISSUANCE OF FINAL REGULATIONS.—

(1) DELAY IN CHANGES IN REGULATIONS CONCERNING DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) is amended by striking "December 31, 1991" and inserting "April 1, 1992".

(2) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—Such section is further amended by—

(A) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(B) by adding at the end the following new subsection:

"(b) MAINTAINING TREATMENT OF INTERGOVERNMENTAL TRANSFERS.—The Secretary shall not issue any regulation prior to April 1, 1992, that changes the treatment (specified in section 433.45(a) of title 42, Code of Federal Regulations) of public lands as a source of State share of financial participation under title XIX of the Social Security Act, including the treatment of such funds as a source of State share of financial participation under such title notwithstanding the fact that the public agency contributing the funds provides services under the State plan under such title.".

(3) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—Such section is further amended by adding at the end the following new subsection:

"(c) MORATORIUM ON CHANGES IN TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall not issue any regulation prior to April 1, 1992, regarding standards for qualification as a disproportionate share hospital or payment adjustments for such hospitals under title XIX of the Social Security Act.".

(b) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d) FREEZE ON STATE DONATIONS AND PROVIDER-SPECIFIC TAXES.—

"(1) DETERMINATIONS OF FEDERAL MATCHING PAYMENTS DURING MORATORIUM PERIOD.—

"(A) IN GENERAL.—For purposes of determining the amount to be paid to a State under section 1903(a)(1) of the Social Security Act for the period of January 1 through March 31, 1992, the total amount expended during such period as medical assistance under the State plan shall be reduced by the amount determined under subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount determined under this subparagraph shall be such amount of revenues from provider-specific taxes and provider donations as exceeds the sum of—

"(i) the total amount of any revenues received by the State (and by any units of local government in the State) during such period from provider-specific taxes pursuant to State or local legislation as enacted or adopted on or before November 22, 1991; plus

"(ii) the total amount of any revenues received by the State (and by any units of local government in the State), from provider donations under donation programs in effect on September 30, 1991, that do not exceed 25 percent of such revenues received in Federal fiscal year 1991.

"(2) MORATORIUM ON STATE TREATMENT OF DISPROPORTIONATE SHARE HOSPITALS.—For the period of January 1, 1992, through March 31, 1992, a State may not—

"(A) designate as a disproportionate share hospital any hospital that is not so designated pursuant to a State plan amendment that was submitted on or before September 30, 1991; or

"(B) change the formula or rates upon which Federal reimbursement is based for disproportionate share hospitals during such period.".

(c) RELATED PROVISIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(e) RELATED PROVISIONS.—

"(1) MORATORIUM ON REVISIONS OF ESTIMATED AMOUNTS.—In estimating under section 1903(d)(1) of the Social Security Act the amount to which a State will be entitled for a quarter under subsections (a) and (b) of section 1903 of such Act for a quarter beginning on January 1, 1992, and ending on and including March 31, 1992, the Secretary may not withhold any amounts estimated to be expended during the quarter (or reduce any amount so estimated pursuant to section 1903(d)(2)(A) of such Act) solely because the amounts are attributable to provider donations, intergovernmental transfers, or provider-paid taxes.

"(2) PROHIBITION ON PENALTIES AND OTHER REGULATORY ACTIONS PERTAINING TO PERIOD OF MORATORIUM.—The Secretary may not assess a penalty or take any compliance, disallowance, or other regulatory action against a State under or pursuant to title XIX of the Social Security Act on the basis of the State's use of provider donations, intergovernmental transfers, or taxes (whether or not of general applicability) paid by, assessed against, or received from an individual or entity providing medical assistance under the State plan under such title to receive Federal matching funds under such title for quarters beginning on or after January 1, 1992, and ending on or before April 1, 1992.".

(d) DEFINITIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988, as amended by subsection (c), is further amended by adding at the following new subsection:

"(f) DEFINITIONS.—For purposes of this section—

"(1) 'donation' means any voluntary payment, in cash or in kind, including any gift, contribution, presentation, or award;

"(2) 'health care provider' means any individual or entity that furnishes health care items or services for which it receives remuneration;

"(3) 'provider' includes any—

"(A) health care provider;

"(B) corporation, partnership, association, or organization formed by or on behalf of health care providers;

"(C) person who has an ownership or control interest (as defined in section 1124(a)(3) of the Social Security Act) in a health care provider;

"(D) employee, spouse, parent, child, or sibling of an individual described in subparagraph (A) or (C); and

"(E) individual or entity that is a major customer or supplier of a health care provider;

"(4) 'provider donation' means a donation by or on behalf of a provider;

"(5) 'provider specific tax' means a tax assessed under State or local law whose applicability is limited to health care providers or health care services (a tax is limited to health care providers or health care services if no other entity, item, or activity is subject to the identical tax); and

"(6) 'tax' means any mandatory payment imposed by a State or unit of government subordinate to a State, including any assessment, fee, charge, or duty.".

(6) BUDGETARY TREATMENT.—

(1) NO SEQUESTRATION.—Notwithstanding any other provision of law, there shall be no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of the provisions of (and amendments made by) this Act.

(2) NO ASSUMPTION WITH REGARD TO REGULATION.—The budget submitted pursuant to section 1105 of title 31, United States Code, shall be prepared in a manner that does not assume any effects (including potential effects) on Federal expenditures resulting from the issuance of any regulation that relates to—

(A) provider-specific taxes;

(B) provider donations;

(C) intergovernmental transfers; and

(D) standards for qualifying as a disproportionate hospital or payments for such hospitals under title XIX of the Social Security Act, and that is not a final regulation by the submission date of such budget.

Amend the title so as to read: "An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid."

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I think we face a very serious problem in the Medicaid Program. It is a problem which we can take a big step today toward solving. I hope we do solve this today, and solve it really once and for all.

Mr. President, not all of our colleagues have been as close to this problem as have members of the Committee on Finance. We have held in that committee two hearings on this subject, and we just had one earlier this week.

For the benefit of my colleagues, I would like to take a moment to outline what that problem is. As my colleagues know, the cost of the Medicaid Program is shared by Federal and State governments. The Federal Government contributes to the State, for use in its Medicaid Program, a percentage of the State government revenue the State chooses to allocate to the program. The amount that the Federal Government contributes varies with the per capita income of the State. In other words, under the current rules of the program, the poorer States get more from the Federal Government than the richer States.

The assumption is that the taxpayers in the richer States can afford to assume more of the costs of providing health care for the poor than can the taxpayers of the poorer States.

The problem that we are addressing today, Mr. President, is that a large number of States have devised creative ways and methods to draw down additional Federal matching money for their State Medicaid Program without even investing additional new State funds raised by broad-based taxes.

In fact, Mr. President, some of the States have found ways of getting more Federal money for their Medicaid Programs without investing any new money at all in the program. Some of these methods seem to me to be of questionable validity.

What can you say about any State that permits a foundation apparently created especially for the purpose to borrow from a financial institution, invest the borrowed money in the Medicaid Program, then use it to draw down the Federal match at not less than 50 cents on the dollar, and then repay the financial institution for the money already borrowed?

Let us call such arrangements what the inspector general of the Department of HHS called them, and that inspector general said they are a "scam." The general method used was pretty well described by Dr. Wilensky, She is the Administrator, as you know, of HCFA. This was made in testimony before the Committee on Finance earlier this week. I am following her description here very closely.

States borrow money from providers, and those providers usually are the hospitals from which the money is divided, through donation or tax programs. This money is then used as the States' share of Medicaid, and is matched by Federal money at least dollar for dollar.

In some States, as Dr. Wilensky describes this, the States reimburse providers for the donations or taxes that they have paid by increasing Medicaid payments to them. The States then use Federal matching funds to pay providers for Medicaid services.

Dr. Wilensky made it clear in her testimony that it is at least theoretically possible in these arrangements for the Federal Government to pay 100 percent of a State's Medicaid Program.

This is not just a problem of a few States. This started out as probably a very innocent proposition out there with a few States just a little over a year ago, I believe, maybe a little over a couple years ago. But there has been a tremendous growth in this practice. So we are not talking about a minor problem here.

These methods have spread very quickly among the States, and so has the money that the Federal Government has been spending as a consequence of these new approaches.

According to Dr. Wilensky's testimony, in 1986 only one State was using such methods. So I stand corrected in the sense that I said it was only a little short while ago. But let us say 5 years ago, only one State. By the middle of this year 38 States were using donations and tax programs.

In October 1990, the inspector general reported that $497 million in matching funds for donations and provider taxes were requested by nine States. In May 1991, 18 States will request $2.5 billion. By July 1991, 30 States had requested $3.8 billion in matching funds.

The Health Care Financing Administration is currently estimating that States will request at least $5.5 billion to match these donations and these tax programs in fiscal year 1992.

So, I hope what is a fact here, a fact that I just described, is readily seen as being no small matter. This is a tremendous consequence of this program. And the consequences are going to be greater if we do not solve this problem soon.

First, these arrangements are creating inequities among the States. States which do not engage in these methods like my own State of Iowa will not be getting their fair share of aggregate Federal contributions to the program.

My leading newspaper, the Des Moines Register, in an editorial entitled "Iowa's Honest, and Loses," said this:

> Thirty-seven States are cheating the Federal Treasury out of health-care money, aided and abetted by the U.S. Congress. Iowa is not one of the 37—and its honesty is costing its residents millions upon millions of dollars.

That is the end of the quote from the Des Moines Register.

So I want to stress the same point that the Register is making, Mr. President, because I know that we are going to hear lots of talk today about hurting poor moms, and babies, from the advocates of continuing these funding mechanisms, some of which have been described by the inspector general as a scam.

Nobody wants to hurt the poor, but in a very important sense that is not the issue here. The issue is because we have already decided to take care of people who qualify for Medicaid, who is going to pay for helping people who qualify? The issue is whether the States that engage in those funding arrangements are going to make the taxpayers of other States pay for things they do not want to ask their own taxpayers to pay for.

So why should the State of Iowa deal straightforwardly with its budget problems? We have laid off 1,200 State employees. We have absorbed 3½ percent across-the-board budget cuts, cutting deeply into other valuable State programs to try to solve our budget problems the very best way we know how without any help outside of our borders while other States are in the process of thinking up scams to take money from the Federal Treasury, kind of a ripoff fashion, and thus solve or at least reduce their own budget deficits.

Second, the nature of the Medicaid Program as a Federal-State cost-sharing program is being transformed. You cannot say it is being transformed by plan, because being a Federal program, that would have to be done here in the Congress of the United States. It is being done willy-nilly, without any systematic review or decision by this body or the other body. One of its basic principles—that is, one of the basic principles of the Medicaid Program which is now, I believe, 25 years old—is that the States will assume greater responsibility and care in the management of the program if they are paying for part of the cost. This basic premise is being subverted by the problem that we now face.

A related basic principle that the States, which have less ability to raise money because of their lower per capita income will receive greater Federal match money and vice versa, is also being destroyed, Mr. President.

There is obviously no necessary relationship between the wealth of a State and what it can get from the Federal taxpayers through the schemes that have been described here and that are well known. And particularly if these continue, it will exacerbate the problem. Although I have seen no evidence on this point, it could happen that the richer States could end up with more Federal money than poorer States if such schemes are allowed to continue.

Third, as is evident from the Federal spending increases I have just cited from Dr. Wilensky's testimony, these financing arrangements are, in effect, an open spigot in the Federal Treasury.

There is virtually no limit to the amount of money that the Federal Government may end up pouring into these programs.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. FOWLER. Mr. President, I rise today on behalf of the more than 800,000 citizens in the State of Georgia whose access to quality health care is dependent upon the continued financial stability of the Medicaid Program.

I speak today on behalf of my friend Zell Miller, the Governor of my home State of Georgia. Like many Governors across the Nation, Governor Miller fears that the proposed changes to Medicaid funding rules contained in the Durenberger amendment represent another lethal blow to state budgets that are already suffering from economic decline, rising health care costs, increasing federal mandates, and a lack of domestic concern by this administration.

Mr. President, I have been working on this issue for many months. I introduced legislation back in April myself to cap voluntary donations at 10 percent. I wrote to Gail Wilensky, Administrator of the Health Care Financing Administration, and Richard Darman, Director of the Office of Management and Budget, last July, and again this fall, expressing concern over the proposed rule changes and their potentially disastrous effect on disproportionate share hospitals.

Like a number of my colleagues on both sides of the aisle, I sought a sound, fair and well-considered restructuring of the system.

Today, as the Congress prepares to recess, the administration now comes hastily forth with what can only be described as a complete restructuring of the financing of the Medicaid Program.

Even at this late hour, this is a critical issue that deserves our attention, but the first question we must ask is: "What is the proposal?" If ever there was a moving target, this proposal is it.

My distinguished colleague from Minnesota now offers an amendment that is billed as a compromise between the National Governor's Association and the Office of Management and Budget. The Governor of my State and his Medicaid advisors barely know what is contained in the agreement. Certainly, they have not agreed to it. Senators did not have the benefit of seeing even a draft of this language until Saturday, and I understand it was being rewritten right up to the time of introduction. How can we even consider endorsing a proposal which acts more like a chameleon than it does a settlement agreement?

There are many questions about this so-called compromise, but perhaps the main point to be made today is that there is not time for the deliberative debate that needs to occur between the administration and the Congress and all the parties affected by this proposal. This is why I have said repeatedly that a moratorium on the October 31 regulations is needed, and why I have urged Senate passage of H.R. 3595, as passed by the House.

Many States, including Georgia, will be harmed if HCFA's regulations or the Durenberger amendment are enacted without major revision. Both move from State legislatures the authority to make their own taxing decisions, and both impose on the States constraints which are not in the interest of the States or the Medicaid recipients they cover. Despite the administration's statements that it supports federalism, the amendment centralizes more authority in HCFA.

The amendment omits the assurance contained in the original agreement that would permit States to commit tax revenues to reimburse Medicaid providers who paid the tax. In addition, it give HCFA broad discretion to disallow Federal matching if any such guarantee is made by a State to the providers being taxed. This omission leaves the States at HCFA's mercy and cannot be a simple oversight.

The original NGA agreement also contained provisions protecting the longstanding right of the States to use funds transferred to the Medicaid Program from other State agencies, counties, special purpose districts or other governmental entities, but the amendment contains so much provisions. Again, State Medicaid programs are left unprotected.

Mr. President, in 1990, the people of Georgia approved a constitutional amendment to initiate a program of provider donated funds. These funds are appropriated by the Georgia General Assembly and have been disbursed pursuant to Medicare State plan amendments approved by HCFA. The State of Georgia has used these funds to pay the perinatal case management, post partum care, family planning, physician payments for obstetrical care, and payments to the 70 disproportionate share hospitals, which serve the vast majority of our low-income residents. Two-thirds of these hospitals are rural, and without these payments, which HCFA proposes to artificially cap, many of these rural hospitals would close.

I am proud of the fact that Georgia was the first State to make disproportionate share hospital payments. I am proud of the fact that Georgia and its entire congressional delegation worked to eliminate HCFA's upper limit payment cap to these hospitals. And I want to express my grave concern today about the proposed caps on such payments included in this amendment. I also take pride in having our entire congressional delegation standing together again in opposition to this latest effort to hamper the States and do harm to Medicaid.

The American people deserve a full public debate on the need for health care reform. We cannot begin that debate by rushing through a proposal that pulls the rug out from under Medicaid and leaves us no foundation on which to build a better health delivery system.

Mr. President, let me make one final point. There are those that would have us believe the increase in Federal Medicaid expenditures is attributable to State financing scams. I resent the suggestion that Georgia's program—which was approved overwhelmingly by Georgia voters as an amendment to our State Constitution—is a scam. And I resent the notion that Georgia's Governor and legislature should come to HCFA hat in hand, to have HCFA tell Georgia how it should finance its Medicaid Program.

But what I resent most is the administration's ignorance as to what has really caused increased Medicaid expenditures, namely, the growth in recipients. In Georgia alone, the number of covered recipients is 23 percent higher this year than last. And this has nothing to do with our donated funds program. It has to do with an economy that is in recession, people who have no health care coverage, and mandates

which have been placed on the States by HCFA and Congress.

Mr. President, Medicaid is a program that was developed to assist people who cannot afford health care coverage on their own. It does not take a rocket scientist to figure out that this administration has played a major role in driving up State Medicaid costs by abandoning its traditional partnership with the States, by failing to propose an economic policy that keeps Americans on the job and by ignoring the need for comprehensive health care reform.

Under this administration, real GNP growth is lower than at any point since Mr. Hoover occupied the White House, employment and income growth are at their lowest levels since World War II and the official poverty rate is the highest it has been since 1967—with the exception of 5 years during the previous administration. At the same time, health care spending is at the highest level of GNP ever recorded—an estimated $756 billion for this year alone. Surely President Bush, or whoever is in charge of domestic policy at the White House, understands the linkage between our current economic decline and the increase in the number of Americans who simply cannot afford health care.

If there are more poor people in America, there are more people who have no other choice than to rely on Medicaid to provide the health care services that they need and deserve.

Instead of chastising the States and their Medicaid programs, we should be commending them for addressing the immediate needs of the medically indigent in the best way they can. We do the States and the millions covered by Medicaid an injustice by even considering a proposal such as the one that is now before us.

As a member of both the Budget and Appropriations Committees, I understand the serious budget and fiscal implications of the existing Medicaid match system and the type of radical proposal on the table today. With so much at stake here, in terms of dollars and lives, I think we owe it to the American people to get the facts before we act. I ask my colleagues to oppose this amendment and to support a 9-month moratorium on HCFA rulemaking.

Thank you, Mr. President, and I ask unanimous consent that a copy of Gov. Zell Miller's letter to me outlining his opposition to the settlement proposal be printed in the RECORD following my remarks.

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

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, GA, November 22, 1991.

Hon. WYCHE FOWLER, Jr.,
Russell Senate Office Building,
Washington, DC.

DEAR WYCHE: I urge you to support an extended moratorium on the issues of Medicaid provider taxes, voluntary donations, and payments to disproportionate share hospitals and to oppose the plan recommended by the National Governors' Association.

I oppose the NGA plan for the following reasons:

1. It runs counter to basic principles of federalism by allowing, for the first time, the administration to tell states how they can raise their state match funds for Medicaid. It allows HCFA to micromanage state revenue programs, letting HCFA tell states what kinds and amounts of taxes they can and cannot impose.

2. In the past, Congress has specifically allowed the voluntary contribution and provider-specific tax programs that the administration and the NGA plan now would eliminate. Now, in the middle of a recession and at a time when the Pennsylvania election has shown that health care is a matter of great public concern, is not the time for the administration to change the rules of the game and force states to raise taxes, cut back on health care, and/or cut payments to marginally profitable hospitals and push them toward insolvency. After two straight sessions of budget cuts, Georgia cannot stand to have another $250 million in Medicaid money taken away at this time.

3. It puts an upper limit on payments that the state can make to hospitals that carry a heavy burden of indigent care. There has been no such limit up till now. The state should be able to reimburse hospitals for the costs of indigent care based upon how much they provide, not based upon an artificial upper limit. To do otherwise would fly in the face of congressional intent, which was to recognize the special needs of hospitals which perform this type of public service care.

I appreciate your vigorous efforts on behalf of Georgia in this area and want to assure you that we are all extremely grateful for your help.

With kindest personal regards, I remain

Sincerely,

ZELL MILLER.

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

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

The legislative clerk proceeded to call the roll.

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

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

The Chair recognizes the Senator from Oregon [Mr. HATFIELD].

AN EPIDEMIC OF HISTORICAL AMNESIA

Mr. HATFIELD. Mr. President, with those of us who are conferees in between our conference sessions, and with the pending business now being discussed and negotiated, I rise at this time to fill a void of the Senate procedure merely to call my colleagues' attention to what I view as an epidemic that now sweeps our Nation.

In this kind of epidemic, Mr. President, its victims include our children and our grandchildren, and its insidious impact affects our national well-being. This is not an epidemic affecting the body, like AIDS, or smallpox or cholera. It is, instead, an epidemic affecting the mind and the American spirit. I see it is an epidemic that erodes the way in which we view ourselves, our society, and our great Nation.

We are living now amid an epidemic of historical amnesia. It is an epidemic that has left generations of our citizens, young and old alike, with little real understanding of American history, with little reality based perspective on who we, as a nation, are and how America came to be what it is today. Worse yet, what little history we, as a society, claim to know is too often skewed by the storybook characterizations of the people and events that have shaped the American experience. What do our children and grandchildren really know of George Washington, beyond the unlikely notion that he never told a lie?

The sad fact is that, as we prepare to mark the 500th anniversary of the arrival of the Columbus expedition to this continent, we are confronted with the distressing findings of a recent survey of 17-year-old students that showed one-third—one-third of our students—thought Columbus reached the New World after 1750. Two-thirds could not correctly place the Civil War between 1850 and 1900. While 9 out of 10 knew George Washington was our first President, 4 out of 5 had no idea when Abraham Lincoln was President. Only 3 in 10 had even heard of the Magna Carta, and only 4 in 10 knew of Dred Scott.

A survey conducted here in Washington in 1989 by the Center for Science in the Public Interest asked 180 schoolchildren, ages 8 to 12, to name all the American Presidents they could. It also asked them to name all the alcoholic beverages they could. These kids could name an average of 5.2 alcoholic beverages, but just 4.8 Presidents of the United States. There was a 10-year-old girl who could rattle off 14 brands of beer and booze, but could name only four Presidents. There was a 7-year-old boy who knew 10 brands of beer and wine, but could list only "Aprilham Linchon" and "Ragon" as Presidents. Sobering statistics, indeed.

I raise this issue today as a plea to my colleagues in the political community, as we are, for their help in eradicating this epidemic of historical amnesia, and to encourage them not to exacerbate it. In our personal and professional lives as lawmakers, as public officials, as candidates, we find ourselves every day on the frontlines of current

events. Let us here, today, commit ourselves to making history, not making up history.

As we immerse ourselves in the rhetoric of the upcoming election year, let us forsake the lure of tailoring the scared fabric of our Nation's history to suit our own partisan ambitions and goals. Let us make an effort to understand—and help our constituents to understand—the delicate weave of social, economic and political threads that comprise that fabric. Let us agree not to unravel and reweave those threads into superficial, political prattle that neither serves nor does justice to our country and our people and certainly does little to help restore public respect for the Senate, the Congress and the Presidency. And I speak of politics at all levels.

The myths are many. I fear we know them all too well: Democrats are the champions of the poor, while Republicans are the handmaidens of the bloated plutocrat. Democrats start the big wars, while Republicans handle dollars with sense, are but a few examples of the myths that I speak of.

And now, as we enter an election year in the midst of an uncertain economy, the myth-makers are busy exhuming and breathing new rhetorical life into the myths of the Great Depression. Critics of the President and his administration's handling of our economy scurry to resuscitate the myth-shrouded spectre of Herbert Hoover, the whipping boy of the Democrats ever since the first regrettable forays into dirty tricks campaigning in the late 1920's.

You remember Herbert Hoover: that short-sighted, cold-blooded, introvert. That do-nothing, one-term failure of a President who, according to a recent issue of U.S. News & World Reports, "passively presided over the start of the Great Depression in the 1930's." You remember Hoover: That unfeeling, uncaring millionaire who fed and helped rebuild Europe after World War I, but who, as President, sat back and let his own people go hungry and jobless. You remember Hoover: who promised—and be sure you put quotes around these statements—"a chicken in every pot:" and assured a devastated American public that "prosperity is just around the corner."

Such are the Depression myths that surround Herbert Hoover. Of course, none of them, not even the oft-quoted quotes, survives even casual scrutiny of the historical record. What history shows is a President whose diversity of interests and activities ranks with that of Thomas Jefferson. As a publisher of over 30 volumes of great works, and whose analytical and intellectual depths are perhaps unmatched by any President over the last two centuries of American history.

The Depression myths that surround this man hold him, alone, accountable for a global economic cataclysm that brought the world to its knees, all within just 7 months of his inauguration. History, however, takes a longer view. While the myths trace the Depression's origins to Wall Street and Black Thursday, history pre-dates its origins by 15 years to the killing fields of Belgium, where the first and last casualty of World War I was a fragile European economy.

The myth-makers would have us believe that callous indifference and political paralysis promoted Hoover to fiddle while the Nation was consumed by an economic firestorm. History, however, recalls Herbert Hoover as the first American President to use his political influence and the power of the Presidency to construct an interventionist fireline to confront an economic tailspin. His Reconstruction Finance Corporation kept the flames from licking at the banks, the insurance companies, the railroads, and other institutions that comprised the economic backbone of the ailing American economy. When farm prices plunged in the 1930's, this do-nothing President ordered the Federal Farm Board to create the Grain Stabilization Corporation which stemmed the tide of panic in farm prices. Rather than mythical indifference to the needs of the unemployed and homeless, Hoover worked tirelessly with industry and with State and local governments to both preserve and create public and private-sector jobs—jobs that would both preserve and create a sense of dignity and self-worth that a Federal dole could not. At the same time the National Council of Social Workers was condemning proposals to create a Federal welfare bureaucracy, Hoover was anonymously donating $10,000 a year to the San Francisco Board of Welfare and quietly raising hundreds of thousands more to provide relief to the families of unemployed miners.

The myth-makers paint a portrait of Hoover as a Machiavellian millionaire, more concerned with protecting the empires of rich New York bank owners than feeding the families of out-of-work banktellers. History recalls a President who, in the midst of the Depression, sacrificed considerable political capital by raising the maximum income tax on the wealthiest Americans from 24 to 55 percent.

The myth-makers would have us believe that today's economic backdrop is a precursor of a deja vu replay of 1929. History recalls America in 1929 as the last economic domino to drop, not one that, like today, teeters as the economies of Germany, Japan, Italy, and Great Britain stand firm.

Collectively, these Depression myths depict Herbert Hoover as a pariah. They invite derisive comparisons to contemporary political figures deemed deserving of ridicule, contempt, and scorn. Yet, history remembers the unsolicited wave of respect and admiration afforded Herbert Hoover even by those who were, if myth is to be perceived as fact, his sworn political adversaries.

Within hours of being sworn into office on that dark day in Dallas, President Lyndon Johnson phoned Herbert Hoover to seek his guidance in handling the difficult days ahead.

President John F. Kennedy—smitten by what First Lady Jacqueline Kennedy described as "a slight case of hero worship"—invited Herbert Hoover in March 1961 to head the advisory committee of an innovative new program called the Peace Corps.

When George McGovern was named director of Food for Peace, he, too, sought Herbert Hoover's advice.

When Robert Kennedy's namesake son was born, Ethel Kennedy wrote Herbert Hoover. Should her new son be named Robert Francis Benjamin Franklin Herbert Hoover Kennedy?, she asked, adding in a postscript "Do you think Bobby can get some of you by osmosis?"

No-nonsense Harry Truman, in helping to dedicate Hoover's Presidential Library, described Herbert Hoover as "one of my closest friends." And, as you recall, he invited him to head up the Reorganization Commission of the Federal Government known as the Hoover Commission.

Hoover, he then said, was "one of America's greatest men," adding that "I speak advisedly, because I know most of them, and he's one of them."

Even Hoover's nemesis, Franklin Delano Roosevelt, once saw greatness in this man. In a letter written in January 1920 to the U.S. Ambassador to Poland, a young FDR, then Assistant Secretary of the Navy, had this to say about Herbert Hoover:

> He is certainly a wonder, and I wish we could make him President of the United States. There could not be a better one.

Mr. President, I come not to praise Hoover, but to bury the myths that surround him, as but an example of historic amnesia. And I ask my colleagues in Congress to repudiate these and other myths disguised as historical facts in ways that shortchange and cheapen our collective understanding of America's rich history and undermine the legacies of the men and women who have distinguished themselves in service to America.

We cannot allow America's history to become a casualty of partisan political bickering. And we cannot condone through our silence the actions and words of colleagues who play fast and loose with our history. As Herbert Hoover once asked:

> Are we upholding the front of human decency when we permit untruth and dishonesty in government officials to go unchallenged, whether in our home town, our home state, or in Washington?

I, like Mr. Hoover, think not.

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

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2057 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair regrets to interrupt the Senator. The hour of 12:30 has arrived, and the Senate is under a previous order.

Mr. ROTH. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the Presiding Officer.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Cal. 391, Carolynn Reid-Wallace, to be Assistant Secretary for Postsecondary Education, Department of Labor.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

So, the nomination was confirmed, as follows:

DEPARTMENT OF EDUCATION

Carolynn Reid-Wallace, of the District of Columbia, to be Assistant Secretary for Postsecondary Education. Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

Is there a further request with respect to the standing order of the Senate?

EXTENSION OF MORNING BUSINESS

Mr. GRAHAM. Mr. President, I ask unanimous consent that morning business be extended until the hour of 12:45 p.m.

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

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. GRAHAM. Mr. President, earlier today I heard comments regarding the proposition which is before the Senate, a proposition to either impose a moratorium on certain HCFA regulations on provider taxes and donations or to enact an NGA/administration compromise, the Durenberger amendment. The effect of implementing regulations without congressional action would be to restrict the ability of State to use innovative measures to raise some of the funds with which they match Federal Medicaid reimbursements.

Mr. President, in the past, I have heard statements that have disparaged State provider tax programs and, I believe, have done so indiscriminately and unfairly. Therefore, it is my purpose today to explain to the Senate the history, the rationale, and the performance of the provider tax program in the State of Florida.

We are considering a very serious issue, Mr. President, because, as I will indicate later, the consequences of adopting a policy that eliminates the State's ability to utilize these innovative forms of financing would be to deny health services to some of the most vulnerable members of our society.

I wish to explain the Florida provider tax program. In 1984, our State passed legislation creating the Public Medical Assistance Trust Fund [PMATF]. The fund was intended to provide Medicaid and other services for the medically indigent. The PMATF is funded through a 1.5-percent assessment on the net operating revenues of all acute care hospitals and through State general revenues. The program was implemented in 1985.

Some points about the program. Florida's tax is broad based. It applies to all acute care hospitals without any hold harmless or guaranteed reimbursements for participants.

The tax was a compromise agreed to by the State legislature, the hospital and insurance industry, and the business community—a unique demonstration of how all segments of the community can come together to achieve a common goal, a demonstration which I suggest is going to be necessary as we move to other areas of health care reform.

The State's assessment was created for several reasons: One was to level the playing field, the circumstance in our State as it had been prior to adoption of this program and which continues today, that relatively few hospitals, typically the urban public hospitals, are providing a disproportionate share of the State's indigent care.

Second, to allow the State Medicaid Program to improve and expand its available services.

Third, to respond to a directive of the Reagan administration, which asked the States to utilize innovative mechanisms for its State Medicaid match.

And, fourth, to finance optional indigent medical care beyond those mandated or financed through Medicaid and some mandated Medicaid Programs.

Mr. President, Florida's hospital assessment is based on all public and private acute care hospital revenues, is required regardless of whether the hospital participates in Medicaid and regardless of the extent of Medicaid participation, and it is not included as an allowable cost in the Medicaid cost report.

This year, Florida's tax will generate an estimated $174 million in revenues, which will be used in part for the State match for Medicaid. Last year, Florida spent most of the $147 million in revenues from the assessment on keeping up with just the few Federal mandates which had been imposed by Congress. Thirty million dollars in revenues from the tax are used for non-Medicaid indigent care purposes. About $20 million in the fund is generated from sources other than the hospital provider tax.

In response to the argument that all provider taxes maximize the Federal matching rate and, therefore, cause an undue burden on Federal revenues, in fiscal year 1985–86, the first year of the Florida program, Florida's provider tax represented 16.44 percent of the State Medicaid match. By fiscal year 1990–91, the tax was 9.9 percent of the State Medicaid match.

So, Mr. President, in the case of Florida, the charge cannot be made that this has been used as a means of expanding the State's drawdown of Federal funds because, in fact, the proportion of our Medicaid reimbursement represented by the hospital provider tax has been a declining percentage.

Mr. President, indeed, the administration has said repeatedly that Florida is the model provider tax program. According to a November 25 letter from Dr. Gail Wilensky, HCFA Administrator, Florida's tax is "exactly the type of tax that we believe would meet the spirit of this compromise legislation."

A July 15, 1991, Washington Post editorial characterized Florida in the following manner: "Some of these tax and contribution schemes are legitimate. Florida, for example, since 1984 has levied a modest tax on the net operating revenues of all its acute care hospitals. The effect is to spread the cost across the State and population through insurance. The proceeds help pay Medicaid's cost."

Mr. President, I have maintained for several years that Florida's program is a valid means for leveling the playing

field, causing all our acute care hospitals to make some contribution toward indigent care and redistributing the burden providing that care.

That is why I introduced legislation in 1989 to protect provider taxes and donations. We are considering the implementation of that provision of OBRA 1990 today. It is my hope that ongoing negotiations result in an acceptable compromise and a compromise that this Senate, this Congress, can approve before we recess.

During these difficult economic times, the curtailment or elimination of the State's ability to use provider taxes would be devastating. In my State, as an example, if we were denied the right to use this means of financing a portion, last year less than 10 percent, of our Medicaid match, it would have some of the following effects:

In Florida the fund finances several important mandatory and optional Medicaid programs; the Medicaid coverage of pregnant women and infants up to 150 percent of poverty, for example, the congressionally mandated qualified Medicare beneficiary program under which States are required, through Medicaid funds, to pay the out-of-pocket costs for the elderly indigent's participation in Medicare. In Florida we go beyond that by supplementing those who are eligible for the qualified Medicare beneficiary programs with full Medicaid coverage. Last, Florida's provider tax helps fund an optional medical needy program for non-Medicaid-eligible persons with catastrophic expenses. All of those programs, Mr. President, would be in jeopardy if we did not act before this Congress recesses on protecting provider taxes.

Thank you, Mr. President.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. LIEBERMAN. Mr. President, today the Senate will be taking action on H.R. 3595, the moratorium on the HCFA regulations under Medicaid. I want to indicate to the Senate that this bill, as reported out of committee, would have done a grave injustice to the State of Connecticut because it contained a provision freezing classification and reimbursement rates for a disproportionate share of hospitals that was in effect as of September 30 of this year, 1991. That provision would have been manifestly unfair because States were given no notice that the rules of the game were going to change on September 30. In fact, they were given no warning that if they wanted to make changes related to this disproportionate share hospital provision, they had better get them approved by HCFA by September 30.

Mr. President, the language here is arcane but the effect on Connecticut is much more than merely technical. In fact, if these provisions were allowed to stand, it would have a devastating effect on my already recession-wracked State. It would deprive Connecticut of the possibility of $236 million in savings under two State planned amendments which have been filed but were filed after September 30. The State had no reason to believe that it needed to have these amendments approved prior to that date.

Mr. President, I understand the significance of the moratorium on the HCFA regulations and I have no problem with it, but I could not have supported legislation which so seriously and retroactively punished my State. Connecticut has been very hard hit by the current recession. Unemployment continues to rise, businesses are closing, and the State government itself has had to make extremely severe budget cuts while raising taxes at the same time. If Congress now came along and told the State that the planned amendments which it had submitted in compliance with the HCFA regulations after September 30, 1991, are not eligible for this possible $236 million of reimbursement because of purely arbitrary retroactive cutoff dates, it would have a truly devastating effect on Connecticut.

Mr. President, that is the bad news. I am pleased to say that the good news is that, once learning of the effect of this provision in this bill and speaking to the chairman of the Finance Committee, to the Senator from Minnesota [Mr. DURENBERGER], and to our friends in HCFA and OMB, I am very pleased and grateful to be able to say that I gather that language will be submitted as part of an amendment to this bill, H.R. 3595, that will protect the State of Connecticut from this arbitrary cutoff and an opportunity to bring some relief to our recession-wracked, overtaxed, and budget-pressured State of Connecticut.

I want to extend my heartfelt thanks to the people who have been so responsive to us: The Senator from Texas, Mr. BENTSEN; the Senator from Minnesota, Mr. DURENBERGER; Dr. Gail Wilensky, the Administrator of HCFA; Tom Scully of OMB; and particularly three Senate staff people; Alexander Polinsky, of Senator DURENBERGER'S office; and Marina Weiss and Janis Guerney of Senator BENTSEN'S office. Let me just say, in a very real and direct and tangible way, all of the people of Connecticut are grateful for this understanding and this response.

I thank the Chair and I yield the floor.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

The Chair would remind the Senator from Georgia that the time extended for morning business has expired.

Mr. FOWLER. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

MEDICAID MORATORIUM AMENDMENTS OF 1991

Mr. FOWLER. Mr. President, I rise today on behalf of the more than 800,000 citizens in the State of Georgia whose access to quality health care is dependent upon the continued financial stability of the Medicaid Program.

I also speak today on behalf of my friend Zell Miller, the Governor of my home State of Georgia. Like many Governors across the Nation, Governor Miller fears that the proposed changes to Medicaid funding rules contained in the Durenberger amendment represent another lethal blow to State budgets that are already suffering from economic decline, rising health care costs, increasing Federal mandates, and a lack of domestic concern by this administration.

Mr. President, along with many others, I have been working on this issue for many months. Back in April, I introduced legislation to cap voluntary donations at 10 percent. I wrote to Gail Wilensky, Administrator of the Health Care Financing Administration, and Richard Darman, Director of the Office of Management and Budget, last July, and again this fall, expressing concern over the proposed rule changes and their potentially disastrous effect on disproportionate share hospitals.

Like a number of my colleagues on both sides of the aisle, I sought a sound, fair, and well-considered restructuring of the system.

Today, as the Congress prepares to recess, the administration now comes hastily forth with what can only be described as a complete restructuring of the financing of the Medicaid Program.

Even at this late hour, this is a critical issue that deserves our attention, but the first question we must ask is: What is the proposal? If ever there was a moving target, this proposal is it.

My distinguished colleague from Minnesota, I understand, will offer an amendment that is billed as a compromise between the National Governor's Association and the Office of Management and Budget. The Governor of my State and his Medicaid advisers barely know what is contained in the agreement. Certainly, they have not agreed to it. Senators did not have the benefit of seeing even a draft of this language until late on Saturday, and I understand now it was being rewritten right up to this time as I speak. How can we even consider endorsing a proposal which acts more like a brush fire than it does a settlement agreement?

It is my understanding that administration officials worked with Senators

from many States last night in an attempt to address their concerns over this so-called OMB-National Governors Association agreement. Mr. President, despite my well-known interest in this matter, no one from the administration attempted to include me or my staff in these last minute negotiations. As a result, the agreement continues to present a significant threat to our State budget and, as I mentioned, more importantly, to the thousands of Georgians who rely on the Medicaid Program for their health and well-being.

There are many questions about this so-called compromise, but perhaps the main point to be made today is that there is not time for the deliberative debate that needs to occur between the administration and the Congress and all the parties affected by this proposal. That is why I have said repeatedly that a moratorium on the October 31 regulations is needed, and why I have urged Senate passage of H.R. 3595, as passed by the House of Representatives.

Many States, not just Georgia, will be harmed if HCFA's regulations or the Durenberger amendment are enacted without major revision. Both remove from State legislatures the authority to make their own taxing decisions, and both impose on the States constraints which are not in the interest of the States or the Medicaid recipients they cover. Despite the administration's statements that it supports federalism, the amendment centralize more authority in HCFA.

The amendment omits the assurance contained in the original agreement that would permit States to commit tax revenues to reimburse Medicaid providers who paid the tax. In addition, it gives HCFA broad discretion to disallow Federal matching if any such guarantee is made by a State to the providers being taxed. This omission leaves the states at the Health Care Financing Administration's mercy and cannot be a simple oversight.

The original National Governors' Association agreement also contained provisions protecting the longstanding right of the States to use funds transferred to the Medicaid Program from other State agencies, counties, special purpose districts or other governmental entities, but the amendment contains no such provisions. Again, State Medicaid programs are left unprotected.

Mr. President, in 1990, the people of Georgia approved a constitutional amendment to initiate a program of provider donated funds. These funds are appropriated by the Georgia General Assembly and have been disbursed pursuant to Medicare State plan amendments approved by HCFA. The State of Georgia has used these funds to pay the perinatal case management, postpartum care, family planning, physician payments for obstetrical care, and payments to the 70 disproportionate share hospitals, which serve the vast majority of our low-income residents. Two-thirds of these hospitals are rural, and without these payments which HCFA proposes to artifically cap, many of these rural hospitals would close.

I am proud of the fact that Georgia was the first State to make disproportionate share hospital payments. I am proud of the fact that Georgia and its entire congressional delegation worked to eliminate HCFA's upper limit payment cap to these hospitals. And I want to express my grave concern today about the proposed caps on such payments included in the proposed Durenberger amendment. I also take pride in having our entire congressional delegation standing together again in opposition to this latest effort to hamper the States and do harm to Medicaid.

The American people deserve a full public debate on the need for health care reform. We cannot begin that debate by rushing through a proposal that pulls the rug out from under Medicaid and leaves us no foundation on which to build a better health delivery system.

Mr. President, if I may make one final point. There are those who would have us believe that the increase in Federal Medicaid expenditures is attributable to State financing scams of some sort. I deeply resent the suggestion that Georgia's program—which was approved overwhelmingly by Georgia voters as an amendment to our State constitution—in any way falls into that category. And I resent the notion that Georgia's Governor and legislature should come to HCFA hat in hand, to have HCFA tell Georgia how it should finance its Medicaid Program.

But what I resent most is the administration's ignorance as to what has really caused increased Medicaid expenditures, namely, the growth in recipients. In Georgia alone, the number of covered recipients is 23 percent higher this year than last. And this has nothing to do with our donated funds program. It has to do with an economy that is in recession, people who have no health care coverage, and mandates which have been placed on the States by HCFA and the Congress.

Mr. President, Medicaid is a program that was developed to assist people who cannot afford health care coverage on their own. It does not take any kind of scientist, rocket or molecular, to figure out that this administration has played a major role in driving up State Medicaid costs by abandoning its traditional partnership with the States, by failing to propose an economic policy that keeps Americans on the job and by ignoring the need for comprehensive health care reform.

Under this administration, real GNP growth is lower than at any point since Mr. Hoover occupied the White House, employment and income growth are at their lowest levels since World War II and the official poverty rate is the highest it has been since 1967—with the exception of 5 years during the previous administration. At the same time, health care spending is at the highest level of gross national product ever recorded—an estimated $756 billion for this year alone. Surely President Bush, or whoever is in charge of domestic policy at the White House, understands the linkage between our current economic decline and the increase in the number of Americans who simply cannot afford health care.

If there are more poor people in America, there are more people who have no other choice than to rely on Medicaid to provide the health care services that they need and deserve.

Instead of chastising the States and their Medicaid Programs, we should be commending them for addressing the immediate needs of the medically indigent in the best way they can. We do the States and the millions covered by Medicaid an injustice by even considering a proposal such as the one that is now before us.

As a member of both the Budget and Appropriations Committees, I understand the serious budget and fiscal implications of the existing Medicaid match system and the type of radical proposal on the table today. With so much at stake here, in terms of dollars and lives, I think we owe it to the American people to get the facts before we act. I ask my colleagues to oppose this amendment and to support a nine month moratorium on HCFA rulemaking.

The PRESIDING OFFICER. The Senator from West Virginia is recognized. The Chair reminds the Senator that time has expired in morning business.

Mr. ROCKEFELLER. The Senator from West Virginia asks unanimous consent to speak for no more than 15 minutes.

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

MEDICAID MORATORIUM

Mr. ROCKEFELLER. Mr. President, last year during negotiations of the Omnibus Reconciliation Act of 1991—in which I participated as a conferee—Congress agreed to, and the President signed a law that allowed States to assess taxes on hospitals, nursing homes, and certain intermediate care facilities to fund the State's share of Medicaid. Congress also extended a moratorium on the issuance of regulations that would prohibit the use of voluntary donations to fund a State's share of Medicaid.

On September 12 of this year, the Health Care Financing Administration [HCFA] issued final regulations imple-

menting that legislation that went far beyond congressional intent, and a plain reading of the law. The regulations were ambiguous and confusing.

The Children's Defense Fund testified last Tuesday before the Finance Committee that since Medicaid's inception 25 years ago, it is hard to remember a more extraordinary rule, and that it "represented the complete undoing * * * of health service delivery arrangements that constitute the health care lifeline for millions of poor and medically underserved women and children * * *"

On October 31 of this year, HCFA issued regulations to clarify what was meant by their September 12 regulations. But the clarifying regulations only served to further muddy the waters. And, if that wasn't enough, HCFA added new regulations on disproportionate share payments.

Since HCFA's issuance of clarifying regulations, intense negotiations have been underway between the National Governors' Association and the administration to work out an agreement on: Medicaid voluntary donations, provider taxes, and disproportionate share payments.

My State has major concerns about this agreement—as do others. While I certainly am—in fact, have long been—a proponent and a major advocate of interested parties sitting down together to negotiate what is ultimately in everyone's best interests, I have deep concerns that the Congress is being asked to legislate on an agreement that was reached so late last week, and with so little time left in the legislative year. In fact, the Finance Committee had so little time to carefully review and consider this agreement at last Friday's finance markup, that we reported out the NGA/administration agreement without recommendations by voice vote. I voted no.

Speaking as the junior Senator from West Virginia, I would like to State, for the record, how West Virginia has dealt with a chronic funding shortfall in its Medicaid Program. In 1989, West Virginia ended its fiscal year owing its providers about $61 million and its Medicaid payments lagging about 2 to 4 months behind. In fiscal year 1990, West Virginia's Medicaid shortfall was about $43 million and, in fiscal year 1991 it was $37 million; with payments for services still significantly delayed.

West Virginia's Medicaid Program is now fiscally sound and claims are now paid on time. Even though West Virginia has complied with, and in some cases, exceeded Federal mandates to improve coverage for pregnant women, infants, and children.

In addition, to stem the growing tide of doctors who refused to provide prenatal care to pregnant women or see pediatric patients enrolled in Medicaid, West Virginia increased its reimbursement rates for selected services. Payments for obstetrical services were increased from $600 to $1,100. Reimbursement for pediatric offices visits were increased from $10 a visit to $21 to $50 per visits depending on what service visits were increased was in 1981, when the payments went up from $7 to $10.

How did West Virginia manage to turn around their Medicaid Program? They did it the hard way. They did it by raising taxes and setting priorities. They did not do it through what the administration calls scams or schemes.

West Virginia ranks 46th in family poverty. So it may not come as a surprise, to some of you, that over 40 percent of all babies born in West Virginia are covered by the Medicaid Program. But without West Virginia's commitment to expand and improve its Medicaid Program—beginning first with pregnant women and children—many, many of those babies would have been born uninsured. Also greatly increasing the likelihood that their mothers would have gone without prenatal care. West Virginia has saved the Federal Government a bundle by getting cost-effective prenatal care to them, rather than having to eventually pay for neonatal intensive care unit services for their children.

Last month, the West Virginia State Legislature enacted legislation to improve reimbursement rates from current Medicaid levels that are 23 percent of private insurance rates, on average, to 77 percent of private insurance rates. Until Medicaid reimbursement rates are adequate, Medicaid beneficiaries will not have access to mainstream medical care.

Medicaid beneficiaries whose States have adequate reimbursement rates receive their care in doctors' offices, while those in low fee States get care in costlier settings, such as emergency rooms or hospital outpatient departments. Again, West Virginia is working to improve the health of its citizens and encourage more cost-effective care in the long run.

West Virginia's provider tax program was developed after a careful reading of the legislative language in OBRA 1990. West Virginia's legislation is consistent with congressional intent. In fact, their provider tax program could be implemented under the regulations issued by HCFA, because it deals only with doctors, dentists, nurse practitioners, and other noninstitutional providers. As published, HCFA's regulations only apply to hospitals, nursing homes, and intermediate care facilities for the mentally retarded.

The NGA/administration agreement could seriously harm West Virginia's plan to improve access to health care for the over 145,000 children in West Virginia who rely on Medicaid. The NGA/administration agreement could seriously impair West Virginia's attempt to draw more doctors, nurses, physician assistants, and others to the 43 counties—out of 55 counties in West Virginia—that are designated health professional shortage areas.

Mr. President, I am not at all comfortable with enacting legislation that the Finance Committee has had so little time to carefully review. I am not pleased with moving forward on legislation that may have some very serious, currently unknown, consequences for millions of Americans—many of them children—who depend on the Medicaid Program for their health care.

The Children Defense Fund outlined a small sampling of State programs in jeopardy because of HCFA's rules last week before the Finance Committee:

In Utah, collaborative efforts between the Utah Health Department and Medicaid agencies resulted in expanding Medicaid eligibility to 133 percent of poverty for pregnant women; improved enrollment through the use of outstation workers; home visits; and a massive statewide outreach program. Result: a significant drop in infant mortality.

The Prenatal Care Assistance Program, New York's public maternity program, serves thousands of pregnant women and children eligible for Medicaid. An additional 70,000 low income pregnant women are served through a voluntary transfer of funds arrangement to the State Medicaid agency from the public maternity program.

In Mississipppi, about 2,400 extremely high risk, low income pregnant women are intensely monitored throughout their pregnancy to improve birth outcomes. This $2.5 million program saves millions by avoiding bad birth outcomes.

It's not clear to this Senator—nor do I think any of my colleagues can say with certainty—how these programs and other vital health programs will fare under the NGA/administration agreement. It's full ramifications are not known because of the haste in which the agreement was made.

That is why I personally would favor legislation that was favorably reported out of the Finance Committee last Friday.

That legislation would impose a two-way, short-term moratorium on HCFA issuing new regulations and prohibit States from setting up new programs until April 1, 1992. Giving us time early next year to more thoroughly review the NGA/administration agreement.

Although I would prefer a short-term moratorium, I am sympathetic to the many Governors who want a permanent solution now, so that they can adequately prepare for next year's legislative sessions and in developing their budgets.

Owing to health care inflation and to the recession which has increased the number of families eligible for Medicaid, States are seeing more and more of

their dollars being eaten up by the Medicaid Program. Last year Medicaid accounted for about 14 percent of total State spending; after Medicaid spending increased by 18 percent from the previous year. By 1995, States will be spending up to 22 percent of their total budgets on Medicaid.

Mr. President, this issue is symbolic of a much bigger problem. Thirty-three million Americans—one-third of them children—lack basic health care coverage. Who is going to pay to make sure every American has basic health coverage? Who should have that responsibility? Individual families? Should businesses provide coverage to its workers, much like it provides a minimum wage? Or should Government pay for the care of all Americans? This country is currently engaged in a very dangerous game of hot potato—trying to shift costs from one payer to another. In reality, we all end up paying for those who forgo medical care because they can't afford it, or because they can't find a doctor who will see a Medicaid patient because of lousy reimbursement rates.

The Bush administration claims that allowing States to tax health care providers, or allowing hospitals to donate funds, fundamentally alters the traditional Federal-State matching formula under the Medicaid Program. I say that these are not traditional times.

I have heard Bush administration officials say that if the States want to fundamentally alter the formula used in calculating Federal matching payments or to fundamentally change the current Medicaid Program, then they ought to come in and sit down with the administration and discuss those types of reform. I hope that is an invitation for serious discussion of health care reform. In fact, I have a few ideas of my own for reform and would gladly sit down at that table.

In my view, the problems confronting States in financing their Medicaid programs are a cry for bold, major reform of our entire health care system.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 1:11 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

THE BOYS AND GIRLS CLUBS OF AMERICA

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 525 regarding the Boys and Girls Club of America; that the Senate proceed to its immediate consideration; that the bill be deemed read a third time, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 525) to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Club of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 525) was deemed read a third time and passed.

WAIVING THE PERIOD FOR CONGRESSIONAL REVIEW FOR CERTAIN DISTRICT OF COLUMBIA ACTS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 3709, a bill to waive the period for congressional review for certain District of Columbia acts; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times and passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3709) to waive the period of congressional review for certain District of Columbia acts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 3709) was deemed read a third time and passed.

COMMENDING THE PARTICIPANTS IN THE MIDDLE EAST PEACE TALKS

Mr. BENTSEN. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 226, commending the participants in the Middle East peace talks just received from the House; that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table and the preamble be agreed to.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 226) commending the participants in the Middle East peace conference convened in Madrid, and urging them to continue their pursuit of a just and lasting peace in the Middle East.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 226) was agreed to.

The preamble was agreed to.

MEASURE INDEFINITELY POSTPONED—S. 1987

Mr. BENTSEN. Mr. President, I ask unanimous consent that Calendar No. 329 S. 1987, a bill to amend the Arms Control Act to authorize the President to transfer battle tanks, artillery pieces, and armed combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe, be indefinitely postponed.

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

NATIONAL VISITING NURSE ASSOCIATIONS WEEK GEOGRAPHY AWARENESS WEEK' NATIONAL TRAUMA AWARENESS MONTH'

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of the following joint resolutions just received from the House: House Joint Resolutions 212, House Joint Resolutions 201, House Joint Resolutions 300; that the joint resolutions be deemed read three times, passed, and the motion to reconsider be laid upon the table, en bloc; and that the preambles be agreed to to; further, that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the joint resolution (H.J. Res. 212) to designate the week beginning February 16, 1992, as "National Visiting Nurse Associations Week" was deemed read a third time, and passed.

The preamble was agreed to.

So the joint resolution (H.J. Res. 201) designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week" was deemed read a third time and passed.

The preamble was agreed to.

So the joint resolution (H.J. Res. 300) designating the month of May 1992, as "National Trauma Awareness Month" was deemed read a third time and passed.

The preamble was agreed to.

NATIONAL TRAUMA AWARENESS MONTH

Mr. BENTSEN. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 229, the Senate companion

to House Joint Resolution 300, and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times and passed, and the motion to reconsider be laid on the table, and the preamble be agreed to.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 229) designating the month of May 1992, as "National Trauma Awareness Month".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I am pleased that the Senate is considering Senate Joint Resolution 229, a resolution to designate the month of May 1992 as "National Trauma Awareness Month." For the past 4 years, I have had the privilege of sponsoring this joint resolution, which the Senate has passed. I am pleased to sponsor this measure again this year.

It is important to focus the public's attention on ways to prevent trauma and on the improvement that can be made in trauma care. With the enactment of this resolution, the Trauma Society members can begin to mount their grassroot programs for 1992 to heighten the public's awareness of Trauma. Also, States can coordinate their various activities in conjunction with emergency medical centers.

As a nation, we spend $70 billion annually on traumatic care due to highway accidents. During the upcoming holiday season, everybody should remember the gravity of the traumatic-injury problem, since this is time when friends and families are traveling the highways. I think it most appropriate that we pass this resolution before we leave. I hope that the Senate will favorably act on the "National Trauma Awareness Month" resolution.

So the joint resolution (S.J. Res. 229) was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 229

Whereas more than 9,000,000 individuals in the United States suffer some type of traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than 44 yeas of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has made trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $148,500,000,000 on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through the provision of emergency medical services and trauma systems; and

Whereas the people of the United States must be educated regarding the prevention and treatment of trauma and the proper and effective use of emergency medical services and systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1992, is designated as "National Trauma Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

GWEN B. GILES POST OFFICE BUILDING

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 375, H.R. 3322, designating the Post Office Building in St. Louis, MO; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3322) to designate the building in St. Louis, Missouri, which is currently known as the Wellston Station, as the "Gwen B. Giles Post Office Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

So the bill (H.R. 3322) was deemed read a third time and passed.

ACTION VITIATED AND MEASURE PLACED ON CALENDAR—S. 754

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate action on Calendar No. 320, S. 754, a bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, be vitiated, and placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TORTURE VICTIMS PROTECTION ACT

Mr. McCONNELL. Mr. President, I understand the Senate has received from the House, H.R. 2092, the Torture Victims Protection Act.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. On behalf of Senator SPECTER, I ask that that bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2092) to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

Mr. McCONNELL. I now ask for its second reading.

Mr. BENTSEN. I object to the second reading, Mr. President.

The PRESIDING OFFICER. Objection has been raised to the second reading. The bill will be read a second time on the next legislative day.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS, AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL—CONFERENCE REPORT

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on H.R. 1724 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferences.

The PRESIDING OFFICER. Without object, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, November 26, 1991.)

The PRESIDING OFFICER. Under the previous order, it is so ordered that the conference report will be brought up. There will be 30 minutes, equally divided, in the usual form.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. Mr. President, it is critical that we enact this conference report as promptly as possible. The conference report incorporates without change the unemployment compensation amendment passed by the Senate on November 8. It modifies the emergency unemployment bill already signed by the President, Public Law 102-164, to ensure that long-term unemployed workers who have exhausted their regular benefits will be eligible to

receive up to 13 weeks of emergency benefits regardless of the State they live in. Under Public Law 102-164, 23 States are eligible to pay workers only 6 weeks of emergency benefits, rather than the 13 or 20 weeks of benefits that other States are able to pay.

The conference report also extends "reach back" benefits to workers in all States. This means that workers who exhausted their regular benefits on or after March 1, 1991, but before the start of the program on November 17, will be eligible for emergency benefits regardless of where they live. Under Public Law 102-164, workers in 18 States do not qualify for these benefits.

Because this bill will be enacted after the effective date of the program, there are certain requirements in present law relating to eligibility requirements for extended benefits that States will not be able to meet. I want to clarify that it is the expectation of the conferees that the Department of Labor will waive these requirements, in order that States will not be penalized for failure to take actions that, given the retroactive nature of this legislation, they cannot reasonably be expected to take.

We have every reason to believe that the President will sign this bill into law immediately. If he does, I am told that checks can begin to go out within the next few days. I believe the Congress shares with the administration the obligation to see that these benefits are in the hands of those who need them as quickly as possible.

This bill also includes a number of trade provisions that deserve mention.

Most important, it will provide permanent most-favored-nation [MFN] treatment to Estonia, Latvia, and Lithuania. We witnessed something this fall that I was not sure we would ever see—the three Baltic states regained their independence from the Soviet Union. This one event is probably the best illustration of the profound changes that are taking place in that part of the world.

In 1974, we adopted a set of procedures—in title IV of the 1974 Trade Act—for granting MFN to those countries that were not receiving it then. That included Estonia, Latvia, and Lithuania. In fact, these three countries were only swept into title IV because they were still controlled by the Soviet Union. Now that they have regained their independence, it is plain that they do not belong in title IV and should not be subject to its requirements. This legislation provides that the Baltic States will receive MFN unconditionally.

This bill also recognizes the profound changes that have occurred in Czechoslovakia and Hungary—the two countries in Eastern Europe that have led the way in adopting democratic reforms and moving toward market-based economic systems. This bill gives the President the authority to grant Czechoslovakia and Hungary MFN status on a permanent and unconditional basis. It would fully normalize our trade relations with these countries, and put them on the same footing as almost all of our other trading partners. I cannot help but remember my first visit to Czechoslovakia on the ground. I was there in the air, uninvited, a few times before. But I recall being there in 1971, and getting on an elevator in a hotel operated by a very old man. As I got on the elevator, he turned to me and said, in English, "You are an American, aren't you?"

I said "Yes."

He said, "Are you one of the Senators visiting?"

I said "Yes."

He said, "Senator, when will we be free?"

I rode all the way to the sixth floor without giving him much of an answer. I am not sure he ever saw freedom, but at least his country has it now. This conference agreement also fulfills a commitment made by the administration when they negotiated the trade agreement with the Soviet Union which was approved by the House last week, and which we approved yesterday. It repeals an outdated, unnecessary measure—a ban on imports of gold coins from the Soviet Union.

And it strengthens the bill that the Congress passed earlier this year on chemical and biological weapons. It adds import sanctions to the list of sanctions to be imposed against companies and countries that develop, use, or stockpile chemical and biological weapons in violation of international law or against their own citizens.

Finally, it extends trade benefits to the four Andean countries—Bolivia, Colombia, Ecuador, and Peru—that have been fighting an uphill battle against the powerful drug cartels. I have some reservations about the bill: I'm always concerned about the effects that one-way trade benefits might have on the workers in this country. But I decided not to oppose this provision in order to make sure that American workers would benefit as soon as possible from the unemployment bill included in this package.

Without question, the most important thing is that we approve this conference report as soon as possible so that jobless Americans in all 50 States will finally get the help they need to pay their mortgages, meet the payments on their cars, and feed and clothe their children.

I urge my colleagues to support the conference agreement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas, the minority leader.

Mr. DOLE. Mr. President, let me indicate many of us made our statements last evening, including this Senator. I commend the chairman of the Finance Committee for his very strong statement and very positive statement in all aspects to this particular legislation.

I particularly agree with him in the statement with reference to the Baltic States, Estonia, Latvia, Lithuania, and also Czechoslovakia and Hungary. These are positive measures when we extended MFN on a permanent basis, and I am certain that all of our colleagues will support us in that effort.

I thank the chairman for his tireless efforts on behalf of America's unemployed, and I am pleased that we have reached this point.

It seems to me that there is no request for time on this side. I am going to yield back the remainder of the time on this side.

REGARDING UNEMPLOYMENT COMPENSATION BENEFITS

Mr. BROWN. Mr. President, I rise today to express my concern regarding the most recent unemployment compensation bill, H.R. 1724, which the Senate approved earlier today. The fact is that this bill adds $505 million to the Federal deficit in fiscal year 1992, according to the Congressional Budget Office [CBO]. This is in addition to the $1.225 billion increase in the federal deficit included in the Emergency Unemployment Compensation Act of 1991, H.R. 3757, which the Senate passed on November 15, 1991.

Taken together, the bills increase the fiscal year 1992 Federal budget deficit by $1.7 billion, including an $878 million tax on jobs which occurs by extending the 0.02 percent FUTA supplemental tax for one year. This tax increase discourages the creation of new jobs and could force the layoff of thousands of workers, exactly what we don't need.

I favor assistance for our unemployed and have supported several measures that provide assistance that don't violate the budget agreement. I have opposed the measures that break the budget. Ultimately, they will harm the unemployed by discouraging new jobs.

H.R. 3757 and H.R. 1724 both sidestep the pay-as-you-go requirement in last year's budget agreement. This has the very real result of increasing the deficit—estimated to be $362 billion in fiscal year 1992. Additional debt is not the answer. Inevitably, the Federal Government will be forced to raise revenue or borrow money to finance this additional debt.

Congress and the administration should instead be working to enact unemployment compensation legislation which pays for any additional benefits without increasing the budget deficit or discouraging the creation of jobs.

STATEMENT IN SUPPORT OF MFN FOR THE BALTIC STATES AND THE SOVIET UNION

Mr. LIEBERMAN. Mr. President, I rise in support of extending most-favored-nation [MFN] status to the Baltic States and the former Soviet Union. This is an appropriate action at this

time, considering all the positive events that have taken place in that part of the world in the past few months.

The Baltic States after enormous struggle have won their freedom and deserve our support. The best way to truly assist them with the rebuilding of their economies is through trade and investment. There are real opportunities for American companies in doing business with the Baltic States. MFN status will help our companies realize those opportunities.

Changes in the former Soviet Union are dramatic as well. The question being debated throughout most of the republics is not whether to implement a program that will lead to a market based economy but what kind of program to implement. Emigration from the Soviet Union is no longer an issue, the real problem is whether or not the West can accommodate those who want to and can afford to leave.

The related question of whether we should extend MFN to the individual republics of the former Soviet Union must be addressed. As long as the republics meet the criteria set for granting MFN as a whole, such as compliance with the Jackson-Vanik amendment, then there is no reason that they should not be given MFN. They need trade and an economic relationship with the West if they are to succeed in building market economies.

Trade can benefit the United States as well. American manufactured exports to the various republics of the former Soviet Union are growing even without MFN. The Department of Commerce predicts that they will reach the level of $1 billion this year, an increase of nearly 30 percent from the same period of last year.

Exports of data processing equipment, for example, have increased at a fast rate, from about $2 million in 1988 to the present level of over $110 million annually. There is a vast untapped market in the Soviet Union. If we help our companies get involved in those markets now, by granting MFN, then we can ensure that our share of the future market will be substantial and our people will benefit proportionately.

We should show support for the Baltic States and the republics of the former Soviet Union by extending MFN status to them.

Mr. BENTSEN. Let me thank the minority leader for his cooperation not just on the trade questions, but for the long hours we put in working out the problems on the extension of unemployment benefits. This was a critical measure, and we took a bipartisan approach on it. I am appreciative of that. I also want to extend my thanks to the majority leader for his tireless work on behalf of the unemployed.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report on H.R. 1724.

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate now go into morning business for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for a period of 15 minutes to proceed as though in morning business.

THE COLD WAR IS OVER

Mr. METZENBAUM. Mr. President, as we meet here today there is a reality that I am not sure the President of the United States is aware of. I think it is time that somebody tell the President that the cold war is over and that the Soviet Union is now a broken-down welfare case; that the Warsaw Pact no longer exists; and that we no longer need to spend $160 billion every year to defend Europe from a country that barely exists. I think it is time somebody tell the President that we no longer need to keep 280,000 U.S. combat troops in Europe at the taxpayer's expense.

I am not advocating that we bring home all of our troops, but I believe it is totally inappropriate that we continue to spend over half of the defense budget to maintain 280,000 troops over there.

The cold war is over. We won.

The only Soviet troops remaining in Central Europe are stationed in Eastern Germany as a favor to the Soviet Government. The Germans are actually paying for the Soviet troops stationed in East Germany.

The Soviets have such a serious housing shortage in their own country that they have no place to put their returning troops. So they stay in Germany—courtesy of the Germans.

Consider that irony. If that is not an unbelievable situation, I have never heard of one. We pay to defend Germany from the very Soviet troops that the Germans are supporting. We are providing dollars to protect against the Soviet troops to help defend Germany against Soviet troops that are stationed in East Germany and are being paid for by the Germans. That is unbelievable.

Historians will look back and say: "There is something we do not understand about that." And, frankly, I do not understand it, and I do not think the American people would understand it if they knew about it.

Mr. President, there has to be a stop to this unending waste of billions of dollars paying for our troops to be stationed in Europe against an enemy that no longer exists.

Continued excessive spending on troops in Europe is contributing to serious and severe problems here at home. Last year, we had a combined world trade deficit of $101 billion. Every week there is a story in the newspaper about a Japanese company or European company buying another American corporation. In the last 3 years, foreign companies spent $160 billion buying up U.S. corporations. Last year, we spent $160 billion for our NATO commitment.

Every dollar we spend on troops and tanks in Europe is a dollar the Europeans have to spend on themselves. It is a dollar that flows out from this country to Europe. What an unbelievable effort it requires of us to try to maintain a balance of trade. We look at the figures coming through on the TV screen or in the newspapers reporting on a $6 billion shortflow of dollars, more going out than came in.

But what about the billions we are sending overseas every single day of the week, every month, every year, to pay for our troops in Europe? If those troops were back in this country, or if they were phased out, those same dollars could be used to rebuild the infrastructure of this country. Those dollars could be used to make America a greater country, to build up our country. But instead, we are sending those dollars overseas for the European countries to use as they please.

Every dollar we spend overseas is a dollar we do not have for our industries. It is a dollar we do not have for health care, for education, to protect the environment, to build decent roads and bridges. The issue could not be more clear. The world has changed. Our economy is on the ropes. Growth is slower than at any time since World War II. Family disposable income is down; average wages are down 9 percent since 1979. Only a week ago Friday, the stock market dropped 120 points, the largest drop in 2 years.

People in this country are worried about crime; they are worried about drugs, and families starting out can no longer afford to buy their own home. They have to take out a mortgage to send their kids to college. Thirty million Americans have no health insurance, a number that increases with every job layoff. People are worried about education, about pollution.

It is time we recognize reality in this country. The Russians are not the greatest threat we face today; they are not a threat at all. The defense authorization conference report contains an amendment that I and the Senator from North Dakota offered expressing the sense of Congress that U.S. troop strength in Europe be reduced to 100,000 by 1995.

I am frank to say that is still too many troops. That is still too long a period of time. I know that we can bring them home faster, and those who are concerned as to whether we muster them out or do not muster them out, that is a separate issue. Bring them home. Use the dollars in this country, and let the decision be made by others as to whether we do or do not muster them out.

But I would sure prefer to see those dollars that are being paid to those soldiers over in Europe being spent in this country, whether they are in the military or out of the military, so they can be spent in the American economy. And if they can be spent in the American economy, we could be rebuilding so much of America. It is time we brought those troops home. It is time the Europeans paid their own way.

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

Mr. SASSER. Mr. President, if the Senator will withhold.

Mr. METZENBAUM. I certainly withhold.

The PRESIDING OFFICER. The Senator has yielded the floor and the Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senator from Ohio still has 8 minutes remaining in his morning business request. Does the Senator wish to renew that request?

Mr. SASSER. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to proceed as in morning business for 10 minutes.

Mr. SASSER. I thank the Chair.

(The remarks of Mr. SASSER pertaining to the introduction of S. 2061 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2063 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MEDICAID MORATORIUM AMENDMENTS OF 1991

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is H.R. 3595.

Mr. DODD. Mr. President, parliamentary inquiry. Is that the Medicaid legislation?

The PRESIDING OFFICER. That is correct.

Mr. DODD. I thank the Chair.

Mr. President, let me just, first of all, thank my colleague from Texas and also my colleague who is on the floor, the, I presume, ranking minority member or comanager of the legislation, Senator BENTSEN, of Texas, as well as Senator DURENBERGER, for their tremendous cooperation with my colleague from Connecticut, Senator LIEBERMAN, and me in putting together a modification of this legislation, which will be of tremendous assistance to approximately 410,000 people in the State of Connecticut. That is, in a State with a population or 3½ million people, as many as 420,000 people will be positively impacted as a result of the decision to allow a modest change of date here that will permit an application from the State to be submitted to the Health Care Financing Administration to assist in what was called the "disproportionate share formulations."

Let me explain, Mr. President, in these terms what it means to the people in the State. We have approximately 15 percent of our population in the State of Connecticut that has no health insurance at all. There is an additional 140,000 people that are underinsured and therefore are required, when they are afflicted with some kind of an illness or problem, to show up at public hospitals for treatment.

In the absence of providing any kind of assistance to these institutions which have a disproportionate share of the population showing up as compared to other public hospitals in the country, in the absence of providing some relief to these hospitals, the average taxpayer—who in many ways are those people who have health insurance—end up picking up the cost of these individuals who show up for care.

In the city of Stamford, CT, last year alone there were some $15 million that hospitals in that city had to find for uncompensated care; that is people without any health insurance or underinsured who showed up in the hospitals in that city, and because we have a benevolent country, we provide health care, but $15 million had to be found someplace.

You can guess where it was found: Increased premium costs for those people who have health insurance or increased cost of the care that was being provided in order to provide or pay for the care that was uncompensated.

I heard the other day—and he will certainly correct me when he comes to the floor—but the Senator from Texas, Senator BENTSEN, spoke about a hospital, I believe he said in Houston, where there was something in the neighborhood of $40 million or $45 million in uncompensated care I think last year. That is a phenomenal amount that a hospital would have to provide or come up with in order to deal with the people who show up without any ability to pay for the care they are receiving.

So, I thank our colleagues—both the chairman of the Finance Committee, Senator BENTSEN, as well as Senator DURENBERGER—for the assistance they provided us here and provided the people who need that care and provided those taxpayers and others who will receive some relief, we believe, as a result of this proposal.

Obviously, this is not the ultimate solution. We have a lot of other problems to deal with in order to try to correct this particular problem of the lack of health insurance, under-insured people, the ability to provide for quality care for people. That is a much larger issue than, hopefully, all of us believe must be addressed. But in the interim, the proposals we have offered here and were accepted by Senators DURENBERGER and BENTSEN in no small measure will make a great difference for as many as 400,000 people in the State of Connecticut directly and a great many more in an indirect way.

I will be happy to yield to my Senator from Minnesota if he cares to comment on this.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I will take just a minute to comment on this. Speaking for my colleague, the chairman of the Finance Committee, let me first express our appreciation to the senior Senator from Connecticut for his comments.

But second—an important point to the rest of our colleagues—the agreement that has been hammered out here

as of about 3:05 p.m., and hopefully will be on the floor very soon, was not one of those compromises where we took relatively illegitimate claims around everybody's scam and tried to make an agreement out of it.

It is true that some of the States in this country had concocted what some will believe are a scam or a scheme. But I must say with regard to Connecticut, probably no State has gotten more publicity over the cost of doing public business in that State as Connecticut. Certainly, our former colleague, who is now their Governor, has been in the middle of it all of the time.

In this particular case, Connecticut was in a situation where in order to help pay for Medicaid and I believe general medical assistance payment to hospitals throughout Connecticut—

Mr. DODD. That is right.

Mr. DURENBERGER. They used a definition of disproportionate share hospital which is in the proposed HCFA regulations. It is not in this agreement, unfortunately, because we could not get an agreement on it, but it was in the proposed HCFA regulations. They took that definition of disproportionate share and amended and put in an application to amend their State plan, but they did it, unfortunately, after September 30.

So here was a situation in which a State tried to follow the law as the Federal Government was laying it down, tried to play by the rules, but they got their application in after the deadline, which was incorporated both into the moratorium by the chairman of the Finance Committee and by the agreement.

So I am pleased with the work the two Senators from Connecticut have done. I am particularly pleased that when we are going to talk about the scams and schemes of some people around here that the one State that had the greatest pressure on it of all, Connecticut, has tried to follow the law as it relates to the appropriate partnership between the Federal and State Government in providing for the needs of low-income Americans.

I thank my colleagues for his comments and I thank him for bringing this matter to our attention and I am very pleased we could work it out.

Mr. DODD. Mr. President, I thank the Senator from Minnesota for those comments and his characterization of the State. It has been a difficult time for us, fiscally, with a significant deficit and a real struggle occurring as to how to deal with that deficit.

Despite the reputation of the State of Connecticut of being one of the most affluent States of the country—and that is true on a per capita income basis—it comes as a shock to many people that Hartford, New Haven, and Bridgeport rank in the top 10 of the poorest cities with populations over 100,000 in the United States. So amidst great affluence there was also poverty in a small State. This provision will make a great deal of difference to those people we are trying to serve who fall into that category.

I should have added as well that since 1980, our health care expenditures have increased by 150 percent in the State of Connecticut. It is a staggering increase. I think that is well above the national average. The national average has also been rather high, but this, I think, is substantially higher.

Mr. President, again my compliments and thanks to Senator BENTSEN, the chairman of the committee, as well as Senator DURENBERGER. They have provided the people of my State with a great deal of assistance and relief by their willingness to accept this change of date provision which could make a difference for people.

REGULATION OF CERTAIN INDIAN TRUST FUNDS

Mr. DIXON. Mr. President, on behalf of the majority leader I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 378, S. 754, that the bill be read a third time and passed, and that the motion to reconsider be laid on the table.

I believe that has been cleared with my distinguished friend from Minnesota.

Mr. DURENBERGER. There is no objection on this side of the aisle, Mr. President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 754) to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended by—

(1) inserting immediately after "lands" a comma and the following: "and income including interest up to $4,000 per annum derived therefrom,"; and

(2) inserting immediately after "resource" the following: "or income".

Mr. DIXON. Mr. President, are we on morning business at this time?

The PRESIDING OFFICER. We are at this time on H.R. 3595.

Mr. DIXON. Mr. President, I ask unanimous consent to be permitted to proceed as in morning business briefly for the purpose of introducing two different bills.

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

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 2065 and S. 2066 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for approximately 5 minutes as in morning business.

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

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 3062 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MEDICAID MORATORIUM AMENDMENTS OF 1991

The Senate continued with the consideration of the bill.

Mr. DURENBERGER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the committee substitute to H.R. 3595.

AMENDMENT NO. 1446

(Purpose: to substitute a permanent ban for the temporary moratorium)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of myself and Senator RUDMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. RUDMAN, proposes an amendment numbered 1446.

Mr. DURENBERGER. 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:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection, the term 'health care related tax' means a tax (as defined in paragraph (7)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that violates the standards in subparagraph (E)(ii) (I) and (II) or paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment may be made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of subclause (II).

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State-owned teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not of general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made in accordance with the State plan in effect or submitted to the Secretary by September 30, 1991, or in accordance with the State plan in effect or submitted to the Secretary by November 26, 1991 or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date, or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (hereinafter referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ratio of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments based on the State plan described in subparagraph (A)(i)(I), or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date.

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) PROHIBITING USE OF DSH PAYMENT ADJUSTMENT TO HOLD HOSPITALS HARMLESS FOR TAXES.—Subsection (c) of such section if further amended by adding at the end the following: "A payment adjustment that varies by type of hospital after the effective date specified in section 1903(w)(1)(F) is not consistent with this subsection if its purpose or effect is to reimburse providers for health care related taxes without regard to their low-income utilization rate or medicaid inpatient utilization rate (as such terms are defined in subsection (b)).".

(d) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section, except as provided in the last sentence of subsection (c).".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1992.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act. The Secretary of Health and Human Services shall consult with the States before issuing any regulations under this Act.

Mr. DURENBERGER. Mr. President, last evening I described a variety of State Medicaid financing plans that have in effect undermined the basic integrity of the Medicaid Program which has been in existence since 1965. Medicaid is under the jurisdiction of the Senate Finance Committee and before us is an effort on the part of the Senate Finance Committee to deal with those problems. H.R. 3595 was a bill passed by the House last week. It was reported out of the Finance Committee with a recommendation that a moratorium for 3 months be adopted. Along with that we reported out of the Finance Committee a framework agreement which at that point was being nego-

tiated between the National Governors Association, various interests and the administration to deal with two problems. One, the abuses that were involved and, secondly, an effort by the administration through the Health Care Finance Administration to deal with those abuses by regulation, regulations which almost no one felt they could support.

That particular agreement was not reported out with any specific recommendation on purpose because at the time that it was reported out the parties were still negotiating.

Mr. President, I believe we now have an agreement, and I am pleased that the amendment before us is to incorporate that agreement. I am going to take a few minutes to describe it to my colleagues who for one reason or another, particularly because it is the end of the session, because it is a very complicated issue, I think are concerned about what they might be signing up for when they sign up for this agreement, which I hope they do.

I indicated at the time I spoke last evening that from what I know, a lot of State legislators and Governors—I can certainly speak for my own because I spoke to them when they enacted it in Minnesota—my Governor did not want to do this; the legislature did not want to do it. They know that these financing schemes are not appropriate public policy and the proof is in the fact that 90 percent of the moneys today collected from Federal taxpayers under these plans were not being collected a year ago.

Simply what happened, a couple people got hold of what they thought was a great idea and everybody else saw them doing it it. Since every State is in a big financial bind, and in order to try to make up for the inadequacies of their own payment system in Medicaid, they decided to buy into these programs.

Now, I think, Mr. President, in the form of the agreement we have, the Governors and the legislatures are trying to work as partners with us in the Federal system to rationalize this payment system.

The amendment that I am offering today is a fair compromise, and I will point out the areas with which I personally disagree. I do not disagree with anything in the agreement but with some of the underlying principles with which I might have some difficulty. But that is a debate with which to deal at another time.

I ask unanimous consent, Mr. President, at this point in the RECORD there be printed a letter from the National Governors Association signed by John Ashcroft of Missouri and Gov. Roy Romer of Colorado pledging the NGA support.

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

NATIONAL GOVERNORS ASSOCIATION,
November 21, 1991.

Hon. DAVE DURENBERGER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DURENBERGER: For the last month, Congress has urged the nation's Governors to work with the Administration to bring a package to the Hill that would permanently resolve the issues involved in Medicaid provider taxes and donations.

We have done that. The attached settlement proposal has the unanimous support of the NGA Executive Committee and the White House.

We urge you to pass the legislation. If necessary, we ask you to stay in session or reconvene to pass permanent legislation. No issue is more important to the states and to the people we all serve.

We pledge to you our firm commitment to work with every member of Congress to pass this legislation.

Sincerely,

JOHN ASHCROFT,
Governor.
ROY ROMER,
Governor.

Mr. DURENBERGER. Mr. President, I will describe the three basic components of the Governors Association-administration compromise embodied in this amendment.

In the first place, the administration has agreed to a very generous transition period to allow States to convert the financing of their Medicaid programs. States could continue to finance their Medicaid programs through provider-specific taxes and donation programs until October 1, 1992. The only caveat to the transition is that the tax program had to be in effect, or reflected in a State plan amendment, as of November 22, 1991.

Moreover, for those States with a fiscal year ending between July 1 and October 1 of next year, 1992, the States would continue using these programs until January 1, 1993. And for those States whose legislatures do not have regular sessions scheduled next year, in 1992, their programs could remain in effect until July 1, 1993.

Mr. President, these are extraordinary concessions by the administration. HCFA regulation is substantially different from the agreement and will not go into effect January 1, 1992, unless we act. The fact that the administration has been so willing to grant such a generous transition simply reflects the importance the administration attaches and the Congress should attach to finally getting legislation in place that ultimately stops the hemorrhaging of the Federal Treasury that is going on today.

After the transition period is completed, State voluntary contribution programs that are solely designed to increase the Federal share of Medicaid should be ended.

Mr. President, I am going to yield, if I may, to my colleague and the principal author of this effort to deal with this problem, the chairman of the Senate Finance Committee.

Mr. BENTSEN. Mr. President, I thank my distinguished colleague from Minnesota, who has been very much involved in the process of trying to resolve this issue. What I have done, as chairman of the committee was to report out a 4-month freeze, a freeze on the administration's putting into effect its interm regulation, and a freeze on State initiation of new programs.

The dispute has been about how States finance their share of Medicaid payments. There is strong disagreement by the administration with some of the State practices which they believe take inappropriate advantage of the Federal Government. Working out the agreement has not been easy, but I must say that Dr. Wilensky worked into the night last night with the various State representatives, the Senators, and responded to the requests of Governors to see if we could accommodate the differences in their views. And each State has unique problems, all 50 of them.

Last Friday, when the committee met, I proposed we move forward the administration-NGA plan in hopes that differences could be worked out between the Governors and the administration. Considerable progress has been made in that regard. I heard positive feedback from a number of Senators representing the various States.

But I must say I still have concerns about this agreement because of the haste with which it was crafted, because of the fact that the final language has not been fully reviewed by the affected parties, and so often the devil is in the details.

But after talking with my Governor about some of her concerns, most of which have been addressed, and in talking to my colleagues here, I am going to support the administration's proposal as presented by my distinguished friend from Minnesota.

But I am going to support it with some reservation. I want to put the administration on notice here today that I plan to monitor implementation of the agreement very carefully over the next months, to assess its impact on States, providers, and beneficiaries. I will be holding oversight hearings in the Finance Committee.

Neverthess, I agree with my friend from Minnesota that there are certain advantages to moving ahead now. First and foremost, enactment of this agreement will keep the administration's October 31, 1991, regulation from going into effect, a step that would be disastrous for many of the States. It would cost my own State something on the order of $600 to $800 million a year, or more, in additional costs. It would cause chaos in State medicaid programs. And that regulation will go into effect on January 1 if we do not resolve this situation now. For virtually every State that would pose a problem.

Furthermore, if Congress does not act this year, the cost of a resolution

of this issue would rise substantially, due to OMB's and CBO's assumptions about the savings associated with its October 31 regulation. Thus, the ability of the Congress to craft a long-term solution would be substantially circumscribed. We would be in a situation in the Finance Committee where we would either have to propose deep cuts in other entitlement programs, such as Medicare and veterans benefits and guaranteed student loans or raise taxes substantially to offset costs projected by the administration.

Furthermore, Congress needs to protect the taxpayers from State financing practices that allow them to draw down more Federal funds inappropriately. The problem is real, and according to the inspector general of HHS abuses are occurring in a number of States.

The agreement of the National Governors Association with the administration will have the following benefits: States will be given guidance about what taxes are eligible for Federal Medicaid matching payments. States will have the time to make necessary changes in current laws or to initiate proper donation or tax programs. States will have generous transition time to convert to broad-based taxes. States will have until at least October 1, 1992, to come into compliance with the new donation and State tax requirements, protecting existing programs, and allowing States without tax programs to implement them.

The compromise addresses problems of timing unique to States with biennial legislative sessions and States with other special legislative circumstances by allowing a longer phase-in period. That was a deep concern for a number of Senators. Many of my colleagues talked to me about that issue.

Furthermore, the NGA-administration agreement really operates as a moratorium for 9 months. It allows all States to keep the Medicaid Program and policies that already were in effect until at least September 30, 1992, and allows other States transition periods until as late as June 30, 1993.

The major point is that no State will have to cut provider tax programs or disproportionate share payments, thus protecting State revenues and Medicaid recipients. The regulation would force some States to cut their Medicaid programs. And that will be unnecessary under this agreement.

The compromise will cap the amount a State can raise through provider-specific taxes, but States currently above the cap can continue at that level. The cap on the amount of funds raised through provider taxes will sunset after 3 years.

Furthermore, because the cap is based on total Medicaid spending in the State, the amount States can raise through taxes increases automatically as State Medicaid program expenditures increase.

The administration-NOA agreement also allows States to retain flexibility to designate which hospitals can receive disproprotionate share payments—this was a big concession by the administration, and many members worked hard to obtain that concession.

Under the agreement, States may spend no more than 12 percent of their Medicaid expenditures on disproportionate share payments. No State, however, is required to cut current spending, even if above the cap. States below the cap would be allowed to increase spending in proportion to growth in overall Medicaid payments.

The agreement constitutes long-term policy because it allows States to continue existing Medicaid programs under legitimate financing plans. Abuses in the use of hospital and health provider taxes are addressed. States are still allowed to use provider taxes to finance their Medicaid programs as long as there are no hold-harmless or kickback provisions to benefit the health provider. In other words, the case-sharing arrangements of the Federal-State program will be preserved.

Congress has until October 1992 to change any details in the administration-NGA compromise before its provisions take effect. That is a real safety valve for us and one of the reasons that, as chairman of the Finance Committee, I will monitor closely the implementation of these provisions through oversight hearings.

Finally, OMB estimates that, without action, the $5.5 billion in costs attributable to provider donations and taxes for 1992 will at least double to $10 billion, in 1993.

So. Mr. President, in spite of my concern about not being totally convinced that this agreement is the best possible policy, I will lend my support to the proposal of the distinguished Senators from Minnesota and from New Hampshire on behalf of the administration's and the Governors.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I note the presence on the floor of the distinguished Republican leader, as well as the chairman of the Finance Committee, and the Senator from Minnesota, who is managing this bill for the minority side.

I commend Senators BENTSEN and DURENBERGER for their efforts in trying to bring this to a satisfactory conclusion. This is very important legislation on which we must act and with respect to which there still has to be a reconciling of the Senate position with the House position. That will have to be done promptly.

So I encourage prompt action on this legislation, hopefully, without any amendments, and that will enable us to proceed to get this done, finally, before the Congress adjourns for the Thanksgiving recess.

I want also at this time to reiterate what I believe to be the importance of extending several provisions of the tax laws which will otherwise expire at the end of this year. The distinguished chairman of the Finance Committee, yesterday, led the effort in that committee to report it to the Senate floor unanimously, and I know the distinguished Republican leader and the Senator from Minnesota, as members of the committee, support that effort. There are several very important provisions of law which will expire by the end of this year, unless we act now to extend them.

They are important in and of themselves, but they are critical in this difficult economy. Failure to extend these provisions will cause a severe negative jolt to the economy which, in my judgment, would be the worst possible thing at the worst possible time.

We have received this from the House in the circumstances in which the Senate has only two choices: We can either extend these expiring provisions without amendment or change, or we can do nothing. I know that many Senators would like to make other changes in the tax law as well. I am one of them. I know the chairman is another, the Senator from Minnesota is another, and the Republican leader is another. But the reality which we face is that if anyone tries to add anything to this package, the only effect will be that nothing will occur.

I want to repeat that: As unfortunate as it is—and I particularly feel it is unfortunate—we can either extend these provisions for 6 months and do nothing else, or we can do nothing. There is no possibility, none whatsoever, that we can add 1, 2, 3, or 17, or any provisions to these and hope that somehow they will be pulled in along with these extenders. That is because we are late in the session, and the House has made it clear that is their position.

I am going to ask the distinguished Republican leader and the chairman of the Finance Committee to comment on this so as to make certain that I do not misstate the case in any way and that they are of the same view that I am.

Mr. President, I am shortly going to propound a unanimous-consent request, which will have the effect of passing through the Senate the extension of these expiring provisions with no other changes. And I hope that we are going to get that consent. I hope that no Senator will object.

I repeat and emphasize that if an objection is heard, it will not benefit any other provision of law. It will only cause these expiring provisions to expire, to not be extended, with what I believe will be very serious, adverse consequences for our Nation's economy, and for a whole host of provisions of law and those who rely upon them.

So I hope very much that we are going to be able to do this.

I will now yield to the distinguished Republican leader for any comments he may have, and then to the chairman of the Finance Committee, and I note Senator DANFORTH'S presence as well.

Mr. DOLE. If the majority leader will yield, he has accurately stated the case with reference to both pieces of legislation. The quicker we can move this Medicaid package to the House side, the better; it is going to take several hours to iron it out. I hope we have no amendments. I think we are down to one that we are trying to discourage. I hope that can be done on both sides, so there will be zero amendments.

Second, with reference to the extenders, the majority leader is correct. Either we are going to pass the extenders by unanimous consent, or they are not going to pass this year, unless we should be here next week or sometime in December.

So I urge my colleagues on this side to forego any amendments. I know there is a great temptation. This is must legislation, and it will be signed by the President. It is a great opportunity to kill the whole package—not to pass anything, but to kill the whole package. So we are waiting for two phone calls which hopefully will be very soon, and I will be in a position to give the majority leader that report.

Mr. MITCHELL. Mr. President, it is my intention to propound the request in any event——

Mr. DOLE. I would be constrained to object. I would rather not.

Mr. MITCHELL. I will do that after I hear from the distinguished Republican leader. I will now yield to the chairman of the Finance Committee for any comments.

Mr. BENTSEN. I thank the leaders for their efforts. There is no question that every member of the Finance Committee and every Member of the Senate has a particular tax provision that he thinks would help and has a constituency supporting that. We discussed that in the Finance Committee yesterday. But we have a strict understanding, a clear understanding with the House that if one amendment is added, it all goes down the tube.

We are talking about things like R&D, research and development. We are in international competition where we are trying to increase the productivity of our country insofar as its factories and production. R&D is necessary. But it stops. We are talking about low-income housing, and our housing starts are down. We are talking about high unemployment and an economy dead in the water. This would be a stimulant for the economy. We do not have it. We could go through the list. Targeted jobs tax credit. But we lose it all if we have one amendment.

So I hope very much that the membership will be in accord with the request of the majority leader, that we have a unanimous consent, and that we have no amendments offered in accordance with the request of the minority leader.

So we passed that out of the Finance Committee unanimously. Every member of that committee, with all of their concerns and interests for tax legislation, understood the enormity of that decision and the responsibility of trying to add an amendment to it.

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator from Missouri, who has been very active in urging the extension of the expired provisions of law.

Mr. DANFORTH. Mr. President, it would be tragic to allow these provisions to expire, especially at a time of downturn in the economy. What is involved in these provisions is jobs, and those jobs can be computed—the research and development tax credit, targeted jobs tax credit, low-income housing tax credit. All of these are provisions that exist now in the Internal Revenue Code that provides real jobs for real people.

People say, what can we do to improve the Tax Code to create more jobs, to stimulate the economy?

Well, at least we can avoid doing something which is destructive; namely, to allow provisions that are now in the code to expire, and then, hopefully, reenact them next year after everybody has dismantled their programs.

So this is really important for the economy. The position that has been taken by the majority leader and by the chairman of the Finance Committee and by Senator DOLE has been recognized by a very strong majority of Members of the Senate.

Senator DODD and I circulated a letter, I guess it was about a week ago, 2 weeks ago, maybe, just on the floor during vote time. It was the easiest letter to circulate either of us have ever had. We got 79 signatures of Senators in a 4-hour period of time, as I recall; 79 Senators who said that as a practical matter the only way to bring this bill to the floor is to do so without amendments, and that we would support bringing it to the floor without amendments, and that we urged the majority leader to do so. He has done so.

Now it is my hope that at least those 79 Senators and 21 others will be true to their word and not prevent this bill from going forward. I appreciate what the majority leader has done and I appreciate the skillful way the chairman of the Finance Committee has handled it yesterday.

Mr. BENTSEN. Mr. President, I thank the Senator from Missouri and the Senator from Connecticut, because they helped push this on to get it started with the feeling we could actually accomplish this in a short period of time and help point out the enormity of the problem if they are not extended. So I enthusiastically support and appreciate his support.

The PRESIDING OFFICER. Has the majority leader yielded the floor?

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, as I understand the situation, we have one, at least one matter of concern on the Republican side of the aisle which I trust will be worked out shortly. I know one of my colleagues has a brief colloquy on a Medicare amendment which he did not want to accept as part of the Medicaid reform, and until that can be worked out I would like to finish some of my comments, unless the majority leader had some other matter he would like to take up.

I would begin by thanking my colleague from Texas, my chairman on the Finance Committee, both for his comments with regard to the agreement, which endorsed the agreement, but with appropriate caution.

All of us are very uncomfortable when we begin legislating a deal that we have not negotiated every detail of ourselves.

I was particularly pleased with the chairman's comments about holding hearings on Medicaid in the committee, and I think the Governors and the legislators in this country and the people at the country and the local level are going to be very pleased to hear that also. Because I talked last night about this very excellent policy statement that the Governors presented to many of us about 3 or 4 weeks ago in which they said that the options—in effect, they said financing is the major obstacle to achieving consensus on the best long-term use of Medicaid resources. The options are for each side to try to shift the disproportionate burden to the others, as we do when we give Medicaid mandates and do not pay for them, or to work cooperatively to develop a way to achieve a rational system over time.

I think this agreement achieves that, and the commitment by the chairman of the Finance Committee to follow this agreement up with hearings on the subjects raised by the Governors here, particularly Medicaid and related commitments that we all make to provide health care and medical services to low-income Americans, is very appropriate.

I must also mention that my colleague, Senator BENTSEN, is the author and I am pleased to be the chief Republican sponsor on our side of an effort to deal with all the larger issues of health care reform in the form of S. 1872, which is, to the best of my knowledge, the best bipartisan, nonpartisan effort to help to make health care available to all Americans.

While I am at it, I might as well encourage my colleagues before they

leave for holiday vacations to take one more look at S. 1872. If you want something to talk to your constituents with back home, this is probably the best approach to making health care and medical care available that you are going to find.

I would also like to express, while I have an opportunity, while I am waiting to find out if we worked out the problem, my particular appreciation to Dr. Marina Weiss, the genius of health care on the Senate Finance Committee, who worked the Finance Committee side of this; Alexander Polinsky, on my staff, who did the same for me; to Gail Wilensky of the Health Care Financing Administration for seeing the problem developing and putting together a set of regulations and managing the reaction to those regulations that came; particularly to the technical staff of HCFA, who worked I think this morning until 6 a.m. to try to work on both language and its application to the agreement; Tom Scully, who is Dick Darman's deputy at the Office of Management and Budget and a person who without whom this agreement probably would not be possible; and then Alicia Pelrine and Ray Scheppach who are the executive director and the health professional at the National Governors Association. They are the people who I think are principally responsible for taking 50 experts, i.e., the national Governors, and getting them to work out a consensus over time on a very excellent statement of the Federal-State partnership in meeting the health care needs of Americans and they, too, were key to putting this agreement together.

I indicated in the beginning of my statement that I had some disagreement, not with the agreement as an agreement, but with some of the presumptions about what public policy ought to be.

In effect, what we do is, in order to get the States out of these donation programs where some nursing home or hospital says "Here, I will give you a dollar; you go send it to the Feds and pick up another dollar with it and give me the dollar back," to get them out of that kind of a game we had to admit that it would be appropriate for States to pass broad-based provider taxes, that is taxes on nursing homes, hospitals, doctors, and so forth.

I want to go on record, Mr. President, saying that I believe that the Medicaid Program nor any other third party program in this country should be financed by taxes on hospitals, nursing homes, or medical services of any kind. These are simply taxes on sick people, and on the injured. I call them stealth taxes because they are hidden in the unwitting insurance plans which prevent protest by taxpayers.

They have no business in our public policy. They are simply taxes on the sick and the injured, and hopefully State legislatures are going to have a very hard time adopting them.

Some members of organized labor have already come out in opposition to expanded use of these provider-specific taxes. And while I hate to pass another buck back to the States, I think it is the kind of issue that we are going to need to deal with here in the coming year or so, as they deal with them at the State level.

Personally, Mr. President, I favor federalizing Medicaid. I do not think we ought to have the big debates: this State gets 50–50, this State gets 80–20, this State gets whatever it is, debating formulas and ripoffs and all the rest of the sort of thing.

Most people cannot help where they live. People who live in Mississippi, right next door to Texas, have about one-half the tax capacity to meet the needs that people who live in Texas here. I do not think it is fair to run a system on which people depend whether they are in Maine or New Mexico or Washington or Florida; I do not think it is fair to run that kind of system in this country, where you work or where you live determines whether or not you have access to health care.

So I, for one, believe we ought to skip all the provider taxes, skip all these battles here, and federalize our commitment to provide services for low-income persons. But that is a debate that hopefully we will have in the Finance Committee over the next year or so as we work this partnership.

I just wanted to be sure, Mr. President, that in no way did I want this agreement to be interpreted as an endorsement of State or local taxes on medical services. We here have the responsibility for helping our Nation's elderly, disabled, and low-income with their hospitals, nursing home, and medical expenditures. I do not think we want to be in a position of saying that people who are sick and injured in this country ought to pay the taxes that finance the other sick and injured.

We do not intend by this agreement to limit the authority of States to raise funds, to match Federal Medicaid dollars, except where that authority is exercised in a manner that has the effects of requiring the Federal Government to pay both the tax and the match. That is the difference.

So the reality is we cannot continue to allow sham transactions, provider-specific taxes that are effectively shifting in some of our States 100 percent of the cost of Medicaid to the Federal Government. We are going to make that decision, and I already said I believe we ought to make that decision; we ought to make that here and then live with the consequences in taxes and the budget. The hospitals and nursing home are merely intermediaries in these State programs, and these practices must come to an end.

If the State legislatures want to adopt such taxes to finance up to 25 percent of their Medicaid Program, that is their choice. But what this compromise says is that these must be real taxes, there can be no guarantees that the tax will be rebated directly or indirectly.

Finally, Mr. President, the compromise seeks to resolve a growing tension between the Federal Government and the States as to what type of hospital qualifies as a disproportionate share hospital that can receive a higher reimbursement rate. There are several States that have already classified all of their hospitals as so-called disproportionate share hospitals, and more are waiting to file plan amendments that broadens the number of hospitals that can qualify for such payments.

It is important for all Members to recognize that under Medicaid, Federal matching payments for disproportionate share hospitals are not subject to limitation. This has so far enabled many of the States to receive increasing large Federal matching payments under the guise of their provider tax programs.

Some would have preferred that the NGA agreement establish strict definitions for disproportionate share hospitals. Earlier I mentioned Connecticut. The Governors and the administration have forged a compromise that does two things: First, it repeals the current rule establishing no upper limit on Federal matching for Medicaid DSH payments; and second, it establishes a separate upper payment limit for Medicaid disproportionate share payments.

Under the agreement, the total of all DSH payments in fiscal year 1993 and in any future year cannot exceed 12 percent of total Medicaid Program expenditures in that year.

Any State whose DSH payments in fiscal year 1992 exceeded 12 percent of total Medicaid Program expenditures would be entitled in subsequent years to receive Federal matching for DSH payments up to the dollar amount of such payments in fiscal year 1992. This dollar limit would remain in effect until DSH payments in that State fell to 12 percent of Medicaid Program expenditures. Thereafter, the State would be entitled to increase DSH payments in proportion to total Medicaid Program growth.

Any State whose percentage of DSH payments in fiscal year 1992 is less than 12 percent of Medicaid Program expenditures will be entitled in subsequent years to Federal matching for additional DSH payments according to the following schedule:

First, the level of fiscal year 1992 payments will be increased by the same percentage as the increase in total Medicaid Program expenditures in the State compared with 1992;

Second, the State will receive an allocated share of the "DSH growth fac-

tor'' derived from those States whose DSH payments are limited because their DSH programs are currently over 12 percent of total Medicaid expenditures.

Mr. President, these rules attempt to restore meaning to the idea of a disproportionate share hospital. With no upper limit currently allowed for Federal matching for Medicaid DSH payments, we have witnessed numerous instances where States have classified every one of their hospitals as a DSH hospital. In so doing, the DSH classification has served as the engine driving the donations and tax schemes previously discussed. The NGA administration agreement puts an end to this abuse.

Mr. President, this is a complex agreement. It has taken weeks to work out. All sides have given something on this. But the critical thing to remember is that this agreement is the best way we can finally call a halt to the endless creative financing schemes that are destroying the Federal/State Medicaid program. I urge all of my colleagues to support this amendment.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I support the Durenberger amendment to H.R. 3595, as amended by the Senate Finance Committee. I want to assure that Maine is able to continue under its provider-tax plan at least through the State's 1992 fiscal year, which ends on June 30, 1992. It is important that Maine's Medicaid Program not be disrupted at least through this fiscal year.

I have been assured by the Office of Management and Budget that Maine will be protected through June 30, 1992.

I ask unanimous consent that a letter to me from the Associate Director for Human Resources, Veterans and Labor, of the Office of Management and Budget, dated November 25, 1991, be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 25, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate, Washington, DC

DEAR SENATOR MITCHELL: This morning I spoke with Governor McKernan regarding the effect of various Medicaid moratoria on the State of Maine. As a result of our discussion, I am certain that, either under Senator Bentsen's legislation of the HHS regulation, Maine will be reimbursed under its current Medicaid program through the end of its current fiscal year.

The HHS regulation allows for transitional exceptions for states to meet the terms of the regulation through June 30, 1992. The Governor and I are sure that Maine can successfully receive such an exception.

Thank you for your attention to this difficult issue.

Sincerely,

THOMAS A. SCULLY,
Associate Director for Human Resources, Veterans and Labor.

Mr. MITCHELL. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBB. Mr. President, it is my understanding that absolutely nothing in this legislation prevents States from taking advantage of the provisions of OBRA 1990 allowing the creation of separate classes of disproportionate share hospitals from among those hospitals already designated as such, as long as they are not using disproportionate share payments to hold providers harmless for the tax. By creating separate classes within the disproportionate hospital designation, States are permitted the flexibility of providing a different disproportionate payment rate for each class of hospital. Designated classes could, for example, be State teaching hospitals, sole community providers, rural hospitals, et cetera.

The Commonwealth of Virginia has submitted a State plan creating separate classes within the disproportionate hospital designation. This would require a Medicaid formula and rate adjustment. It is my understanding that both the reclassification and the formula and rate change for Virginia's Medicaid plan will be permitted under this legislation.

Mr. DURENBERGER. My colleague from Virginia is correct. Under this legislation, States would continue to be allowed to create separate classes within the disproportionate hospital designation and would be permitted to adjust the Medicaid rate and formula accordingly.

Mr. WARNER. I want to join my Virginia colleague, Senator ROBB, in seeking to assure that Virginia will not be penalized under this bill. This legislation ensures that Medicaid plans for disproportionate hospitals submitted prior to November 26 will not be affected by this bill. The Virginia General Assembly is due to take under consideration, in January, an amended Medicaid plan submitted to the Health Care Financing Administration [HCFA] on November 19. I am pleased that the administration has confirmed that this legislation will allow my State to proceed with its plans. We must assure that Medicaid funding of indigent care may continue to be provided to those hospitals most heavily burdened by this most pressing public health priority.

Mr. DURENBERGER. The application of this legislation as articulated above by my colleagues from Virginia is correct.

Mr. MOYNIHAN. I wonder if the senior Senator from Minnesota would yield to a question?

Mr. DURENBERGER. I would be glad to yield.

Mr. MOYNIHAN. Mr. President, paragraph (2)(E) of new subsection (w) of section 1903 authorizes the Secretary to grant a waiver from the uniformity requirement of the broad-based provider specific tax provisions if the State establishes that the tax is redistributive in nature and the waiver is not a backdoor way to hold the providers harmless for the tax.

New York has had a system of assessments of hospitals used to reimburse some of the costs of those hospitals that provide charity care. The assessments vary by region but are uniform within each region. These variations are of long standing. The system is still redistributive, and serves a strong public policy goal of spreading the cost of charity care among those able to bear that cost. Can the distinguished Senator confirm that this is the type of case which would probably be covered by the waiver provision?

Mr. DURENBERGER. Yes, in the case you describe, where the tax is redistributive in nature notwithstanding the regional variations, the Secretary might well be expected to grant a waiver from the uniformity requirement.

Mr. MOYNIHAN. I thank the Senator. Mr. President, I yield the floor.

Mr. DURENBERGER. Mr. President, I urge the adoption of the Durenberger-Rudman amendment.

Mr. BENTSEN. Mr. President, we have no request for amendments on this side. We are prepared to move on the pending legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1446) was agreed to.

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

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

The question is on the motion to lay on the table the motion to reconsider.

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

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

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

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider the substitute amendment.

Without question, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I am very pleased that the Senators from Texas and Minnesota have greed to include language extending the date for changes in disproportionate share hospitals proposed by Senator DODD and myself in the Medicaid moratorium legislation. It is my understanding that pursuant to this language those States which submitted State plan amendments to HCFA on or before November 26, 1991 will be able to change the designation of disproportionate share hospitals in their States to include all hospitals which have a Medicaid or low-income utilization percentge at or above the statewide arithmetic mean Medicaid or low-income utilization rate. It is further our understanding that States which have submitted plan amendments on or before November 26, 1991 will be allowed to modify those plans after November 26, 1991 to come into compliance with these criteria.

Mr. DODD. Mr. President, I want to reiterate what my friend from Connecticut has just said. The agreed upon language which we have proposed provides that the September 20, 1991 deadline does not apply to States that had submited plans on or before November 26, 1991 and/or that submit subsequent modifications to these plans if these plans change the designation for disproportionate share hospitals in their States to include any hospitals which have a utilization percentage for care of low-income or Medicaid patients at or above the statewise arithmetic mean Medicaid or low-income utilization rate.

Is this the understanding of the Senators form Minnesota and Texas?

Mr. DURENBERGER. Yes, that is correct. The language proposed by the Senators from Connecticut would change the effective date of the moratorium on changes in State treatment of disproporationate share hospitals for those States which have submitted plans to HCFA between September 30, 1991 through November 26, 1991 or which have submitted modifications to those plan amendments subsequent to November 26, 1991 which are otherwise approvable under the HFCA NPRM of October 31, 1991. Pursuant to this amendment these States would be allowed to designate additional disproportionate share hospitals of those institutions have a utilization percentage for care of low-income or Medicaid patients at or above the statewide arithmetic mean Medicaid or low-income utilization rate. I also understand that the administration has agreed to this language. Is that also the understanding of the distinguished chairman of the Finance Committee?

Mr. BENTSEN. Yes, that is my understanding also.

Mr. McCONNELL. Mr. President, we are coming to the end of a long battle that has taken place mostly behind the scenes, and this is one of those outcomes that reminds me of the saying, "In legislating, there are no victories, only varying degrees of defeat."

This summer, the Health Care Financing Administration proposed new regulations that would essentially prohibit States from using health provider taxes to match Federal dollars under the Medicaid Program.

Needless to say, the response to these regulations has been deafening. Kentucky, and many other States, would be forced to choose between fiscal insolvency and simply closing the doors of the health care system to the poor.

Adding insult to injury, the administration explained the need for these regulations by saying that States were using revenue-raising scams to qualify for Federal matching funds. I can't speak for other States, but I can speak for Kentucky, in assuring the administration that Kentucky is not using any scams to fund its Medicaid Program.

Responding to this health care crisis, the House of Representatives passed H.R. 3595, a bill introduced by Congressman Waxman, which would provided for a 1-year moratorium on implementation of these extreme regulations. The bill passed the House by an overwhelming margin of 348 to 71.

Shortly thereafter, I introduced a companion bill to H.R. 3595 in the Senate. To me, 1 year seemed a fair amount of time to resolve a tough, complicated issue that involved the budgets and health care systems of 50 States and the Federal Government.

I was pleased that several of my Senate colleagues joined me in this endeavor, and we were well on the way to halting these regulations and allowing some breathing room to work out a more reasonable, acceptable middleground.

Our efforts toward a moratorium also put pressure on the administration to negotiate with the States on this critical issue, rather than try to dictate the rules of the game unilaterally.

These negotiations, between HCFA and the National Governors Association, have produced an eleventh-hour agreement that resolves many of the points in dispute about the original administration regulations.

Like any eleventh-hour agreement, this compromise leaves much to be desired, in the view of this Senator. States like Kentucky, where there are many more indigent patients than there are funds to provide for them, could end up paying a steep price under this agreement.

Nevertheless, the choice before us today is not between this problematic compromise and something better that is just around the corner.

The choice is between this package or the original regulations, which we know, without any doubt, would be devastating to Kentucky and many other States.

Further, because of a separate agreement that I secured with the Administrator of HCFA, this compromise has a moratorium built into it: None of the provisions or restrictions in the package will affect Kentucky for the entire year after the general assembly goes into legislative session in 1992. In other words, Kentucky will have until June 1993 to review the regulations and respond to them.

That delay is at least something to be for, because any extra time we can provide could quite literally save lives in Kentucky.

In addition, although we all approach this compromise in good faith, it is worth pointing out that the bill provides us adequate time to correct any problems that emerge as a result of its provisions over the coming year.

For example, I remain deeply concerned about the 25 percent cap on all provider payments and the 12 percent cap on disproportionate share hospital payments.

These caps are manifestly unfair—and maybe unworkable—for States like mine that must serve unusually high numbers of indigent patients. In Kentucky, the total percentage of indigent care-seekers is nearly 20 percent—or 1 in every 5. A 12-percent cap on DSH payments simply does not deal with that reality.

Such caps raise the serious question about what a hospital in Kentucky is going to do when the number of indigent care seekers coming through its doors exceeds the funds available to provide care.

Will that hospital be forced to close its doors to the poor? Or will the state simply try to assume these costs and end up going bankrupt?

These are troubling questions for any State that has a substantial indigent population, and these questions must be carefully analyzed and addressed over the coming year—not in some hastily-prepared, eleventh-hour compromise.

In saying this, I do not denigrate the hard work or honorable intentions of those who have put together this amendment. On the contrary, I have great respect for those who have labored over this proposal, and appreciate their efforts to stave off certain disaster, if the original regulations had gone into effect.

Therefore, although I continue to have serious concerns about the caps contained in the Durenburger amendment, I support this compromise as the best option available among a narrow field of bad options.

People all across the country—and here in this body—are calling for improved health care services in our country, but no one is willing to pay for it. We have directed the States over and over again to expand their Medicaid Programs, knowing full well that States do not possess the funds to pay

for these expansions. Now we are trying to tell the States how they can or cannot come up with the money.

This is an urgent matter for the many States these regulations will affect. Federal matching funds are crucial to the Medicaid Programs in Kentucky and other States. If the availability of these matching funds are significantly limited, as they may end up being under this compromise, the poorest of our Nation's citizens could be placed at further risk of inadequate health care.

I hope that, after the present crisis passes, we can address ourselves to the larger problems affecting America's health care system, and achieve solutions that go beyond 11th-hour compromises and slap-dash solutions.

Mr. FORD. Mr. President, I rise to support H.R. 3595, legislation to impose a moratorium on the administration's Medicaid regulations.

As my colleagues may remember, on September 12, the day these regulations were issued, I came to the Senate floor to attempt to offer an amendment to extend the current moratorium on these regulations through September 30, 1991.

According to the nonpartisan Congressional Budget Office, my amendment had no cost. According to the administration's Office of Management and Budget, my amendment had a $1.5 billion cost. It is my understanding that OMB has now revised its estimate upward to a $5.8 billion cost.

Something is just not right about this. My State stands to lose over $500 million next year if these regulations are not stopped. With this money, we have been able to extend hospital coverage to 225,000 Kentuckians who had no access to care before that. We have been able to provide access to care for Kentucky mothers and infants, which has reduced our infant mortality rate to a record low.

We in Kentucky are attempting to deal with the problem of 37 million uninsured Americans—over 700,000 in Kentucky alone. Our plan was enacted consistent with last year's OBRA provisions, and is already producing results. But this administration, through its attempts to prohibit States, like Kentucky, from funding Medicaid services for our low-income families through provider-paid taxes, is once again turning its back on the uninsured.

These regulations go far beyond congressional intent, and are a blatant attempt to cap Medicaid spending in a way that Congress has consistently opposed. We should be helping our states meet the health care needs of our people, not forcing them into bankruptcy through arbitrary regulations.

The current moratorium on these regulations expires December 31, 1991. I would have preferred a simple extension of the current moratorium, but the compromise amendment, the so-called National Governors' Association [NGA] agreement contained in the Durenberger amendment, is the best solution that can be reached under the circumstances.

Under a change I sought in the original NGA compromise, the effective date of this agreement for Kentucky was extended to July 1, 1993. Because Kentucky is the only State which only meets biennially in even-numbered years, our effective date under the original agreement was October 1 of next year. As a former Governor, I was concerned that the October effective date would not have given Kentucky enough time to come into compliance.

I appreciate the willingness of the administration to consider and support this change for Kentucky. I commend the distinguished chairman of the Finance Committee, Senator BENTSEN, and his staff, for working to resolve this situation so that on January 1 of next year, 225,000 Kentuckians will not lose their access to health care.

Kentucky must have the flexibility to fund the health care needs of our people. The current Health Care Financing Administration regulations do not provide that flexibility. With the additional time available under the NGA agreement, hopefully, Kentucky will be able to continue our good progress in providing needed health care services for Kentuckians.

Mr. BYRD. Mr. President, I support the amendment offered by the Senator from Minnesota [Mr. DURENBERGER], to H.R. 3595, the Medicaid Moratorium Act. The Durenberger amendment sets forth the compromise reached between the National Governors Association [NGA] and the administration on voluntary donations, provider-specific taxes, and disproportionate share payments. The amendment also incorporates changes made to the compromise by Members of Congress and individual States.

On September 12, the Health Care Financing Administration [HCFA] issued an interim final rule that would ban States from using voluntary donation programs and institutional provider taxes to obtain Federal matching funds for States' Medicaid programs. This rule, scheduled to go into effect on January 1, 1992, would have a devastating effect on many States' abilities to fund their Medicaid programs. The citizens who depend upon Medicaid as their source of health-care insurance would subsequently suffer. HCFA's interim final rule violates the congressional intent of the Omnibus Budget Reconciliation Act of 1990, and States and the Congress have voiced strong opposition to this rule.

As my colleagues are well aware, Medicaid costs are soaring at both the State and Federal levels. It is expected that the Federal Government and States could pay an estimated $115 billion in fiscal year 1992 for Medicaid programs. Across the Nation, States are having great difficulty financing their share of the Medicaid Program, and my State, West Virginia, is no exception. West Virginia has taken the actions necessary, including raising taxes, to eliminate its Medicaid shortfall. Yet, West Virginia still faces a most difficult time financially dealing with its current caseload. I am sure other States face similar difficulties. These difficulties must be addressed if our Nation's most vulnerable citizens are to have access to health care.

I believe that this final compromise gives States the opportunity and the time to make the modifications necessary to comply with the guidelines set forth in this amendment. I hope that the Senate will support the Durenberger amendment and avoid the devastating effect that implementation of HCFA's interim final rule would have on States' Medicaid programs.

I commend my colleague from West Virginia [Mr. ROCKEFELLER], for his work on this measure. The issues addressed here are of the utmost importance to West Virginia, and Senator ROCKEFELLER deserves much credit for all of his efforts in this regard.

Mr. CHAFEE. Mr. President, for too long, we have postponed settling the issue of voluntary contributions and provider-specific taxes being used to draw down Medicaid funds by States. It is critical that we enact legislation to define reasonable guidelines for the use of provider taxes in financing State Medicaid programs as soon as possible, in order to give States the ability to do long-range planning.

This is especially important to States like my home State of Rhode Island, which have delayed enacting provider tax or donation programs until they had clear guidance from the Federal Government. I would not have my State, and the handful of others, further penalized by allowing those donation and provider tax programs in existence to continue, while prohibiting additional States from implementing their own programs.

The amendment before us, which is based upon an agreement reached by the administration and the National Governors' Association [NGA], is a good first step. Now that we have a compromise between two of the principals in this dispute, I would prefer not to enact yet another moratorium continuing the uncertainty. I am however, very concerned about provisions in the agreement that limit Federal matching funds for Medicaid disproportionate share payments, capping levels at 12 percent of total Medicaid expenditures in each State. I have suggested a 3-year sunset, but in any event, I am hopeful that we will be able to revisit this issue next year and find some other means of financing.

Given those reservations, the amendment sets forth definitive guidelines on

what types of programs are acceptable. It also allows the States to establish programs within these parameters and begin long range planning. I urge my colleagues to join with me in supporting this amendment. Thank you Mr. President.

Mr. COATS. As the Senator from Texas knows, insulin serves as a lifeline for many Americans—for diabetics and other individuals with special medical needs, insulin makes the difference between life and death.

I would like to know if the Senate Finance committee is willing to examine the consequences of the OBRA 90 Medicaid drug rebate provisions on insulin?

Would the Chairman be prepared to review this aspect of OBRA 90 and take whatever steps are appropriate to resolve this issue as soon as possible early in 1992?

Mr. BENTSEN. It would be my intention to resolve this issue as soon as possible.

THE MEDICARE GEOGRAPHIC ADJUSTMENT AMENDMENT

Mr. WALLOP. Mr. President, usually at this time of year, we have a major debate on Medicare and Medicaid issues as Congress would push the annual budget reconciliation bill before adjournment. We would make major decisions on health issues with only perfunctory analysis. This process led to the enactment of Medicare's prospective payment system for hospitals, and more recently for physicians. The payment systems are designed to remedy health pricing problems which appear to occur with regularity in populous, urban areas.

In our zeal to respond to this urban abuse, we have cast out a net that has ensnared rural states. The legislated changes in Medicare are an acute problem for our sparsely populated Western States. A regulatory avalanche is descending on our doctors and hospitals pushing us back to frontier health conditions.

This year, our health care providers nearly received a respite. Because of that marvelous budget agreement last year—which becomes more tattered and irrelevant as the economy stutters—we supposedly have spending restraint this year. With the deficit near record levels, few will be celebrating the first anniversary of the budget agreement. At least, we do not have to enact a reconciliation bill this year, which has lately become an event for a tax increase.

We have not entirely escaped confronting health issues before adjournment. There is a proposal involving a funding issue for the States under the Medicaid Program. And, yesterday, the Health Care Financing Administration issued its long awaited regulations on Medicare's new fee schedule for physician services. The health professionals in Wyoming were eagerly awaiting the regulations. Finally, Medicare would reform reimbursement levels to eliminate the favorable treatment for urban areas.

The new system will utilize a national rate for each health procedure covered under Medicare. Not only would rates in rural areas be brought into alignment with urban rates, but the socalled "urban differential" which no one could ever explain would disappear. But, we all know that neither Congress nor the bureaucrats can resist turning a simple idea into a Rube Goldberg maze. The administration proposed a modification of the fee schedule because the bureaucrats feared that physicians would mysteriously increase services to bilk the program. They ignored the volume restraints previously included in the law.

Congress decided that physician fees are different for each region of the country. So, the law contains a requirement for a geographical adjustment factor. It was argued that the cost of living in rural areas was lower than urban areas, so the formula should adjust for locale. Oddly enough, medical equipment manufacturers do not discount their prices for rural areas. Drug companies do not have a rural price versus an urban price. And, the salary requirements for scarce nurses and technologists are not reduced because the employer is a rural hospital or physician.

Despite the contradictions in the assumptions supporting a geographical adjustment factor, those of us representing rural areas accepted the gaf as the price we must pay for the reform of physician fee schedules. However, reconciliation bills always contain surprises, and there is one in the geographic adjustment factor. Part of the calculation includes a skill differential. In other words, the law assumes that a physician practicing in rural areas has inferior skills to a doctor in an urban setting. It is an erroneous, insulting assumption about our rural physicians. To calculate the skill differential, the bureaucrats developed an opportunity cost scheme. They did not actually compare skills between rural and urban physicians. They simply compared salary levels for other professions in rural and urban areas. Any difference was used to calculate skill differentials for doctors. I would ask that the actual table be included in the RECORD at the conclusion of my remarks. Our rural areas, such as all of Wyoming, many parts of Texas, Oregon, and Kansas, all have a lower skill rating than more urban areas.

Last June, I wrote to Dr. Gail Wilensky, Administrator of the health care financing administration, about this and related fee schedule issues. I will ask to have the letter included in the record following the remarks of Senator BENTSON. I never received a response, but I have come up with my own response. We should repeal the language in the medicare law which requires a geographic skill differential. Since the law requires the formula to be neutral, the formula would be adjusted with this deletion. There would be no budget cost to the change.

While I would like to offer an amendment here today to correct this problem, perhaps this would be more appropriate when the Senate considers the Medicare technical corrections bill in the 2d session. I hope we can take a look at the problem at that time.

Mr. BENTSEN. I can assure the Senator from Wyoming that he will find a welcome reception for his views on geographic adjusters from many members of the Finance Committee. During its deliberations on Medicare physician payment reform legislation in 1989, the committee considered whether there should be any geographic adjustment factor, and, if so, what it should be.

The package developed by Senators ROCKEFELLER and DURENBERGER for the so-called overhead portion of the physician's fee, which compensates for office expenses such as rent, staffing, and supplies. The committee agreed to this because organizations like the Physician Payment Review Commission and the American Medical Association told us that fairness required a payment adjustment for practice costs that are beyond the individual physician's control.

The committee rejected an adjustment to the so-called work component of the fee, however, despite the fact that Health and Human Services Secretary Dr. Louis Sullivan and others argued that an adjustment for a physician's own personal cost of living was necessary in order to ensure an adequate supply of doctors in urban areas.

As I recall, some members of my committee were concerned that such an adjustment might be interpreted as a judgment by Congress that the work of urban practitioners was somehow worth more than that of their rural colleagues. Other Members felt that the choice of where to live is a personal one and, as such, shouldn't be recognized by the new payment system.

As my colleague points out, the bill that emerged from the Senate-House conference on payment reform did include a partial adjustment for variations in cost of living—but one that reflects only one-quarter of the measured variation. That means that if the cost of living in a rural area is 80 percent of the national average, payments for physician work will still equal 95 percent of the national average—rather than the 80 percent that would result if a pure cost of living adjustment were applied.

While many Finance Committee conferees would have preferred no cost-of-living adjustment at all, those representing urban practitioners argued forcefully—and successfully—that some adjustment was necessary.

I am committed, however, to ensuring that any geographic adjuster applied to physician payments under Medicare is based upon the best information available, so that it reflects area variations in costs as accurately as possible. That is essential if physicians are to regard the new payment system as fair and worthy of their support.

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

U.S. SENATE,
Washington, DC, June 24, 1991.

Dr. GAIL WILENSKY,
Administrator, Health Care Financing Administration Department of Health and Human Services, Baltimore, MD.

DEAR DR. WILENSKY: Recently, I had several meetings with physicians from Wyoming to discuss their problems with the Medicare reimbursement system. Since your office issued proposed regulations for the prospective payment system for physicians on June 5, I wanted to comment on current and potential problems with the Part B program.

One major problem is the method for determining reimbursement under the various procedure codes. I have enclosed one page of the reimbursement schedule for one doctor in Wyoming. He highlighted two similar procedures (23075 and 230760). The second procedure is more complicated than the first, and normal fees are about three times the easier procedure. However, the Medicare fee is less for the more complicated procedure. This makes no sense. And, we reviewed many other fee codes during his visit which reflected this same decision to pay a lower fee for a more complicated procedure. I would appreciate an explanation of why Part B utilizes such a dysfunctional reimbursement structure.

This problem has aroused much concern on my part about the prospective payment system being implemented by HCFA. While physicians are to be reimbursed at the same rate for the same procedure, there will be a regional differential. One of the past problems with geographic price differentials is the discrimination against rural areas. Past analysis of rural and urban differences in health costs have indicated that as much as 20% of the difference cannot be explained. I would urge that any regional variations be based only on documented differences in practice costs.

I understand that the regional differential will rate rural physician skills at a lower level than urban physician skills. There is no justification for such discrimination, and I would urge that physicians not be weighed differently simply because they practice in a rural area.

I appreciate your attention to these comments, and look forward to your response.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

Enclosure.

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
510	5	Birmingham, AL	.981	0.913	0.824
510	4	Mobile, AL	.964	.911	.824
510	2	North Central AL	.970	.867	.824
510	1	Northwest Alabama	.985	.869	.824
510	6	Rest of AL	.975	.851	.824
510	3	Southeast AL	.972	869	.824

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY—Continued

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
1020	1	Alaska	1.106	1.255	1.042
1030	5	Flagstaff, AZ	.983	1.016	1.255
1030	1	Phoenix, AZ	1.003	1.016	1.255
1030	7	Prescott, AZ	.983	.911	1.255
1030	99	Rest of Arizona	.987	.943	1.255
1030	2	Tucson, AZ	.987	.989	1.255
1030	8	Yuma, AZ	.983	.911	1.255
520	13	Arkansas	.960	.856	.302
2050	26	Anaheim-Santa Ana, CA	1.046	1.220	1.370
542	14	Bakersfield, CA	1.028	1.050	1.370
542	11	Fresno/Madera, CA	1.006	1.009	1.370
542	13	Kings/Tulare, CA	.999	1.001	1.370
2050	18	Los Angeles, (1st of 8)	1.060	1.196	1.370
2050	19	Los Angeles, CA (2d of 8)	1.060	1.196	1.370
2050	20	Los Angeles, CA (3d of 8)	1.060	1.196	1.370
2050	21	Los Angeles, CA (4th of 8)	1.060	1.196	1.370
2050	22	Los Angeles, CA (5th of 8)	1.060	1.196	1.370
2050	23	Los Angeles, CA (6th of 8)	1.060	1.196	1.370
2050	24	Los Angeles, CA (7th of 8)	1.060	1.196	1.370
2050	25	Los Angeles, CA (8th of 8)	1.060	1.196	1.370
542	3	Marin/Napa/Solano, CA	1.012	1.198	1.370
542	10	Merced/Surr. Cntys, CA	1.018	1.009	1.370
542	12	Monterey/ Santa Cruz, CA	1.023	1.108	1.370
542	1	N. Coastal Cntys, CA	1.003	1.072	1.370
542	2	Ne Rural CA	1.001	.990	1.370
542	7	Oakland-Berkeley, CA	1.028	1.258	1.370
542	27	Riverside, CA	1.026	1.080	1.370
542	4	Sacramento/Surr. Cntys, CA	1.026	1.088	1.370
542	15	San Bernardino/E. Cntrl CA	1.025	1.077	1.370
2050	28	San Diego/Imperial, CA	1.026	1.090	1.370
542	5	San Francisco, CA	1.038	1.303	1.370
542	6	San Mateo, CA	1.038	1.303	1.370
2050	16	Santa Barbara, CA	1.012	1.073	1.370
542	9	Santa Clara, CA	1.048	1.286	1.370
542	8	Stockton/Surr. Cntys, CA	1.019	1.027	1.370
2050	17	Ventura, CA	1.034	1.132	1.370
550	1	Colorado	.999	.988	.683
10230	4	Eastern Conn	.999	1.053	1.036
10230	1	NW and N. Central CT	1.002	1.071	1.025
10230	3	South Central CT	1.018	1.103	1.188
10230	2	Southwest CT	1.053	1.139	1.231
570	1	Delaware	1.026	1.018	.664
580	1	D.C. + MD/VA suburbs	1.059	1.168	.947
590	3	Fort Lauderdale, FL	.993	.981	1.376
590	4	Miami, FL	1.034	1.025	1.641
590	2	N/NC/Florida cities	.975	.932	1.108
590	1	Rest of Florida	.966	.871	1.108
1040	1	Atlanta, GA	.975	1.022	.752
1040	4	Rest of Georgia	.956	.841	.752
1040	2	Small Georgia cities 02	.962	.895	.752
1040	3	Small Georgia cities 03	.961	.869	.752
1120	1	Hawaii	1.003	1.094	1.025
5130	12	North Idaho	.965	.917	.889
5130	11	South Idaho	.967	.936	.889
621	10	Champaign-Urbana, IL	.965	.920	1.137
621	16	Chicago, IL	1.044	1.114	1.773
621	3	DeKalb, IL	.978	.925	1.137
621	11	Decatur, IL	.981	.927	1.137
621	12	East St. Louis, IL	.989	.958	1.579
621	6	Kankakee, IL	.972	.925	1.137
621	8	Normal, IL	.997	.968	1.137
621	1	Northwest, IL	.974	.896	1.137
632	5	Peoria, IL	1.009	1.031	1.137
621	7	Quincy, IL	.974	.896	1.137
621	4	Rock Island, IL	.995	.958	1.137
621	2	Rockford, IL	1.010	1.018	1.137
621	13	Southeast IL	.974	.896	1.137
621	14	Southern IL	.974	.896	1.137
621	9	Springfield, IL	.996	.966	1.137
621	15	Suburban Chicago, IL	1.020	1.097	1.137
630	1	Metropolitan IN	.998	.963	.547
630	3	Rest of Indiana	.979	.896	.516
630	2	Urban Indiana	.980	.905	.516
640	5	Des Moines (Polk/Warren), IA	.997	.966	.666
640	3	North Central, IA	.971	.916	.666
640	2	Northeast IA	.972	.918	.666
640	6	Northwest IA	.969	.890	.666
640	4	S. Cen. IA (excl. Des Moines)	.962	.881	.666
640	1	SE Iowa (Incl. Iowa City)	.976	.933	.666
640	7	Southwest IA	.968	.900	.666
740	5	Kansas City, KS	.978	.964	1.134
650	1	Rest of Kansas	.953	.893	1.134
740	4	Suburban Kansas City, KS	.978	.964	1.134
660	1	Lexington and Louisville, KY	.984	.917	.667
660	3	Rest of Kentucky	.974	.875	.667
660	2	SM cities (city limits) KY	.976	.898	.667
528	7	Alexandria, LA	.985	.889	.808
528	3	Baton Rouge, LA	.991	.966	.808
528	6	Lafayette, LA	.982	.982	.808
528	4	Lake Charles, LA	.975	.907	.808

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY—Continued

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
528	5	Monroe, LA	.979	.880	.808
528	1	New Orleans, LA	.994	1.003	1.185
528	50	Rest of Louisiana	.972	.880	.824
528	2	Shreveport, LA	1.003	.940	.808
21200	2	Central Maine	.942	.903	.716
21200	1	Northern Maine	.947	.912	.716
21200	3	Southern Maine	.956	.980	.716
690	1	Baltimore/Surr. Cntys, MD	1.027	1.040	.927
690	3	South and E. Shore MD	1.011	1.010	.820
690	2	Western Maryland	1.006	1.013	.843
700	2	Mass. Suburbs/rural (cities)	.997	1.072	.855
700	1	Massachusetts urban	1.002	1.131	.855
710	1	Detroit, MI	1.059	1.091	1.736
710	2	Michigan, not Detroit	1.010	.971	1.196
720	00	Minnesota (Blue Shield)	.999	.971	.748
10240	00	Minnesota (Travelers)	.999	.971	.748
10250	1	Rest of Mississippi	.960	.838	.650
10250	2	Urban Missouri (city limits)	.966	.902	.650
740	3	K.C. (Jackson County), MO	.978	.964	1.179
740	2	N. K.C. (Clay/Platte), MO	.978	.964	1.179
11260	3	Rest of Missouri	.950	.847	1.179
740	6	Rural NW counties, MO	.953	.866	1.179
11260	2	Sm. E. Cities, MO	.954	.838	1.179
740	1	St. Joseph, MO	.950	.867	1.179
11260	1	St. Louis/lg. E. Cities, MO	.988	.964	1.352
751	1	Montana	.967	.926	.718
655	00	Nebraska	.960	.883	.435
1290	3	Elko & Ely (cities), NV	.984	1.026	1.144
1290	1	Las Vegas, et al (cities), NV	1.036	1.082	1.144
1290	2	Reno, et al (cities), NV	1.008	1.141	1.144
1290	99	Rest of Nevada	1.020	1.079	1.144
780	40	New Hampshire	.962	1.011	.602
860	2	Middle New Jersey	1.034	1.070	1.153
860	1	Northern New Jersey	1.040	1.131	1.153
860	3	Southern New Jersey	1.016	1.030	1.153
1360	5	New Mexico	.981	.925	.767
801	1	Buffalo/Surr. Cntys, NY	1.006	.942	.963
803	1	Manhattan, NY	1.059	1.255	1.647
801	3	N. Central Cities, NY	.997	.952	.963
803	2	NYC Suburbs/Long I., NY	1.060	1.229	1929
803	3	Poughkpsie/N.NYC Suburbs	1.004	1.018	1.325
14330	4	Queens, NY	1.059	1.255	1.861
801	2	Rochester/surr. cntys, NY	1.021	1.017	.963
801	4	Rest of New York	.988	.935	.963
5535	95	Rest of North Carolina	.963	.883	.378
5535	94	Urban (city limits) NC	.975	.926	.378
820	1	North Dakota	.965	.895	.688
16360	1	Akron,OH	.993	.944	.920
16360	2	Cincinnati, OH	.989	.956	.920
16360	3	Cleveland, OH	1.011	.968	.920
16360	4	Columbus, OH	.983	.956	.920
16360	5	Dayton, OH	.999	.935	.920
16360	9	E. Central (Steubenvl), OH	.974	.912	.920
16360	7	Mansfield, OH	.972	.906	.920
16360	13	Marion + surr. cntys, OH	.971	.911	.920
16360	6	Northwest (Lima) OH	.973	.919	.920
16360	14	Scioto Valley, OH	.977	.936	.920
16360	15	Southeast (Ohio Valley) OH	.973	.909	.920
16360	8	Springfield, OH	1.004	.940	.920
16360	10	Toledo (Lucas/Wood), OH	.991	.996	.920
16360	12	W. Centr (Lake Plains), OH	.969	.906	.920
16360	11	Youngstown, OH	.987	.937	.920
1370	00	Oklahoma	.969	.911	.516
1380	2	Eugene, et al (cities), OR	.968	1.008	.951
1380	1	Portland, et al (cities), OR	.993	1.033	.951
1380	99	Rest of Oregon	.979	.997	.951
1380	3	Salem, et al (cities), OR	.974	.990	.951
1380	12	SW OR. cities (city limits)	.974	.988	.951
865	2	Lg. Pennsylvania cities	1.008	1.001	1.440
865	1	Philly/Pitt med schs/hosps	1.014	1.014	1.552
865	4	Rest of Pennsylvania	.975	.929	.986
865	3	Small Pennsylvania cities	.984	.945	.986
973	20	Puerto Rico	.882	.763	.466
870	1	Rhode Island	1.009	.998	.734
880	1	South Carolina	.971	.874	.448
820	2	South Dakota	.951	.857	.688
5440	35	Tennessee	.969	.896	.407
900	29	Abiline, TX	.971	.888	.504
900	26	Amarillo, TX	.972	.900	.504
900	31	Austin, TX	.969	.968	.504
900	20	Beaumont, TX	.998	.955	.504
900	9	Brazoria, TX	1.025	.955	.504
900	10	Brownsville, TX	.980	.888	.504
900	24	Corpus Christi, TX	.976	.944	.504
900	11	Dallas, TX	.996	.971	.504
900	12	Denton, TX	.996	.971	.504
900	14	El Paso, TX	.995	.894	.504
900	28	Fort Worth, TX	.973	.936	.504
900	15	Galveston, TX	.982	.968	.504

TABLE 1.—GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY—Continued

Carrier No.	Locality No.	Locality name	Work	Practice expense	Malpractice
900	16	Grayson, TX	.964	.903	.504
900	18	Houston, TX	1.014	.982	.656
900	33	Laredo, TX	.968	.856	.504
900	17	Longview, TX	.968	.929	.504
900	21	Lubbock, TX	.950	.881	.504
900	19	McAllen, TX	.945	.873	.504
900	23	Midland, TX	1.032	.998	.504
900	2	Northeast rural Texas	.968	.883	.504
900	13	Odessa, TX	1.008	.971	.504
900	25	Orange, TX	.998	.955	.504
900	30	San Angelo, TX	.954	.902	.504
900	7	San Antonio, TX	.973	.929	.504
900	3	Southeast rural Texas	.973	.895	.504
900	6	Temple, TX	.969	.886	.504
900	8	Texarkana, TX	.953	.883	.504
900	27	Tyler, TX	.984	.931	.504
900	32	Victoria, TX	.976	.973	.504
900	22	Waco, TX	.981	.871	.504
900	4	Western rural Texas	.961	.852	.504
900	34	Wichita Falls, TX	.969	.896	.504
910	9	Utah	.993	.952	.739
780	50	Vermont	.942	.941	.533
10490	1	Richmond and Charlottesvl, VA	.975	.953	.462
10490	4	Rest of Virginia	.967	.888	.522
10490	3	Sm. town/industrial VA	.971	.892	.531
10490	2	Tidewater and N. Virginia counties	.989	.944	.703
973	50	Virgin Islands	1.000	1.000	1.000
932	4	E. Cen and NE WA (excl Spokane)	.991	.979	1.064
932	2	Seattle (King Cnty), WA	1.019	1.049	1.064
932	3	Spokane and Richland(cities), WA	.996	.995	1.064
932	1	W and SE WA (excl Seattle)	1.008	.992	1.064
16510	16	Charleston, WV	.987	.962	.688
16510	18	Eastern Valley, WV	.962	.881	.688
16510	19	Ohio River Valley, WV	.962	.881	.688
16510	20	Southern Valley, WV	.960	.876	.688
16510	17	Wheeling, WV	.975	.900	.688
951	13	Central Wisconsin	.960	.888	.762
951	40	Green Bay, WI(Northeast)	.979	.913	.762
951	54	Janesville, WI (S-Central)	.970	.905	.762
951	19	La Crosse, WI (W-Central)	.976	.919	.762
951	15	Madison, WI (Dane County)	.977	.979	.762
951	46	Milwaukee suburbs, WI (SE)	1.010	1.008	.762
951	4	Milwaukee, WI	1.008	1.009	.762
951	12	Northwest Wisconsin	.966	.898	.762
951	60	Oshkosh, WI (E-Central)	.974	.911	.762
951	14	Southwest Wisconsin	.960	.888	.762
951	36	Wausau, WI (N-Central)	.971	.898	.762
825	21	Wyoming	.988	.938	.641

Note: Work GPCI is the one-quarter work GPCI required by Public Law 101-239.

THE MEDICAID MORATORIUM AMENDMENT OF 1991

Mr. GRASSLEY. Mr. President, I am going to support the agreement so arduously negotiated between the Governors' Association and the Health Care Financing Administration.

As I understand it, the Governors firmly support the agreement. And I have kept in close touch with my own Governor's office and my State's Medicaid Program throughout this debate.

I have to say that I think it is unfortunate that the cutoff date for commencement of the provider tax funding mechanisms which would be accepted for Federal matching funds had to be moved forward to last week in order to gain the adherence of several States to the agreement being negotiated between the Governors and the Health Care Financing Administration.

However this is scored by the Office of Management and Budget for Budget act purposes, the need to get support for this agreement from States who started these funding mechanisms at the last minute, so to speak, is going to cost the Federal taxpayer more.

Nevertheless, at least this agreement enables us to impose some constraints on the future spending that would occur under these funding arrangements.

I also believe that it is unfortunate that we must change the basic nature of the Medicaid Program under these circumstances. I agree with other Senators who have said that the way we should transform the Medicaid Program, if that is what we want to do, is to fully debate it through the legislative process.

Instead, over a period of a week or two, if we pass this legislation, we have accepted the principle that the States, if they so choose, can impose taxes on health care providers as a way of funding the Medicaid Program. I am not particularly comfortable with this idea, Mr. President.

Nevertheless, this Governors' agreement will impose some regularity and standards on these unorthodox funding mechanisms, and is, in my view clearly preferable to a moratorium, however short we would like its ending date to be.

I have several problems with proceeding with a moratorium, even if it is a relatively short one like that which was reported from the Committee on Finance over my opposition.

To begin with, I do not believe that we will end up with a moratorium ending April 1. I do not doubt for a minute that the chairman of the Finance Committee will work hard to achieve such a concluding date for a moratorium.

What I do doubt is the willingness of the other body to go along. Their moratorium legislation has an ending date of September 30. I have heard that some of the Members of the other body, who will be on any conference committee, do not want to see these funding arrangements ended. Furthermore, there are even members of the Finance Committee who would like to see a later date for the conclusion of the moratorium.

Thus, we could easily end up with a concluding date for the moratorium in June or even later. By that time, we will be in the Presidential and Congressional election campaigns and it will become more and more difficult to get the issue resolved. We will then be tempted to postpone the issue until the next Congress. This certainly seems to me to be a likely an outcome as any.

Second, this moratorium is two-sided—the regulations would not be able to go forward, and all States would be frozen more or less where they are, even the ones which are not using these methods. States like Iowa, which do not engage in these methods, will continue to be treated differently than the other States.

If I am right in assuming that we will end up with a longterm moratorium, States like Iowa will be completely frozen out of using methods which we have legitimated for other States.

Although I have serious reservations about such funding methods, I cannot countenance different rules for different States. That just is not fair.

In summary, Mr. President, we need to get some control over this problem, and the only way we can hope to do that is to support the Governor's agreement. States now using these methods have some protection. States such as Iowa, which do not use these methods would at least be able to participate in the program on the same terms as the other States, if they so choose.

MEDICARE GRADUATE MEDICAL EDUCATION PROGRAM

Mr. SIMPSON. Mr. President, I would like to engage the distinguished chairman of the Finance Committee on a topic of some importance to the States of Wyoming and Missouri.

Earlier today I had planned to offer an amendment to the Medicaid legislation; however, rather than hold up such an important measure with an amendment that we did not have an opportunity to clear with the House, I agreed to withdraw the language and offer it instead as a freestanding bill.

As the chairman knows, Mr. President, there are hospital facilities in Wyoming and Missouri that were unintentionally left out of the Medicare Graduate Medical Education Program when Congress enacted changes to that statute in 1986. They were left out because the statutory language did not anticipate the circumstances that these facilities found themselves in at the time, of that they find themselves in now. As a result, without a technical change to the statutory wording, these hospitals cannot get back in.

This is a critical issue to Wyoming, which has just over 500 active physicians to serve 99,000 square miles. Though its complement of residents is modest, Wyoming's sole Medical Residency Program is a significant source of physician supply in the State.

Prior to 1988, Wyoming's Medical Residency Program was housed in, financed and administered by the State University. In 1988, the residency program spun off from the university to the hospital—probably appropriate—since we do not have a medical school at the university. The hospital now has full operational, financial and administrative responsibility for the program. However, the hospital does not now, nor has it ever, received a dime in Medicare direct graduate medical education reimbursement.

As the chairman knows, Mr. President, the Medicare Direct GME Program was established to compensate hospitals for approved graduate medical education costs in proportion to their Medicare patient load. That is fair policy.

Unfortunately, the Medicare statute denies Wyoming its fair share of these critical funds. The statute bases hospital GME reimbursement on 1984 cost reports. Since the Wyoming facility did not incur any costs until it assumed

the residency program in 1989, it has a 1984 base-year cost of zero. Consequently, it is forever eligible for GME reimbursement in the amount of zero, even though it is now operating a top-flight rural residency training program and even though fully 80 percent of its patient base is either Medicare, Medicaid, or uninsured. Illogical as that is, there is just no way around it under the statute. That is why I am seeking a legislative remedy.

Mr. President, I know that as an architect of the 1986 statute, the distinguished chairman of the Finance Committee understands this problem and is committed to helping us resolve it.

Mr. BENTSEN. First I want to say that I appreciate the forbearance of the junior Senator from Wyoming earlier today. I know that he has been seeking to resolve the problem he just described for some time now, and I intend to help him do that. I also know that he fully appreciates the tremendous importance of the Medicaid bill we passed today, and the risk that any amendment would have posed to its final passage.

Mr. SIMPSON. Let me assure my friend from Texas that HCFA has been intimately involved in this issue. Gail Wilensky visited the Wyoming Residency Programs personally, and her office has been instrumental in helping us to prepare this legislation. The Office of Mangement and Budget is also very supportive of the merits of our case and of the remedy we here propose. Their concern, of course, is that any increased outlays in GME funds be offset, which we have also proposed a way to do. And at this point let me also say to my friend from Texas that we are not wedded to any particular financing mechanism. We include one in this legislation, we have others waiting in the wings if the chairman finds them more acceptable. Our sole concern is to assure Wyoming full and equal participation in a vital national program from which it is now, through no fault of its own, entirely excluded.

Mr. BENTSEN. I thank my colleague for calling this issue to the attention of the Finance Committee. Senator BURDICK has raised a similar problem in North Dakota. It was never intended that certain hospitals be excluded from receiving Medicare GME payments simply by virtue of the date on which they undertook to operate a residency program, indeed there is an exception in the statute to address precisely that issue, but I understand that in some circumstances, such as Wyoming's, hospitals fall outside that provision.

Let me assure my colleague that I understand the problem and I am sympathetic to it. I will ask that the Senate Finance Committee take the Senator's legislation under consideration and hope we can reach resolution of this problem in the near future.

Mr. BOND. Mr. President, I join the Senator from Wyoming, Senator SIMPSON, in expressing our concern about this unfortunate and unintended problem with payment for graduate medical education. I thank the chairman of the Finance Committee, Senator BENTSEN, for agreeing to work to resolve this problem early in 1992.

When Congress changed the rules for determining payment under Medicare to hospitals for their graduate medical education [GME] programs, an unforeseen and certainly unintended consequence of this change in payment policy occurred which affects a very small number of hospitals in this country. This glitch in the GME payment rules has caused Keller Memorial Hospital in Fayette, MO, to be left without the Federal Government shouldering the responsibility for it's share of these educational costs and in fact, Keller Hospital has been told by the Health Care Financing Administration that it must pay back funds already dispersed to this hospital.

The problem occurred because prior to 1986, Keller's medical education costs were paid through a Federal grant program: "Grants for Residency Training in Family Medicine," and not through Medicare. When this program was terminated, Keller was advised by Medicare that it would begin receiving this Federal assistance through the Medicare program and did so in 1986. Since that time, Medicare has reimbursed Keller Hospital approximately $334,000. The new GME payment rules passed by Congress, did not take into account situations like that of Keller Hospital which received zero in 1985 from Medicare for GME, and HCFA has determined based on this, that Keller therefore should continue to receive zero. Certainly, this is not what Congress intended when the new GME payment rules were enacted.

Keller Hospital is a struggling rural hospital which, like many rural hospitals, has seen some very tough times in recent years. Keller's medical residency program prepares physicians to practice in rural Missouri where they are desperately needed. Keller is also the largest employer in Fayette and it's painfully obvious how devastating it would be if Keller is forced to close because of a payment glitch that Congress created. But, until we act, HCFA is knocking on their door and demanding that they pay back up to $334,000 which they simply cannot afford to do. The administration has no other choice unless we enact legislation to amend the statutory GME payment rules.

Mr. President, I want to again thank the chairman of the Finance Committee, Senator BENTSEN, for agreeing to help us solve Keller hospital's problem and prevent an unnecessary and unfortunate tragedy from occurring. I look forward to working with him and Senator SIMPSON to get this problem resolved as soon as possible in 1992.

Mr. DIXON. Mr. President, today, this body will act on H.R. 3595, the Medicaid Moratorium Act, by adopting the National Governors' Association agreement as the solution to States' use of voluntary donations, provider-specific taxes, and intergovernmental transfers to generate Federal matching funds under the Medicaid Program.

As I have expressed to my colleagues in the past, the Medicaid regulations issued on September 12, 1991, by the Health Care Financing Administration [HCFA] would effectively undo all the work my State has done in its unanimous enactment of a plan to assess hospitals, nursing homes, facilities serving persons with developmental disabilities, and community mental health centers.

Many providers of health care in my State continue to have concern about the lack of flexibility regarding the nature of State taxes, and the imposition of limits on the amounts States may spend on their most vulnerable citizens.

My preference to address these and other concerns was to repeal the regulations outright. I cosponsored S. 1886, legislation to impose a temporary moratorium on HCFA's regulations until September 30, 1992, in order to at least temporarily prevent HCFA from going forward. In addition, I reserved the option to offer an amendment to extend the Finance Committee's substitute on the moratorium from April 1, 1992, to at least July 1, 1992. However, we are now running out of time. It, therefore, becomes imperative to resolve the Medicaid dilemma for States and the many health care providers. I, therefore, reluctantly support the measure before us to codify the National Governors' Association's Medicaid provider tax agreement.

Mr. President, this body has spoken and obviously will approve the Governors' agreement. I am pleased, however, that the chairman of the Senate Finance Committee, Senator BENTSEN, has expressed his intent to monitor the administration's implementation of the agreement.

I hope that Senator BENTSEN and the conferees will include report language which will prohibit HCFA from attempting to narrowly define classes of disproportionate share hospital providers.

Mr. President, I ask unanimous consent that such proposed language be included in the RECORD at the end of my remarks.

According to the information available to me on section 1923(c), the committee substitute amendment to H.R. 3595, does not include clarifying language sought by children's and other disproportionate share hospitals, and supported by the State of Illinois. I understand that HCFA has told the National Governors' Association that the agency will issue written assurance that the amendment to section 1923(c) precluding States from using the third

option for payment adjustments to disproportionate share hospital providers does not otherwise change current law, as amended by OBRA '90.

I appeal to the conferees to make these clarifications which are so vital to providing health care for the most vulnerable individuals in our society—poor families, the elderly, and disabled.

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

CLARIFICATION OF INTENT OF SECTION 4703 OF OBRA '90

(Sec. 1923(c)(3) of the Social Security Act)

"The purpose of this third option is to allow a State to consider other factors determined by a State to be related to the care of Medicaid and low-income patients in its disproportionate share payment formula. Such other factors may include, but are not limited to: intensity of care; the provision of endangered services or services essential to the Medicaid and low-income patients of a State; the efficiency of hospitals as measured through occupancy rates or such other factors reasonably related to efficiency; Medicare, Medicaid, and/or low-income utilization levels; the types of services that are predominantly furnished by a hospital; geographic location; or any combination of such factors, so long as the factors apply equally to all hospitals of each type and result in an adjustment that is reasonably related to the costs, volume, or proportion of services provided to low-income patients.

Therefore, nothing in this section shall be construed in any way as limiting the ability of a State to define the types of hospitals for which payment adjustments may vary in accordance with methodologies established under Section 1928(c) of the Act."

Mr. MACK. First, I would like to thank the chairman of the Finance Committee. I concur with the comments made by my collegue, Senator BOB GRAHAM concerning a transitional period for those States whose legislatures might adjourn prior to a compromise being finalized. I appreciate the chairman's assurances that States, such as Florida, which fall into this category, will be given an acceptable period to come into compliance.

Second, I would like to take a few moments to talk about Florida's Medicaid Program. Florida acted in good faith when it established its matching mechanism for Federal Medicare funding in the 1980's. My colleague, Senator GRAHAM, was instrumental in creating Florida's provider specific tax program. Florida has received repeated assurances from the national level that its program is a model one.

This Medicaid issue is simple one of fair share. The National Association of State Budget Officers report that Medicaid is the second fastest growing item in State budgets. According to Dr. Wilensky's recent testimony before the Committee on Finance, Medicaid expenditures new represent over 16 percent of most State budgets.

My State has, and is continuing to be, pillaged by the Federal Government. It has been my experience that for every dollar in taxes Florida sends to Washington, it receives back far less in programmatic outlays. For too many years, we Floridians have not received back our fair share of Federal dollars. it is critical the hemorrhage of Florida dollars to Washington does not increase and I appreciate the many efforts that have been made to prevent this from happening.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3595), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to provide for a moratorium on the issuance of final regulations and on the use of donations and provider-specific taxes by States to receive Federal matching funds under medicaid.

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

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I ask unanimous consent to speak for 5 minutes as in morning business.

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

GATT

Mr. PRESSLER. Mr. President, recently I introduced a resolution along with Senators LUGAR, GRASSLEY, and WALLOP expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in GATT negotiations. I did this after returning from Rome a few weeks ago when it became apparent to me that there was an assumption on the part of European diplomats that the United States would compromise on the agricultural subsidies part of the GATT Treaty.

Mr. President, all along our Government has insisted that Europe reduce its agricultural subsidies and reduce its export subsidies. Europe's insistence not to reduce its subsidy has held up conclusion of the Uruguay round negotiations.

Recently, there have been some indications that the United States is now moving toward a compromise. What has been revealed thus far is 25-year lower reduction in the EC's export subsidies, rather than a larger 10-year reduction. I am very fearful that our trade negotiators and the administration will compromise what many of us have been counting on. That is that Europe will significantly reduce its agricultural subsidies and its export subsidies as we have done. Our reform reduces and continues to reduce over a 5-year period agricultural subsidies.

My resolution has been endorsed by the American Farm Bureau Association, the National Farmers Union, the National Grain and Feed Association, the National Milk Producers Federation, the National Turkey Federation, the American Sugar Beet Growers Association, and the United Fresh Fruits and Vegetables Association.

My resolution expresses the sense of the Senate that the administration holds firm in its negotiations, to the announced demands for EC subsidy reductions.

Ms. MIKULSKI assumed the Chair.

Mr. PRESSLER. Madam President, I voted for the free-trade agreement between the United States and Canada. I am prepared to help out with the proposed free-trade agreement with Mexico. However, we should continue to insist that Europe lower its agricultural subsidies and its export subsidies. The fact that Europe has been increasing its subsidies has made trade in some commodities very unfair. For example, soybeans are about $12 to $13 a bushel in Europe, while they are between $5.60 and $5.75 a bushel in the United States. Our farmers have not been able to compete fairly in that market.

My resolution says that it is the sense of the Senate that any agreement regarding proposed changes to the GATT must: First, achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market; second, achieve new and expanded farm market opportunities; third, ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community.

The purpose is to be sure that nontariff barriers are erected in place of tariff barriers. For example, we had reached an agreement on beef with Europe, and Europe then came up with an argument against the use of hormones that caused the United States to lose

beef markets in Europe. The point is that the EC by raising this argument in effect introduced a nontariff barrier.

The EC raised another issue of cleanliness of our meat-packing plants. We have state-of-the-art meat packing plants in the United States, and problems identified are quickly solved.

The point is the adoption of new nontariff barriers on the part of the EC seem to be endless. This is not in good faith, in this Senator's judgment.

Madame President, the fourth point of my resolution would not limit the United States ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future.

And, finally, five, achieve a sound agreement governing sanitary and phytosanitary regulations. This point addresses the issue of erecting nontariff barriers in animal and plant health and safety after a tariff agreement has been entered into.

Madam President, I ask unanimous consent to have printed in the RECORD a copy of the resolution, S. 227, along with a copy of a letter from the U.S. Trade Representative on this matter.

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

S. RES. 227

Whereas in 1985, negotiations on an international agreement to reform the General Agreement on Tariffs and Trade (hereafter in this resolution referred to as "GATT") began in Punta del Este, Uruguay, with a targeted conclusion date of December 1990;

Whereas the United States and other major agricultural exporting nations insisted from the start on significant reductions in the subsidy programs operated by the European Community under its Common Agricultural Policy;

Whereas in December 1990, after the European Community decided against reducing the subsidy programs of its Common Agricultural Policy, no international agricultural subsidy reduction agreement was reached;

Whereas in November 1991, the European Community indicated some willingness to reduce its export subsidies during the GATT negotiations;

Whereas agriculture has a long tradition of supporting international efforts to achieve more open markets and fairer rules governing world agricultural trade;

Whereas the support of United States farmers and ranchers for multilateral and other trade negotiations depends on the success of the Uruguay Round GATT negotiations in achieving agricultural subsidy reductions in the European Community; and

Whereas any agreement under the GATT that is not supported by American farmers and ranchers would not be acceptable to the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that any agreement regarding proposed changes to the GATT must—

(1) achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market;

(2) achieve new and expanded foreign market opportunities for United States farm products;

(3) ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community;

(4) not limit the United States' ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future; and

(5) achieve a sound agreement governing sanitary and phytosanitary regulations.

U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 22, 1991.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: This is in response to your telegram of November 11 which was prompted by reports you received from European diplomats that the United States was about to drop its demand that the European Community (EC) cease its agricultural protectionism.

Clearly, those reports were false. As you correctly pointed out in your message, worldwide agricultural policy reform is a critically important objective for U.S. farmers. For that reason, the Administration has not receded from, and will not back down on, its insistence that all countries participating in the Uruguay Round agree to binding commitments that will achieve the goal agreed upon by all participants—a substantial and progressive reduction in agricultural support and protection.

From a very practical standpoint, it makes no sense for us to reduce the pressure on the EC—or any of our other trading partners—to agree to subsidy reductions since the United States is already committed to a path that will produce substantial subsidy cuts for many of our major crops. On that point, we fully agree with you.

With regard to the status of the Uruguay Round agricultural negotiations, we recently began what appears to be a constructive dialogue with the EC. We hope these talks will ultimately lead to an acceptable agreement on agriculture. We will keep you and your colleagues fully informed as those difficult discussions proceed.

We appreciate your advice and support on this vital issue.

Sincerely,

CARLA A. HILLS.

Mr. PRESSLER. I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I request unanimous consent to proceed for about 5 minutes.

Mr. MITCHELL. Will the Senator withhold to permit me to present a unanimous-consent request regarding the extending of expiring tax provisions? I thank the Senator.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, as I earlier announced, it is my intention to present a unanimous-consent request that would permit prompt action to extend certain expiring provisions in the tax laws which are critical to our Nation's economy in any event and especially at this very difficult time of economic recession.

Under the circumstances which we face, there is no possibility of amending these provisions, much as I would like to, and much as I know many Senators would like to. I have discussed this matter with the distinguished Republican leader who has just previously and publicly supported the view which I have expressed, as does the chairman of the Finance Committee, and the Finance Committee unanimously yesterday supported this position.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3909

Mr. MITCHELL. Accordingly, Madam President, I ask unanimous consent that when the Senate receives from the House the bill to extend certain expiring tax provisions, H.R. 3909, that provided it is identical to the text of S. 2042, as reported by the Senate Finance Committee on November 25, it be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that all of the above occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. KASTEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Madam President, I reserve the right to object, first of all, to make the point to the majority leader and the Finance Committee chairman that I support permanent extension of the expiring tax provisions. I think they are important provisions, and I think they help create jobs and preserve jobs.

Frankly, if we are going to work to create and preserve jobs, which should be our top priority, I think we have to include in this package, and I hope we can, the repeal of the 10-percent excise tax on boats. That has to be, in my view, included in tax legislation ideally this year.

I know the Senator from Maine spoke in favor of the resolution which was a sense-of-the-Senate resolution before us only a few days ago. It passed with 82 Senators joining the Senator from Maine and myself saying that we have to repeal this tax. The excise tax on boats has backfired. It has put thousands of middle-class workers who build boats in the unemployment line.

I would like to ask the leader if he would amend his unanimous-consent request to allow the Senator from Wisconsin to offer one amendment. I am not talking about growth amendments. I am not talking about the debate on capital gains, or reincentivizing the economy or all the other debates we have had on this floor back and forth.

It would be one amendment, and the amendment would simply be to repeal the excise tax on boats. I am concerned about the whole excise tax, that whole category, and I would like to repeal all of it. But right this minute, and I be-

lieve that between now and next February or March when we may have a chance for another vehicle between this minute and then, in my judgment, we are going to see additional companies across this country and probably in the majority leader's State and mine and certainly workers across this country lose their jobs because of the combination of the recession and the excise tax on boats.

So I ask the leader if I could ask the right to amend his unanimous-consent request—and then I would not object—to offer one amendment for an up-or-down vote, and I am agreeable to a short time period, I would say 10 minutes equally divided because we had this debate on the floor of the Senate a day or two ago when 82 Senators supported it. Ten minutes, equally divided, on an up-or-down vote on repealing the excise tax on boats.

With that, I would have no objection to this request.

Mr. MITCHELL. Madam President, as the Senator form Wisconsin knows very well, I strongly support repeal of the luxury tax on boats. I am a cosponsor of the legislation to repeal that provision. I spoke in favor of and voted in favor of the resolution just a few days ago. No one would prefer more than I that we could right now vote to and in fact repeal that tax.

But the Senator from Wisconsin also knows full well that is not going to happen on this bill and he knows full well that I cannot agree to the request that he has made for two reasons: The first is that it has been made unmistakably clear by the House that if this bill is changed in any way—in any way whatsoever—it will not be accepted in the House and the only result of that effort will be to cause the expiring provisions to expire. This is not a case in which one change and one change alone can be made. The House has made clear that either we extend the expiring provisions and do that only or we do nothing.

The second reason I cannot agree to the Senator's request, as he full well knows, is that 98 other Senators have agreed to permit us to extend the expiring provisions without amendment. A very large number of them have stated to me personally that if anyone else gets a single amendment, he or she wants his or her amendment to be offered. So that much as I want to accept the Senator's offer, much as I want to repeal the luxury tax on boats, much as I would like to limit it to that one amendment, that is not going to happen and it cannot happen. Indeed, the distinguished Republican leader said to me that if boats is on there, there have to be other things on there. And the Senator from Wisconsin knows that.

So the reality is, Madam President, and members of the Senate, we have two choices, very painful and unpleasant choices for the Senate, and especially painful and unpleasant for me. We can either extend these expiring provisions, very important provisions, without any change, or we can do nothing.

I regret that. I find it very difficult to accept. But we are often, indeed we are regularly here confronted with difficult and unpleasant choices, personally and politically, as individuals and as an institution.

Therefore, I want to say to the Senator from Wisconsin that I am deeply commited to repeal of the luxury tax on boat. I believe that there will be a major tax bill enacted into law early next year, and I am going to do everything I can, all within my power as an individual Senator and as majority leader, to make certain that as part of that there is a repeal of the luxury tax on boats and that it is retroactive.

I believe that will happen, both for substantive and political reasons. I think substantively the tax clearly was a mistake. It is causing harm. It must be rectified. I wish it could be rectified now, but it is creating a false impression to create the impression that we can do so as part of this bill. We cannot.

We can cause this bill to go down. We can cause the expiring provisions not to be extended. We can end the research and development tax credit, the low-income housing tax credit, the mortgage revenue bond credit, and others, which I do not think we should do, and I hope we will not. But that is the very personal painful choice before us. And accordingly, as I would like to agree with—and I do agree with the position taken on the issue by the Senator from Wisconsin—the reality is that if this unanimous-consent request is not agreed to, the matter will simply be terminated.

If there are going to be any amendments, there are obviously going to be dozens, perhaps hundreds of amendments. Everyone here has been here long enough to know what happens when a tax bill comes to the Senate floor in the closing days and knows there cannot be one amendment. There are right now on the floor six other Senators, and I expect that if other Senators knew that we had a tax bill here with amendments available to it, we would have 96 Senators very quickly. It simply cannot be done.

So with the deepest of regret and with a great deal of personal anguish, because of the circumstances of the effect of the boat tax on my State, I cannot agree to the Senator's request and will simply withdraw the request if objection is made.

Mr. KASTEN. Madam President, very briefly, further reserving the right to object, evidently, if we are down to one person standing here and everyone else has agreed, I can count, and we can get to where the majority leader wants to get by outvoting me. I understand that. But I think it is a little bit unfair when we are at the end of the session with the tax bill when a number of us have prevented from acting because there has not been a tax vehicle all along the way over the past several weeks, indeed the past several months.

On this issue, my sense is the majority leader and I had others support repeal. The opposition is in the House, significant opposition in the House Ways and Means Committee at this time. If we had our way and we could originate tax legislation, and we had the consensus that seems to be developing here, we would be there. But that has not been the case.

As the majority leader knows, I have been looking for a vehicle, a proper vehicle. We have been told we needed a revenue offset. We now have that revenue offset. It is in diesel fuel for the marine industry. The point is that we cannot have legislation on other bills, so we have been prevented that way. And now the only tax legislation that comes along to which in fact this would be germane and would properly be attached, we are told we cannot have any amendments.

I understand that there are other amendments. I have other questions and amendments with regard to the tax package. But this one, in my view, is a crisis. This one, in my view, we can count the workers, the jobs we are losing in my State and in the Senator's.

I do not know what to do except to say that I am somewhat helped by the fact that the majority leader and I know the Senator from Texas, the chairman of the Finance Committee, in the committee said we can have this bill retroactive. My hope is that if it were passed—in other words, in March or May, early April, we could have the bill and it could be retroactive. I know we cannot promise a particular date, but at least until the beginning of the year, or ideally today. I know that discussion occurred in the Finance Committee, and I know we cannot at this time say to when it can be retroactive.

But I want to say to the majority leader, I join him in wanting this tax repeal, which will be repealed, to be retroactive, and that gives some help to some of the people who right now are continuing to risk their capital in a losing market. Going into the spring shows, making plans for the spring shows, maybe that helps somewhat.

But if this is the best we could do, it is the best we could do. I want to do differently, but I also am aware that at least at this moment I am the only person who is objecting, and therefore I will just yield the floor.

Mr. MITCHELL. Madam President, I renew my request.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

The majority leader's unanimous-consent request is agreed to, as there is no objection.

Mr. MITCHELL. Madam President, let me say to my friend and colleague from Wisconsin that when we entered the Senate we swore an oath to uphold and defend the Constitution. I believe that the American Constitution is the best statement of individual liberty—particularly when one includes the Bill of Rights which, of course, is an integral part of it—ever devised by men or women anywhere. But there are some parts of it that I wish were different, and one of the parts that poses the most difficulty for us here is the one to which the Senator from Wisconsin has referred: Tax legislation cannot under the American Constitution originate in the Senate; it can only originate in the House of Representatives. The Senate does not have any authority to initiate tax legislation. If we pass a tax bill here that originated in this body, it is a nullity. It is unconstitutional. It has no legal effect.

Now, that is a reality with which we must deal, and it bears directly on the circumstance in which we find ourselves. We have not had a tax bill for the simple reason that the House has not passed and sent us a tax bill. So, laboring under that handicap, we are confronted now with this situation when on the last day of the session the House does send us a tax bill and it is limited and it has with it the condition that if it is changed in any respect, it will be dead.

I find that extremely difficult to accept.

I find it personally painful, given that the Senator From Wisconsin knows my State is adversely affected by the tax. I want to repeal it more than any Member of this Senate. But we have to make clear to everyone that is not an option. That was not an option on this provision. The only thing we could do is either pass these expiring provisions, or do nothing.

We are regularly confronted here with very painful and unpleasant choices, not between good and bad and right and wrong, but between more painful and less painful, or more painful and most painful, in this case.

So I thank my colleague for the effort he has demonstrated in calling attention to this situation, and in getting the Senate to go strongly on record in favoring repeal of the tax. I look forward to working with him on repeal of this legislation retroactively, as far back as we can get it.

This is not going to undo all the damage that has been done, or repair all of the harm that has occurred. But it will be something. I look forward to working with him to do that as soon as possible; to get this tax repealed, and to repeal it retroactively. We are going to work just as hard as we can. It simply was not possible on this bill. That just was not available to us. I regret that.

Madam President, I thank my colleague from West Virginia very much for his courtesy in yielding. This colloquy went on longer than I know he intended, and I appreciate that very much

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

MEDICAID

Mr. ROCKEFELLER. Madam President, the majority leader has no reason to thank me, because the business that he was doing was extremely important and very fruitful for our country.

I rise only to comment on an agreement between the National Governors Association and the administration that we just passed by voice vote dealing with the Medicaid Program.

It strikes me as odd, Madam President, that we tend in this body and in this Congress to deal out tax shelters for wealthy people. We talk about all kinds of things, including what we have just been discussing, and that is the tax situation of luxury boats of $100,000 or $150,000, or over. We do that all rather easily.

But when it gets down to a question of Medicaid and providing health insurance for pregnant women, so they can get prenatal care, and for children, so they can have adequate preventive care and inoculations, it becomes an enormous public brouhaha.

Indeed, we are accusing States who are struggling to balance their budgets and adequately fund their Medicaid programs—accusing them of engaging in a scam, and of conspiracies to defraud the Federal Government.

As far as I know, most of this money goes to take care of low-income pregnant women and children, which is at the very foundation of proper health care policy and preventive health care policy.

Some would say that doctors and hospitals are trying to rip off the system. That is untrue. Take West Virginia, for example. Today in West Virginia, physicians are reimbursed at 3 percent, on average, of private health insurance rates for taking care of Medicaid beneficiaries.

Under legislation recently enacted in West Virginia, doctors will be reimbursed for up to 77 percent of what they normally would receive under private pay insurance. That is called making it possible for low-income children and pregnant women to obtain access to health care. Physicians become more willing to give that care because they are getting more adequately reimbursed. It's still not what they would receive under private insurance, but it is significantly improved. That's good public health policy.

My second point is we should not be here discussing Medicaid at all, Madam President. Medicaid is a national disgrace. It ought to be outlawed and replaced with a decent public plan, one variation of which is suggested in the Pepper Commission, and is reflected in the Democratic plan on comprehensive health reform.

We have structured in this country a welfare system for medical care. We call it Medicaid. It is meant to act as a safety net for low-income people.

Yet, only 42 percent of persons with incomes below the Federal poverty level are eligible for Medicaid. It is not a safety net. In this country, there are over 433,000 women this year who are pregnant and have no health insurance. These women have a much higher chance of delivering low birth weight babies, which then turns into an enormous public expense because of neonatal intensive care that is often needed. The Senator from Maryland, who is presiding, knows very well that situation. It's a tremendous waste of public money—$600 of prenatal care versus maybe $300,000 of intensive care.

The point I would conclude with is that this debate we have had over the past few days—most of which has taken place behind closed doors, should not have taken place at all. We should replace Medicaid with a program that has uniform eligibility, uniform benefits, and uniform reimbursement rates. There should be no Medicaid at all.

There should be a decent public program which reimburses physicians and hospitals, at least, under Medicare rules, so that they are able to reach out to people who do not have private health insurance. That is where health care public policy reform should start.

So I say to the Presiding Officer that I, along with Senator BENTSEN and others, are going to watch very carefully as this agreement is implemented to make sure it is implemented in the proper fashion. I regret that we have to go through this at all. I look forward to the day when there will not be a Medicaid Program, rather to the day we are debating comprehensive health care reform.

I thank the Presiding Officer. I yield the floor.

Mr. JEFFORDS addressed the Chair.

Mr. GRAHAM. Mr. President, today, the Senate considered the compromise negotiated between the National Governors Association [NGA] and the administration.

Included in this legislation is a definition of an acceptable provider-specific tax as one that is broad-based. In other words, it must be uniformly applied to all providers in a class-related business of providers.

Florida's Provider Tax Program has been in effect since the mid-1980's and has often been cited by the administration as a model tax. It is currently applied to all providers at a rate of 1.5 percent of net operating revenues. I believe this tax is truly redistributive and meets the test the administration would like to apply to provider tax programs.

However, the State is concerned that emphasis in this compromise legislation on gross revenues in its definition of an acceptable tax could result in the disallowance of Federal matching funds for Florida's tax on net operating revenues.

For this reason, the State of Florida requested that net operating revenues be included explicitly in the NGA/administration compromise legislation. It is my understanding that, on page 8 of the bill, line 16, the phrase "or net operating revenues" was included in recognition of Florida's tax as a permissible tax under this agreement.

It would be appropriate at this point to define a net operating revenue tax.

Chapter 395.101 of Florida Statutes clearly defies Florida's program. Subparagraph (e) defines "net operating revenue" as "gross revenues less deductions from revenue." Subparagraph (f) defines "deductions from revenue" as "reductions from gross revenue resulting from the inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative courtesy and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care."

Mr. President, thank you for allowing me to define the term net operating revenues.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

MAKING GOOD PROGRESS

Mr. DOLE. Madam President, I just wanted to take a moment to indicate my view that we are making good progress. We are down to now probably four or five pieces of major legislation, many of which are in the process of being resolved. Many of the problems with some of the bills are being resolved. I hope that we will complete our work sometime before midnight or sometime after midnight, but before morning, before dawn.

I know there is a great deal of frustration on the House side because of concerns about whether or not a growth package ought to be addressed—in this case, one offered by the House Republicans, before we adjourn. And it is particularly troublesome, because it is more or less linked to whether or not there will be any funding for the RTC. No House Republicans will vote for the RTC funding unless there is a vote on the growth package.

I have read some of the reports about the White House response to the growth package. I understand there was a meeting last evening with the President and the Republican leader, Congressman MICHEL, and the whip, Congressman GINGRICH, and there was discussion of the growth package. I understand that the Speaker, Speaker FOLEY, is obviously concerned, properly concerned, about how to proceed. Maybe we should not leave. If people do not want to leave for the holidays, maybe we should stay here and come to grips with this issue.

Having said that, let me indicate as far as I know there is no consultation with the Senate Republicans. This may be a House Republican growth package but it is not a Republican growth package that has been agreed to by Republicans in the Senate as well as Republicans in the House.

We have had no contact from Treasury, or the White House, or OMB, or any other agency of the administration that this in effect would be the Republican package.

I do not fault my Republican colleagues in the House for working on a growth package. In my view it is very important. There are a number of ideas that have already been expressed. Senator GRAMM from Texas has an idea. Senator DOMENICI has ideas. A number of us have been working almost on a daily basis. There are a number of ideas on the Democratic side. There are probably a dozen or more growth packages in existence, and many more in the works.

It just seems to me that we are not going to resolve anything by either staying here next week or coming back sometime in December. I do not believe we are going to resolve this very important issue this year. It is my understanding that the President will be working all the time Congress is gone on how to come to grips with the issue; how to turn the economy, get the economy moving. If the recession is over, how do you make certain, and how do you start getting a real recovery? The President has met with economists. He has met with Members of Congress. He has met with business people around the country. He understands that there is certainly a great deal to be done.

But I would hope in the process we examine all the options, and we consider all the options, and we do not rush to judgment on this package, that package, a House package, a Senate package, an administration package, until we have had hearings, until we can understand how they will affect certain parts of the economy. Will they create jobs? Will they create growth? And it just seems to me it would be a bit premature to say, well, we ought to vote on this package tonight. We ought to vote on it next week. Why not vote on a Republican Senate package, or another package, or an administration package?

So, I would suggest that there will be a Republican package. It may contain many of the provisions that are in the House Republican package. Hopefully it will contain some ideas that Senate Republicans have. Hopefully it will contain some ideas that the President may have, or Treasury may have, or others who advise the President. And hopefully many of the ideas our economic growth package contains will also be contained in some of the packages or ideas being offered by Members of the other party in the House and in the Senate.

So, I just say there has been no consultation on this side of Republican Senators. We have not met with the President. He has not insisted to us that we vote on a growth package before we adjourn. In fact, the message I get is to the contrary. I think the President would like Congress to complete its work and go, and so I hope that we do go. I hope we go between now and tomorrow morning.

Madam President, I yield the floor.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Madam President, I thank my distinguished colleague for his statement. It is my hope that we will be able to complete action on the important measures remaining prior to tomorrow and be able to leave for the Thanksgiving day recess.

We are awaiting action in the House on several of these important measures. One of them is the surface transportation bill, which is of great significance, it is must legislation before we can consider adjourning. It will not be taken up in the House for some time. But the distinguished Republican leader and I have discussed the matter and believe that since we are awaiting action on that and other measures in the House it would be appropriate for debate to commence on that measure here so that when we do get it we will not have to commence the debate at that time but there will have been an opportunity for every Senator to express himself or herself in as much detail as possible on that very important subject.

So, we are advised that the chairman of the subcommittee of jurisdiction, and the chairman of the Senate conferees, Senator MOYNIHAN, will as soon as he completes other important matters be present to begin that debate and discussion, and I think it will be helpful and useful.

So I encourage any Senator who wants to address that subject to be prepared to do so shortly, so as not to feel that a Senator does not have that opportunity later on tonight or tomorrow morning when the conference report actually arrives in the Senate.

Madam President, does the Senator seek recognition?

Mr. JEFFORDS. I was seeking recognition.

Mr. MITCHELL. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. MITCHELL. Madam President, would the Senator withhold?

MORNING BUSINESS

Mr. MITCHELL. Madam President, I ask unanimous consent that there now be a period for morning business during which Senators will be permitted to speak.

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

The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2081 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

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

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

SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MOYNIHAN. Mr. President, I have the great satisfaction of being able to inform the Chair that the 92 conferees on the Surface Transportation Efficiency Act of 1991 have reached unanimous agreement and that a little later in the evening the House will take up the measure. We fully expect they will send it to us directly, whereupon we will, as one of the concluding acts of the first session of the Congress, pass this epic measure, as we think it to be and, indeed, as many have already described it as being.

It would be 4 years ago that I was the manager of the Surface Transportation Act of 1987. It was held over a year owing to an inability of the House and Senate to agree.

On that occasion I said repeatedly that bill would be the last bill of the interstate highway era; that the next bill would bring us to a new period and a new program, and I think, Mr. President, that those expectations and that requirement have been met.

The interstate era is epic. It is one of the great stories of the 20th century. It was the beginning of the largest public works program in the history of the world. It began, as many things do, in the city of New York in 1939 at the World's Fair in Flushing Meadows, which was a great feat of Robert Moses, a planner of highest abilities. The great success of the fair was the General Motors futurama. It had the intriguing quality of a great plastic dome; you looked inside and you would see a countryside. The seats, the bench, moved around the dome, so you found yourself moving around your country and you saw a country spanned by highways that had no red lights, limited access, and permitted continuous movement up to speeds of 100 miles an hour. You could drive from New York to San Francisco without running into a red light.

That seemed a improbable event. You could cross the country by rail, but not by road. Not by paved road. You would run into dirt roads in the high plains and in many parts of the mountains.

In 1944, President Roosevelt, on the advice and at the suggestion of Robert Moses, proposed to Congress that we create such an interstate highway system after the war. It was expected that the war, when it ended, would be followed by a resumption of the depression and that public works would be very much in need and in order.

And this was done. In 1947, Congress began providing mileage, but nothing much happened because there was no Federal money—a small Federal aid highway program, but nothing of real consequence.

President Eisenhower came to the Presidency in 1953, and this for him was something more than an abstraction, something more than a wonderful visit to the World's Fair. I expect he did not visit the World's Fair. I did. He had other more important things to do.

But as it happened, the first command in his Army career had come in 1919. He was told to assume that enemy action had destroyed the railroads of the United States and that he had to take an Army truck convoy from Fort Meade, about 10 miles from here in Maryland, to San Francisco Bay.

Well, he got it done, but he did not get there in 5 days. He found it an epic enterprise to get those trucks across the plains, across the rivers, across the mountains. And when coming to the Presidency, he saw this opportunity, and he took it. He asked his great friend, Gen. Lucious Clay, to chair a committee-commission, it may have been—to propose what should be done.

They said build the roads; but in order to do it, you would have to have a source of funds. They discussed bonds, and that did not seem quite right; President Eisenhower was leery of indebtedness. And then the idea came forward. Jim Wright, former Speaker of the House, was a new Member then. He participated in the discussions that came up with the idea of a gasoline tax—the Federal Government did not have one then—deposited into a trust fund dedicated to this purpose; 3 cents at that time. And off we went.

The States had already been working in this direction. New York State, under Governor Dewey, designed the interstate highway when the war was over, and built it from Yonkers, just north of Manhattan, along the route of the Erie Canal, up to Albany, across the Buffalo, and then down to Pennsylvania.

The great civil engineer, Bertram Tallamy, who just recently passed away, came down from Albany to be Director of the Bureau of Public Roads, then in the Department of Commerce, now the Department of Transportation, to take over the building of this system.

It was an epic enterprise, and he did what he should have done. He started out by putting the New York State Thruway in the system. As the distinguished Presiding Officer knows, he put limited access highways in Connecticut, New Jersey, Pennsylvania, Ohio, Indiana, and Illinois.

It was specifically provided in the Clay Commission report that States which contributed segments would be reimbursed for this, and the statute in 1956 required that there be a report from the Bureau of Public Roads in 1958 on what was owed each State. Indeed, we have that. It was not just a few States. In the end, most States, the great majority, contributed rights of way, or whatever, and the reimbursement is now in order and is provided for in this bill to take whatever time it takes as the years go ahead.

But as would be the case with these enterprises, the original design contemplated 2,500 miles. It was meant to be constructed in 13 years. Well, it grew to 44,000 and took the better part of half a century, but it did get done. We have projects remaining: the Anderson Freeway in Los Angeles, named for Glen Anderson, former chairman of the House Committee of Public Works, has to be finished. You fly into Los Angeles International Airport, and you see it 50 percent completed, and right on schedule it would be done now.

There are some bits and pieces in Pennsylvania. There are bits and pieces here and there. There is a major project in Boston, the central artery, which has not yet been designed or agreed to, a third tunnel under the river has to be done.

That will take us, along with some reimbursements for projects traded in, which you were able to do in recent years—4 more years of payment on the Interstate System. Then it is done—done—the largest public works pro-

gram in history, the largest engineered construction on Earth, bigger than the Great Wall of China, and visible, I cannot doubt, by astronauts as they fly around the Earth.

The project, the enterprise, was not without its inefficiencies. It is a pattern of these things that when a new mode of transportation comes in the initial routes tend to be very productive, profitable. And then you move on to more marginal enterprises.

In my State of New York, the Erie Canal was a spectacular success, moving east from Albany to Buffalo, opening up the Great Plains. It changed the history of the world. It changed our history. It changed the history of Europe. When grain from western New York started arriving in Britain, the British repealed their corn laws and became an industrial nation, as phrase has it. Just as when the grain from the railroads in the Great Plains began to reach Eastern Europe, it changed the entire social structure of that part of the world as well and led to immigration here.

Transportation does that. The Erie Canal was but complete, and they had to start building spurs north and south, and they never got anywhere. Railroads did much the same thing. There came a point where the great routes had been built and then spurs would go here and spurs would go there, rarely with much success, most now abandoned.

In the same way, the interstate, growing from 2,500 to 44,000 miles, began to take on the aspects of a consumption program rather than an investment program. The road began to be seen as free goods. Not enough attention was paid to maintenance.

States were required to maintain the systems themselves, and only received Federal money when they started to back down. So they tended to wait until they broke down.

Early on, it was clear that we did not know how to put one of these highways through a great city. They smashed through cities and the wreckage is there to be seen. They redistributed population within metropolitan areas. Most commuting today is from suburb to suburb, rather than the old pattern of suburb to inner city. They left groups isolated. They moved manufacturing away from cities.

People say steam concentrates and electricity diffuses. Well, nothing diffused like the interstate highway, and the trucking industry that grew up around it. It shifted the population.

In the 40 years of the New York State throughway and the interstate system, my State of New York will have lost one-third of its congressional delegation as the population moved west and south.

When the interstate was authorized in 1944 the United States was the world's largest exporter of oil, the only manufacturer of automobiles—there may have been some made in Canada, but they were not making them in Britain. We had far and away the technique of paved highways.

Fifty years go by, almost, and that is not so anymore. We now import two-thirds of our oil. Two-thirds of all oil consumption goes to automobiles and through internal combustion engines. The Japanese are the least-cost producers of automobiles. And to our great surprise, we learn that the Europeans have moved ahead of us in road construction technology.

A group led by Dr. Larson, head of the Federal Highway Administration, arranged to visit European Community countries last year and came back shocked. My God, they produce pavements much better than ours. They have different chemical compounds. Their bonding is better. They are warranteed. They last longer. That was a wake-up call.

Our legislation, which, of course, is surface transportation, involves transit, it involves roads, it involves harbors. It is called the Intermodal Surface Transportation Efficiency Act of 1991. It is our plan to move from system building to system performance, to get more out of our plant, to get more productivity. Now it is time to get the return on the investment.

My very able friend from the State of Idaho, Senator SYMMS, who I see is coming on the floor at this very moment, has been eloquent in this matter. He will not mind my saying that he is a businessman. He is involved in private enterprise. He does not seem to think there is anything the matter with that. He understands that investment is meant to have a return. It is to produce more moneys, more wealth than it involved in the first instance. That is why investment takes place.

If I could give a homely metaphor of what I am talking about: If you have ever been in a traffic jam—and if there is anybody in sight or sound who has not been in one, he lives a pretty closeted life—you see a transportation system that has performance problems.

What are these problems typically? They are not a lack of capacity. You cannot just have built the largest highway system on Earth, the largest man-made object on Earth, and found yourself in a traffic jam and say we do not have enough highways. No. You have to get more out of those highways.

Congestion reflects a pricing system. The price of using the highway is set too low so the demand is too high. It is like those clips you see from the Moscow food store with a line around the block, and when you get in, there is nothing to buy. The prices are set too low, so the supply does not come, and the demand is too high. The result is not a very successful system.

We think this way. We have congestion pricing in this bill. We have a provision that the Senator from Connecticut put in which provides that, if you get more miles out of a gallon of gasoline, you get rewarded for it. Up until now, this system has played very simple; the more gasoline you use, the more money you got. The money was Federal money, 90-10. So it looked like a free good. If you believe there is such a thing as a free lunch, you can believe there is such a thing as a freeway. There is not. The incentives have to produce more.

The Senator from Connecticut recalls my saying to him on the floor in June that one of the jewels of this legislation was his provision that says the more miles you get out of a gallon of gasoline, the more highway money you get because you are getting productivity in the system.

We have that in intellegent vehicles. The junior Senator from New Jersey, our good friend, has seen to it that we have a special provision for intelligent vehicles, intelligent highways.

I was thinking about this the other day. It happens that not only was I around for the World's Fair, ruined my teeth on the free candy they handed out in those days, I was also around for the opening of the Triborough Bridge. I thought that was the most wonderful thing in the world; counting cars. It was a grand bridge, a beautiful, beautiful bridge.

I would say now that about 54 years have passed. They still have men, now women as well, in those booths collecting the tolls when you come over. That is not productivity, Mr. President. In 54 years they have not speeded up the number of tolls a person collects. A half-century goes by and there is just as much labor to collect those tolls as when they started.

Twenty-five cents worth of electronics on a credit card would record that you had crossed the Triborough Bridge in 1 hour. If they had any sense, they would charge you 50 cents at midnight and $2.50 cents at 6 o'clock in the afternoon; maybe a quarter at 4 in the morning.

The price, you see, would help even out the flow. They would send you the bill, like the telephone company sends you a bill. If you do not pay it in 3 months, take your license away. Be up to date, learn productivity, think congestion pricing.

I happen to be on a board of an institute and was talking about this subject recently. James Tobin, the very most eminent Nobel laureate, an economist from Yale University had been in Bergen, Norway, lecturing. He said in Bergen they have sort of a circle, perhaps it was the old city wall. If you drive your car inside that circle, an electric meter starts to run. As long as you stay, you are paying to stay there. Everyone is quite happy. People for whom it is worthwhile to drive in. If people do not want to pay that price, they can

take a bus or walk. And this creates revenues, and the market clears, as an economist would say. Do you not get more supply than there is demand or vice versa?

We have sought to set us in that direction. We have said we have no bias for or against highways, no bias for transit or against transit. If we have a firm conviction, it is that no State is alike, no metropolitan region is alike. The mix will be different for all. There are very few places where the density of population would support an efficient new transit rail system. Many places have HOV, high-occupancy-vehicle lanes where four people have to be in the car instead of one. These roads will do the work of four lanes of interstate highway, and do it better, and to the satisfaction of the cities. We have gone around the country, and we have seen this everywhere.

We have money for ferries in this legislation. Ferries are an efficient and attractive form of transportation, in cities such as Seattle, Portland, and in my own city of New York, and New Jersey. When I was a young boy, there were 15 ferries crossing the Hudson river to Weehawken. Almost none make that trip today. I will bet you there will be more, because they are efficient. The old Hudson goes flowing on and does not have to be paved or repainted. And you can move a lot of people on it.

Our idea is to permit innovation and to think of efficiency, to add capacity by improving performance. This is the largest transportation bill in history, $151 billion over 6 years. Half again as much as we have been spending. There are 2 million jobs in this bill. It has to pass. I would not want to think what would happen if it did not pass tonight, because we are going out tonight, and a number of people would lose their jobs. A million and a half men and women would lose their jobs by springtime, which is before we would get back to the subject, not counting the jobs that will be created.

Of all the bills we have dealt with in this Congress so far, this will have more effect on the lives of Americans than any other. Everything in life is toughed by transportation. Even if you never leave your house, transportation brings goods and services to your house.

We have made one very important decision, and that is that the first dollar out of the trust fund goes to maintenance of the Interstate system. We learned that up until now what a good manager would think of as maintenance does not qualify for Federal aid. If there is a crack down the middle of the road, you have to fix it yourself. If it opens up and becomes a trench, then you have rehabilitation and you can get 90-10 money. We are putting 90-10 money into maintaining that system.

Then we go to the National Highway System. It is important to the President, and I am happy to say—and I said this earlier—that he announced this afternoon he will sign this bill, and sign it with enthusiasm, which I think is warranted. We have heard that from the Department of Transportation.

The National Highway System will consist of roads picked from existing primary arterials. There are about 140,000 miles now, built by States. Some of these are new. Some of them are old.

They are going to have to cut these down, and in 2 years time we ask them to come back and tell us what you want. They will negotiate with the State departments and Governors.

Then we have a large new surface transportation program, and that is where the innovative congestion pricing experiments will be found. Intelligent vehicles will be given out from the Department of Transportation.

Fifty percent of the money in the National Highway Program, $21 billion, can be moved if the Governors think there is a better use for it in their system.

States are not the same. They do not want to be the same. I said on this floor, God created Montana 550 miles long. Well, that is not Rhode Island. They are going to have different needs.

We have a large transit bill, $32 billion. We have special provisions for bridges. And we have provisions for air quality and congestion mitigation. This is the first transportation bill which has as its purpose bringing environmental needs into sync with transportation needs.

We have been living as if one activity was not aware of the other.

We had a discussion in our hearing—in our conference, and I think I said, Mr. President—let me repeat. The 92 conferees from the House and Senate are unanimous on this bill—unanimous. We had a discussion of, well, countryside, cityside, and the old rural highway program.

Apart from the national road which was build in 1807 from out here in Maryland to Vandalia, IL, which was then the capital of Illinois, it cut across the country and got us to the Mississippi valley.

The Federal Government got back into the system late and really kind of farmed the market roads, as they were called. We wanted to continue that program, as they were trying to say how much should go here or there. We all said, stop, the States know; they know how much countryside they have and how much—how these roads are.

My State of New York, I live on a dirt road. We have, for the last quarter century, our home—for the last 27 years, our home has been in Delaware county in upstate New York. We moved there, and for the children that is home. Prosser Hollow—MacDougal Road—there in the sheep country settled by the Scots. MacDougall Road is a dirt road and fine by us. We are about 2 miles from Route 23 which is one of the original routes west from the Hudson River. It paralleled this country where the Conestoga wagons were built. We are about 8 miles from, as it happens, Route I-88, a part that goes from Albany down to Binghamton.

Aaron Burr's nephew built a tar roof on the top of the hill that MacDougall Road leads to. It was really wrenching up. You actually crossed the watershed from the Susquehanna to the Delaware and that road has been there since wagon days and it was a dirt then it is a dirt now. Route 23, was paved, I would say, 1925, or maybe 1915, by the time the Model T was moving around. Route I-88 was opened about 5 years ago. That is the mix, the same mix all over the Nation. People who live there know best what they need. Flexibility is the word and accountability and productivity is the object.

We are very pleased with the transit provisions, more money available for transit than we have ever had. We need it in terms of air quality.

In that discussion of rural roads, I often remark, you know, there are parts of this country where they define regions by parallels of latitude against town and country. In southern California the entire politic is one unit of government for purposes of air quality and the problems of air quality are overwhelmingly the problems of the automobile. The automobile liberates you and it also has its externalties, if I can use a word the economists use. It can poison the air and it can add an extra 3 hours to getting to work and back or getting anywhere you want to and back. So trying to experiment, learning from each other, we have university centers. We know very little about transportation, seriously.

When we began, Senator SYMMS and I, these deliberations, we asked, "Let us see, how is productivity doing? How is it getting along here?" Nobody seems to know.

So I called the very distinguished Chairman of the Council of Economic Advisers, Dr. Michael Boskin, and I said, "Mike, what do you fellows know about productivity in transportation?"

He said, "I am not sure we do know." He said, "I will get back to you."

And he did. And he told us—that I am sure it surprised him and dismayed him as much as us—for the last 15 years, productivity in transportation of the United States, in the estimate of the Chairman of the President's Council of Economic Advisers, has been growing at the rate of 0.01.

I see some young pages down there and they are good at arithemtic. I am sure they learned all these things and if any young page will tell me how many years it takes for 0.01 compounding to double, I will let you go home early tonight. I see a lot of minds twirling but no answer. The an-

swer will surprise you. Listen and learn it because it teaches you something.

It takes 350 years for that rate of productivity to double. That is a medieval rate, about the rate Europe grew from the year 1000 to the Renaissance in 1350. We are the largest public works in history. We have a medieval rate of productivity growth, and we call it our infrastructure, meaning on the bottom. Manufacturing in United States is doing very well. Productivity in manufacturing goods is growing at 6, doubling about every decade. But it is operating on top of an infrastructure which is not growing at all.

So, pull up your socks. Learn from others. The Europeans make better roads. Find out what they are doing. It is not beyond us. But make it worthwhile. Maybe it costs a little more, but if it lasts 40 years, you get more out of it. These are not free goods. That is why in this bill we have a Bureau of Transportation Statistics. The first ever. We are going to find out what works, what it costs to do this, what it costs to do that, what is best.

The Departments of Commerce and Labor have been great help to American business and workers by what they have learned about productivity in the work force and the nature of markets. We have not had that in transportation.

I was very pleased the National Research Council is doing a general review of our transportation, and it said "By all means, grab that Bureau of Transportation Statistics."

I have been going on longer than I intended, Mr. President, and I certainly did not want to let an opportunity pass to hear from my friend, the Senator from Idaho. I do not know what he is going to say, but I hope he is going to talk about a very special provision in this bill which will take gasoline taxes that are collected for use in vehicles off highways and put them into a trust fund to provide recreational trails around the country for hikers, for backpackers if they want to be overnight hikers, for people who use snowmobiles in the winter, for all kinds of recreational uses. It is the unanimous and very happy judgment of the conferees that this section of the act should be known as the Symms Act and henceforth these to be known as Symms trails in acknowledgement of the extraorindary effort that Senator SYMMS has put into bringing it about.

As we know, we do not want to hurry it 1 minute, but he is not going to run for another term. His distinguished career in the House and the Senate is coming to a close. Other careers await him. But we are very grateful. Congress wants to acknowledge his work in so many other ways, but this way as well, and on this thing particularly close to him. As an old Marine, he loves to sleep out in the snow, the rain and the mud, and as a rancher from Idaho he was in the mud.

Mr. President, I see my friend has risen, and I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my distinguished colleague from New York for those kind words and for his interest in this entire piece of legislation, not only the National Trails Act, which is a part of this legislation, which will provide us with an opportunity to guarantee that there be backpackers trails, and there will be some trails for motorized vehicles and some trails maybe for both, and that we will allow the States the flexibility to be able to see that that happens with the fund, which will be a very small amount of money to start out with.

Our cost estimates that were run earlier indicate that there is somewhere in the neighborhood of $75 million a year that goes into the trust fund. It is not used on our road system and it not refunded to the purchasers of that fuel. But we will only be putting $30 million a year in this 6-year period in that fund which will be directed by the Secretary of Transportation to the State committees on recreational trails, and the States will have great flexibility to do this with certain guarantees.

Our friend JOHN CHAFEE, the Senator from Rhode Island, played a role in this. And that was to guarantee that the backpackers have some trails built that do not have someone driving a motorized vehicle on them. So that is a small part of the bill. It is funded out of the funds of people who purchase fuel and do not ask for the refunds, as I said and I think it is an excellent program.

I thank my colleague from New York for his kindness and generosity and the recognition to me on that issue.

I say, Mr. President, that after having served in the Senate now—this is my 11th year—on two committees during this entire time, and at my outset here in the Senate I was on 3 committees with Senator MOYNIHAN: Environment and Public Works, the Finance Committee, and the Budget Committee. And he since got wise and got off the Budget Committee.

But I could not have said it better than George Will. George Will wrote a column here a few years ago. George Will is normally known as a Republican, and he made a statement in this column about our good friend, the senior Senator from New York, that he was in fact a national treasure.

I have to say, as an unreconstructed westerner, from a State that has very diverse interests from the State of New York, Senator MOYNIHAN is in fact a national treasure because he is a visionary and can see the importance of market decisions with respect to all aspects of our life.

This bill, the Intermodal Efficiency Transportation Act of 1991, is a monument to allowing the marketplace to start determing the allocation of these scarce resources into improving transportation, not necessarily by just pouring more cement or building more rail trains, but by utilizing those assets in a most efficent way, allowing market determination.

I thank my colleague from New York for his leadership on this bill, and I thank my other colleagues on the committee, and cetainly those of us on the conference who have been working night and day for the last 2 weeks, and our staffs. I know at some appropriate point in the RECORD the names of some of these staff people will be spread across the RECORD so those people will get some recognition, I hope, of what they have contributed to make this possible.

Later on tonight we will have before us the conference report for the measure, which will carry with it the Intermodal Surface Transportation Efficiency Act 1991, H.R. 2950. And the major points that it will have in it will be a funding of $119 billion for highway construction, repairs, magnetic levitation; $31.5 billion for mass transit construction and expansion. So we have a section coming here from the Banking Committee, the $31 billion part, and $119.5 in highway expenditures.

The Federal-State match of 80-20 for all programs except—and I think we all heard the good Senator from New York talk about the fact that the interstate highway projects, which do not add lane capacity, will remain at 90-10; in other words, maintenance, reconstruction, rebuilding.

I would just have to say a good example of this is the State of Montana. Montana has an enormous amount of interstate, a 700,000 population of people, one of the largest States in the Union. There are tremendous differences in temperatures from extremely cold to extremely hot weather, which makes it very difficult to maintain those roads.

This bill will provide a lot of money for the State of Montana, for example, to maintain that interstate from the original Interstate and Defense Highway System, now often referred to as the Eisenhower Interstate and Defense System.

It is true of all of our States. We will now continue to keep 90-10 flowing to those States for the maintenance of these primary arteries, the Interstate Highway System, which is about a 40,000-mile system.

But this will mark the end of new construction with interstate funding. There are two or three major projects left in the country. There is one huge, expensive project in this bill to complete the interstate in the State of Massachusetts. There is an expensive part left, the Ventura Freeway in Los Angeles that will be completed with this bill, and a couple of others in a few

other States. But the bulk of the money that is in the bill will go for those States and a few other States. It is in the charts you will all have access to that will be made a part of the RECORD before the night is over.

There is an authorization of $7.2 billion for the completion of all these interstate projects. This has gone on, now, since 1956, and it has been a very successful program. It has made the Nation more unified. We have tied the country together with better transportation so the States in the outlying regions that produce so many of the products that people want in the cities have access to those cities via a good road system.

The President is very happy about the fact that in this bill there is an authorization of $38 billion for a 155,000-mile National Highway System consisting of interstate highways and major primary roads.

States may transfer 50 percent of their NHS money to other road programs or transit. Up to 100 percent of NHS funds may be transferred in States with Clean Air Act nonattainment areas if the Secretary of Transportation finds the transfer is in the public interest.

So, what I am saying is there is a lot of flexibility with those funds, but there is also a vision added to the same vision that was there in 1956, when the first Interstate Highway and Defense System passed. I think Senator MOYNIHAN pointed out they had started authorizing this earlier under the Roosevelt administration in a much smaller scale. But what really made the push was when President Eisenhower was elected and had that vision that we needed to have an Interstate and Defense Highway System that got the program started.

Of course, that experience he had in his life, most recently when he took office in 1952, of having the German Army move hundreds of divisions across Germany on the autobahns, he realized when they were surprised in Belgium at the Battle of the Bulge how many troops and how rapidly they had moved. It was a road system that made it possible. So he was sensitive to the defense needs of the country. He was also sensitive to the fact that as a young captain he had tried to take a group of about 140 trucks across the United States in the 1920's—I think it was in 1922 or so, we will have to check for the exact date of that, but it was shortly after—maybe it was shortly before World War I, if he was a captain, come to think of it.

Nevertheless, it was either in the teens or the 1920's. It was a tremendously difficult trip. They got out into Wyoming where Interstate 80 now goes and found themselves mired in the mud and then when it dried out they were mired in the dust and had an extremely difficult time getting across the country. He recognized it would be good for the country. Now we have finally brought legislation here which will complete that dream.

Federal-State match in the bill, as I said, is 80-20, except for those programs that remain at 90-10. There is a $24 billion flexible Surface Transportation Program, in which all funds may be transferred to transit at the discretion of State and local officials. And a lot of people, I think, have been concerned about that.

The States that I come from, the Western States, the big States with small population, large geography, like the bill because of the flexibility that they will have in the bill. I think in many cases, where people think some of these highway dollars may be spent on mass transit—it is possible that could happen in some major metropolitan areas if that seems to be the most efficient way to spend those moneys—it will be decided by the people who are responsible for transportation in those regions.

However, I point out to my colleagues that one of the most efficient transportation transit systems, if you will, works on a volunteer basis right here under the dome of the Nation's Capitol, practically. That is U.S. 95 HOV lanes that go one way coming in, coming north coming in the mornings, south in the afternoons during rush hour. Those HOV lanes on U.S. 95 coming out of northern Virginia into the Capital carry more people than any rail transit system in the country except for one line in New York City.

I think people should not be concerned. It may be that some of these flexible funds in the metropolitan planning areas—I think a great many of those dollars may be spent to make the system they have more efficient, using it for HOV lanes, by improving the ability to use their current system—maybe by resurfacing it, having some lanes that can only carry automobiles with three or four people in them, and buses, and get a lot more bang for the buck, so to speak, and get rid of some of that congestion that is so costly to the productivity of the country.

There is a $16 billion program to replace and rebuild the Nation's bridges. We establish a national commission to develop intermodal transportation ideas, to coordinate intermodal policies, to develop an intermodal transportation data base, a toll facilities program in which Federal funding will be allowed for the expansion of toll highways, bridges, or tunnels. The revenue generated might be considered for other transportation improvements. A $725 million program to construct an operating maglev prototype within 7 years; a $660 million Intelligent Vehicle Highway Systems Program—I might say that the Maglev Program is from our good friend from New York, Senator MOYNIHAN, who once again is looking into the next century of where this country wants to go.

This Senator believes that we will be building more high-speed trains in the United States, and I am speaking of state-of-the-art technology that is now available. There are now trains that are running in several countries, and we are hopeful that we will be building them in the United States very soon.

The first train of that type is proposed to be built in Texas, between Houston and Dallas and Austin, which would give us a prototype of how to do this. Senator MOYNIHAN is looking on to the next generation of maglev, which would be extremely efficient and extremely fast and at some point in time might be able to replace some of our current system and improve and help decongest airports, help decongest interstates.

There is one thing that we have to remember: This is a nation of trucks and truckers. The trucking industry employs 8 million people in the United States. It is very important to our economy. It is important that we have good roads for the trucks to run on. One of the ways to have that work efficiently with our current system is to have alternate ways for people to transport themselves so you do not continually have a conflict between the trucks and the automobiles on some of these roads.

(Mr. AKAKA assumed the chair.)

Mr. SYMMS. Mr. President, looking down the road, I can see that there can be some great benefit to the American people by moving ahead and making it possible for high-speed rail to become a reality in the United States. I do not know whether it will happen in this bill, but certainly when we have a revenue bill before the Senate, where there is time for the Senate to work on it, I hope that the Senate will see fit, and the House and the President, to lift the cap on revenue bonds so it will provide a mechanism for States and businesses, private sector groups, to develop highspeed train service in the United States.

That is one way we could do that—is to make available equity financing, to have some capital available from the sale of revenue bonds so we could build some high-speed trains. I believe if we can see some of these happen in some areas like from Pittsburgh to Philadelphia, from Houston to Dallas, from Boston to New York, and New York to Washington in the future, that it could be a great benefit for this country and improve our efficiency.

I think one thing that Senator MOYNIHAN has alluded to, and I want to repeat because I think it is worth repeating, not only for our colleagues but for people who are interested in this country, is why we think this is important legislation.

When you have legislation that is striving to maintain competitiveness

with the Europeans, the Japanese, and our other trading partners, and we get up to capacity, there is one thing maybe we can do by improving our transportation: We make the whole system work more efficiently. I think it is very important that we remember that the flexibility that we tried to work into this bill will allow those decisions to be made so that we can improve the efficiency of our transportation dollars in this country and reduce the costs of getting the potatoes from Idaho to the restaurant in New York City, or in Milwaukee, as my friend from Wisconsin was acknowledging here. And those things are very important. I think we are trying to do that with this bill.

This bill, as I said, has a $660 million program, an Intelligence Vehicle Highway Systems Program, that Senator MOYNIHAN has talked about. That was the product of our friend from New Jersey, Senator LAUTENBERG. I think it shows great hope. In other words, to do systems and learn how to use the modern-age technology that we have developed, to direct the traffic to the places where there is not as much traffic; also, to make it simpler for people to put in the mechanism, the pricing mechanism, that if you are going to drive at certain hours of the day, there may be a counter like at the grocery store when you get the price marked, that checks your car. Pretty soon, at the end of the month, PAT MOYNIHAN gets a bill from DOT in his local community for the use of the road, depending on the time of day; he gets a bill for the use of the road.

I say to my colleagues, if they do not believe this works, I invite you to go out to Springfield on Franconia Road, west of Springfield, and there is a place out there where the cars drive in and people just get there; stand there. You do not have any bureaucracy. There are no licenses issued. There is no telling them how to do it. They stand there at the place, and cars drive up from about 6:30 or 7 in the morning, during the heavy rush-hour traffic. They pick up two passengers or three, get on the HOV lane, and whip into the District in 20 minutes, where it would take them 45 minutes in the other lane.

Likewise, down here at 14th Street, there is a place where people do the same thing. It does not take any regulation from the Government, except for the thing, and that is a sign that says: Three people per car on the HOV lanes. That is all it takes. They enforce the three-person occupancy rule, and the people manage to figure out how to get in the cars, and we do not have to worry about it. The mechanism works. When there is an incentive, people will react to that incentive.

I see my friend from New York nodding on that. We heard that this morning on another subject from our dear friend, Secretary of HUD Jack Kemp, about how incentives are what we want to continue to remember to put into the American system on the economic side. What we are saying is, it works in transportation, too. If there are incentives to improve efficiencies, we believe people will respond to that.

There are corridors of national significance in this bill that are needed to construct multi-State connectors. The States may work to those corridors of national significance to improve upon the bill, a greatly strengthened role for local officials to upgrade the metropolitan planning organizations; those are for population centers over 200,000. They will be able to receive funds that they request to use flexibly for choices of whether they want to build HOV lanes, whether they want to continue to build the current roads, maybe improve their rail system into the city, the transit system; they will have great flexibility to do that.

Another significant part that has been the single most controversial part of this legislation, Mr. President, is the money. I have found throughout this debate, from whom we had the bill on the floor last summer, throughout the hearing process, that most of our colleagues in the Senate, because of the political situation, the political climate we all live in in the political world, the one thing they are most concerned about is how much money will their State get.

I see the distinguished senior Senator from South Carolina on the floor, and he has expressed that concern to me. South Carolina, historically, has been a State that pays in more money than it gets back. We realized this. As the interstate started coming to an end back in 1982, we amended the act then, to put in what is called a minimum allocation in which we tried to start guiding the money, so we received up to 85 percent returned on the dollar for every State.

It is very difficult to run a national program and return everybody exactly the same amount of money they put in. Like I mentioned, for example, Montana has great needs, long distances, difficult terrain, difficult weather, and it is a bridge State; that if you are going to drive across the northern tier of the United States, you have to drive through Montana. And in order to have an Interstate and Defense Highway System, somebody had to help the Montanans build the road. There is not a big enough tax base.

In my State, for example, the Federal Government owns two-thirds of the land. Two-thirds of the land, Mr. President, is owned by the Federal Government. I find that rather interesting, when these people who are pushing perestroika in the Soviet Union today are saying that they want 60 percent of the land to be owned by the private citizens of the Soviet Union, and of the respective republics in which they live; and in my own State, only 33 percent of the land is privately owned.

In other States like Nevada, it is only 12 percent. In Alaska, 2 or 3 percent of the land is privately owned. In California, Oregon, Washington, there are great tracts of land—Wyoming, New Mexico, and those Western States—that are still owned by the Federal Government; those States have a more difficult time developing their resources and coming out with the ability to meet those highway demands. So that is why we have had this program.

But the minimum allocation is at 90 percent in this bill. There is no State that will receive less than 90 percent relative to its share of the Highway Trust Fund contributions. And we will probably have more to say about that later because there will be, I am sure, some of our colleagues who have expressed great concern.

I must say that those colleagues have worked hard for their States, and I believe with this bill—this is a bill that I like to refer to as a pay-before-you-go bill. This bill is not one of these bills where we come in and authorize money that has not yet been raised by the revenue collectors. This money is raised by the purchase of fuel on a daily basis by the American people and is in a trust fund.

So if we do not pass the bill, we are denying our States the opportunity to have the moneys that we are going to be releasing as soon as this bill is signed by the President. Dr. Tom Larson, from the Federal Highway Administration, who has played a great role in assisting the Congress with all kinds of technical assistance and advice and help, will be releasing dollars to our respective States.

I mentioned my good friend from South Carolina because those of us who know Senator THURMOND know he is not someone who can be taken lightly. He is very concerned about what happens in South Carolina. But it happens to be one of those States that has helped the rest of the country build the Interstate. It received in the last 5 years 87 cents for every dollar it put into the trust fund. In this program they are going to receive 93 cents for every dollar, so we are coming up, I say to the Senator, to where it will be helpful to the Senator and his constituents.

Furthermore, in the last 5 years, South Carolina, for example, received $926,781,000. In the next 6 years under this program, we will allocate, effective immediately upon the President's signature and the release of funds by Dr. Larson and the Federal Highway Administration, $1,633,054,146 to the State of South Carolina. So it will be the biggest Federal Aid Highway Program in history in that State. And that is true of all of our States.

I noticed the New York Times this morning talked about the jobs that are

on the line with this bill. I think it is worth mentioning that when the Federal process is taking the tax dollars from the people, putting it in a trust fund to spend on highways, if we just hold it and do not spend it on highways, it is true, it makes the Federal deficit look better, but it is also true that we have taken that money from people and it is not spent on anything productive. That is a very negative factor in our economy. If we return it back to the States, dedicate it to transportation needs, there will be an enormous infusion of capital back into the system. Otherwise, it would be held in abeyance.

I have never made the argument—it is not worthy probably to go into it here for philosophical reasons—that a highway bill is necessarily a jobs bill, but I can tell you one thing, Mr. President, no passing a highway bill can be very antijobs because these dollars are dedicated for the building of our roads, for the improvement of our roads, the maintenance of our roads, and the construction industry infrastructure and the men and women who work in it are in place and working. If we do not successfully complete passage of this legislation, there is going to be an enormous cutoff of funds and you are going to hear the screams across the country. Fighting further to get a better, a more fair allocation would only, I think, delay unnecessarily needed projects, hurt the country enormously, and in the end I do not believe the conferees can do any better than we have to try to make this a fair program.

We have here available for all Senators, if they have not seen these charts, charts of how their respective States will come out, how much money they get, what percent of the program they will get, how much return their State gets. There are all kinds of reasons why one State looks like it did better. For example, if a small State had a big project in a State and then this time they do not have that big project in the State, it can make the numbers look much different even though the Federal aid funds will be continuing to flow into that State. So we just cannot have the first look at those numbers.

I think those of us on the committee will do what we can with our staffs to show any Senator who is interested exactly how their States come out. But I can only say that our conferees worked long and hard. I would say on our side Senators CHAFEE, myself, Senator DURENBERGER, Senator WARNER worked long and hard to try to see that everyone was treated fairly. It was a bipartisan conference. I just named the Republicans. Senators MOYNIHAN, REID, LAUTENBERG, BURDICK. We did our best in our conference, and we talked about our States. We went through it State by State. We ran these numbers over and over and over.

Chairman ROE, of the House, this afternoon I think, observed that this is the 29D run of numbers. When we reached 29D, Mr. President, we said that is as far as we are going; we cannot do any better; we are going to the floor with it. Our staffs have been diligently working to put this package together.

I believe we have a very fine bill. It is true, if somebody wants to pick at it, they can probably find something that is not entirely perfect. There are a few States that are extremely concerned. One of those coming to mind is Florida. Because Florida is growing fast, it has enormous transportation needs. Florida is to the point now where it has come from only being returned 77 cents on the dollar in the last 5 years to 92 cents. That in large part has been due to the diligent efforts of the two Senators from Florida. It was Senator GRAHAM who stood here and fought and argued with us for a week to make sure we understood he was tired of getting back 77 cents on the dollar.

Now, there is one other thing I would say to my colleagues. When they come to the floor and look at these charts, we have the highway dollars here. We have the highway dollars, Mr. President. There is $32 billion worth of transit projects, and some of the States that do not do quite as well on highways—coming to mind is Florida, Texas, California—do very well in transit. And so we think it will work itself out and they will feel pretty good when it is over, we hope.

There is one thing in the bill, Mr. President, I guess I should say, that I did not approve of, and I guess we might as well talk about those things we do not like. But I think most Senators in here are going to like this. There is a freeze as of June 1, 1991, to prevent expanded use of triple trailer trucks.

Now, I said earlier, Mr. President, I think it is important we lift the cap on revenue bonds either in this bill or some other bill, at some place soon, so that we can start the private investment into high-speed rail in this country to take some of the pressure off our interstate highways, which are heavily traveled by trucks. I know most people when driving down the road get worried about a truck, but I want to say one thing about triple trailers. It needs to be said. There have only been eight fatalities involving triple trailers, with all the millions of miles they have run.

We have capped the expansion of it in this bill. I would have preferred not to do that. As the Senator from New York said, I come from a produce ranch.

The trucking industry in this country employs 8 million people, and without a good, vital trucking industry we would find that everything we buy would cost more. The biggest users of railroads in the United States is the trucking industry. That is often overlooked.

Oftentimes we hear in the Senate that it is the truckers versus the railroads. This is an intermodal transportation bill. We are trying to look into the future and say we need high-speed rail. We need better, more efficient highways. In some places we need new highways. We need to have trucks.

I do not think that the solution to safety on the highways is going to be found just by saying you cannot use this truck, or you cannot use that truck. We need to work this thing out.

This bill speaks to that because it is becoming a problem for drivers and automobiles, and there are more people driving cars than there are trucks.

In politics, I am a realist. I know what happened in the committee when I opposed this. I did not win the votes. I did not win the votes because more of the Senators thought we ought to put a cap on this. It was called another Symms amendment with transportation that dealt with allowing States to grandfather-in the use of triple trailers. It went from 10 States to more and so forth.

So the Senate said, that it is. We are going to cap it here. That is in this bill. There is a lot of safety in this bill that should be good for the country which will save lives and keep our medical costs down.

But most of it is on a reward basis. It is not the club. Senator CHAFEE worked—I see he is here on the floor—a great deal on the seatbelts and motorcycle helmets. He has done this in a fashion to reward the States to get into a program and make a program that helps.

Eventually, it is going to prove to be in their best interests to do what is in the bill. But it is a carrot approach to improve safety.

I think the bill will save a lot of lives and improve the transportation in this country with a better road. It is a safer place to drive. It is going to be better all the way around for the country to have better roads and better alternatives when there is no room to build any more roads so the people can get to and from work in a very safe and successful manner.

Anyway, Mr. President, I think this is an excellent bill. I am very proud of the work that we have done on the bill. I think that there is a lot of credit to go around to a lot of our colleagues.

But I will just say to all of those colleagues who are very concerned that come from some of the donor States, Senator WARNER, Senator LAUTENBERG, some of the Members of the House, they put up a whale of an effort for them. We have come a long way from where we were just a few short years ago. In fact, we have come a long way from where we were a few months ago toward recognizing that we have to have a sense of equity so all the people are treated fairly.

I think it is a good conference report. I hope it will be passed yet tonight

when it is completed. I look forward to seeing the benefits of what I think is a very monumental piece of legislation and probably one of the most important that I have worked on in my time here in the Senate.

I, for now, Mr. President, yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

THE FEDERAL BUREAU OF PRISONS' POSTRELEASE EMPLOYMENT PROJECT

Mr. THURMOND. Mr. President, I rise today to speak about an important and dramatic new research finding. This finding is the result of many years of dedicated research work conducted by the Federal Bureau of Prisons.

The Federal Bureau of Prisons has just completed an 8-year study that shows there are significant differences between inmates who have participated in vocational training and work in Federal Prison Industries versus those who remained idle. This study is entitled the "Post Release Employment Project"—referred to as PREP—and it compares groups of inmates with similar criminal histories.

These study results indicate that those who did participate in vocational training and Federal prison industry programs showed much better adjustment in the institution; were significantly less likely to become involved in new criminal behavior after their release; and even earned more money after release than inmates who had similar backgrounds but did not participate in these programs.

This is the largest and most comprehensive research study undertaken to date to evaluate the impact of these vocational training and Federal Prison Industry Programs on inmate post-release success. The significance of this research will be felt throughout the field of corrections.

The Bureau's study clearly shows the value of industrial work and vocational training in facilitating an inmate's successful adaptation to a productive life in the community after being released from prison. The study also demonstrates the contributions that Prison Industries and vocational training make to the management of safe institutions.

Preparation for this study began in 1983. Date collection on postrelease outcomes continued into early 1987, with more than 7,000 inmates involved. Unlike most studies of prison vocational training or work experience, PREP is a prospective, long-term study. Study inmates were identified by case management staff at the institution over a period of several years. Inmates were selected for the study group prior to their release, if they had participated for at least 6 months or had received vocational instruction. Based on a set of matching variables, comparison inmates were selected who were released in the same timeframe but who had not participated in either work or training.

The primary focus of PREP was a determination of the differences exhibited by the study and comparison groups once they were released to community supervision. Post release followup information was obtained on all inmates. The followup information included information on employment, wages, and retraining. Most of the study inmates and some comparison inmates were released though a halfway house prior to their eventual release to the community.

I believe that the Director of the Bureau of Prisons, Mr. J. Michael Quinlan, should be commended for his strong and able leadership at the Bureau. He and his dedicated staff have spent long hours of research in preparing this important study. This project will be a vital step toward the goals of better postrelease adjustment and a safer America.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

INTERMODAL TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. BURNS. Thank you very much, Mr. President.

Mr. President, I come to the floor to make a few comments on the final chapter we hope in the conference report on the highway transportation bill. It is called the Intermodal Surface Transportation Efficiency Act of 1991.

I want to congratulate a lot of the conferees that participated in this conference. When it all started out, in the House version to the Senate version, I do not think there were two pieces of legislation that were supposed to come together that were so far apart.

I would have to say that each and every person that participated in that conference had a lot of what we call T-R-Y about it. It had to be done. It was a long and arduous task, but in the end, I think, it was very, very fair.

I have seen these men and women work on these conferences, and a number of people that I think deserve praise on this bill. Senator MOYNIHAN, who has never lost his sense of humor in long hours of negotiations, even on long hours of trips sometimes.

Mr. SYMMS. If you would spend 6 weeks in conference on this issue, you might not necessarily always say that he has a great sense of humor.

Mr. BURNS. I would advise the Senator from Idaho that every time I approached him, his sense of humor was still intact. I know it is hard to keep your cool sometimes under those kinds of conditions.

Senator SYMMS from Idaho deserves special credit, especially from my State of Montana, understanding the problems that we face in the West, where we are sparsely populated, but we have thousands of miles of roads to maintain and to keep up. Senator BURDICK from North Dakota, Senator CHAFEE, who just spent hours upon hours on this task, people working with Senator SYMMS, such as Taylor Bowlden, Angela Plott, who have been so kind to my staff as we worked through the process.

Also, I thank the Governor of my State of Montana, Stan Stephens; his Director of Transportation, John Rothwell; and their Washington counsel, all for their advice and assistance to make sure that, yes, our States of the West were treated fairly in this bill.

You know when we talk about putting people to work, I think the study was, if my memory serves me right, that for every $1 billion in this massive transportation bill, we create 20,000 jobs over the next 6 years. We have heard great speeches about infrastructure. This Congress should be investing in that infrastructure.

As the Senator from Idaho spoke as well of the trucking industry, we have to remember that there is not a city in America that does not have fresh produce every day, fresh meats every day, which comes from vast distances. The folks who live in Maine eat lettuce and fresh vegetables from our Southern States and California, delivered fresh daily, all our produce. We are the most well-fed nation in the world.

It is one thing to produce it. The next thing is to process and distribute on a daily basis, so that our tables can be set. That is important. That is infrastructure. That is what it takes to make a nation hum, and this is where we should be making our investment of dollars collected by this Government, back into the infrastructure so the activities of commerce can be carried on in a timely fashion.

The final compromise also recognizes the need of rural States like Montana, with its vast miles and sparse people. We receive our money, and we are part of the National Highway System. We are a part of the whole system.

Yes, we are individual States, but we are all a part of this great country. Also, it gives us money so we can deal with our secondary roads and our arterials. It recognizes our farm-to-market system, requiring the State to consult with local officials to incorporate its system in rural priority roads and bridge networks. The number of bridges falling down in this country is phenomenal. This allows that work to begin.

The final compromise adopts the Senate's bill structure and its overall flexibility which allows for the innovation of our transportation infrastruc-

tures that it gives to every State in the Nation the ability to transfer funds to its areas of greatest need. It also provides an 80 percent Federal match so that States that are already facing budgetary constraints can afford a robust public works program.

So, Mr. President, I am very pleased that the conferees included my amendments to promote rural tourism and recreational travel. There are extra dollars around our national parks and our public lands, because we can have the greatest attraction for the enjoyment of America. But they are never enjoyed if you cannot get there.

My own State of Montana receives about $50 million over the next 6 years to spend in conjunction with Federal agencies inside Forest Services, BLM, national parks. Those funds can be spent on roads that enhance the recreational travel that makes the tourism related amenities such as signs, parking areas, scenic easements, and visitor centers eligible for Federal funding.

That is very important, because in my State, Montana, tourism is the second largest industry, and we get the biggest share of it in just 3 months. I sometimes wish we had a climate like that of the occupant of the chair, the Senator from Hawaii; maybe we could get more travel to those majestic mountains in Montana.

So I appreciate the work that the conferees have done. I appreciate their willingness to listen to the needs of all America, to make it fair, especially for my State of Montana. I congratulate them, and I thank them.

I yield the floor.

Mr. MOYHIHAN. Mr. President, on behalf of the conferees, Senator CHAFEE, Senator SYMMS, who are on the floor now, and myself, we would like to thank the very able Senator from Montana for his remarks and to say to him, we thank you, sir, for your amendment on rural tourism, which is an important part of this measure. It is a better bill because of the amendment you offered, and we thank you for it. I think a lot of Americans, not just Montanans, will be in your debt.

Mr. CHAFEE. Mr. President, first of all, I want to join in the thanks to our distinguished colleague from Montana for the kind comments he made and for the contributions he made to this legislation.

Second, it is very opportune that we have on the floor the two chief authors of this legislation, namely, the distinguished chairman of our committee dealing with this matter, and the ranking Republican, Chairman MOYNIHAN from New York and the ranking Republican, Senator STEVE SYMMS from Idaho. But for the perseverance and tenacity of these two gentlemen, we would not have this bill before us.

So I tip my hat to both of them, and I think the key thing—it is not getting a highway bill. No one seriously suggests that with all of this money piling up in the Highway Trust Fund, that it was not going to be spent. The key thing about this bill is that this truly sets a new direction, and the senior Senator from New York, many times, has pointed out that the 40-year program of building the Interstate Highway System is not all finished, but the program is finished.

Now we are looking toward the balance of this century into the next one, and the question before us is, do we keep going as we were before? We have money—in this case $119 billion—do we spend it on roads, bigger roads, wider roads, more roads? Or do we say, look, the objective of this money is a transportation system, how we can best move people and goods at the lowest cost, fastest manner and most efficient fashion in our country. That is what we have done. Anybody who studies this bill will be struck by the fact that there is tremendous discretion and flexibility. That is another word that is used. The ability to spend money, if you want, if the State works in conjunction with—we use the term metropolitan planning area—the larger urban centers.

Do they want to spend the money on more roads, or do they want to spend it on something else? Do they want to spend it on a high-speed rail system, for example? Or do they want to spend it in some new developments? Indeed there is some very interesting experimental work provided here, in a subject that the senior Senator from New York has been interested in for a long time, called magnetic levitation. That may be a flop and may not be worth anything. But when you are spending in the next 6 years $119 billion for transportation, it is worthwhile spending $725 million to construct a prototype of the magnetic levitation system. So that is a very interesting undertaking.

Now, Mr. President, again I just want to congratulate these two distinguished Senators for what they have done in connection with this legislation. I particularly want to single out Senator SYMMS because he comes from a very, very large State, a truly rural State—they do not have large centers of population—where the idea of mass transit is not as pertinent as it is in New York or New Jersey or in my home State of Rhode Island.

But he went along with these new trends, with these new possibilities. I think he has shown flexibility in his own approach. He comes from a State where triple trailers are important, where big trucks are important. In my State they are looked on as a menace. But Senator SYMMS showed a dedication, a willingness to compromise, a willingness to get on with the effort. I think we all owe a great debt of gratitude to him.

And I will say—and we will have an opportunity to say this plenty in the next 12 months—but having worked with him so many years on this committee, I am very, very sorry he is not running for reelection. It is a loss not only to this committee, it is a loss to the country. I just hope he will continue his active interest in public affairs when he returns to his home State. And we will miss him.

Now, Mr. President, a couple of points of specifics on this bill. First of all, I mentioned that there is $119 billion—even from somebody from Washington, $119 billion is a lot of money—that is going to be spent on this program over the next 6 years. In addition to that, $3½ billion for mass transit construction, dedicated to that, separate from the part that can be transferred under the flexibility of that previously mentioned out of the $119 billion.

Second, pursuant to the wise guidance of the senior Senator from New York, we decided that we have to keep up these roads, particularly the interstate, and so therefore, we encouraged maintenance, proper maintenance of the interstate through the 90–10 program, 90–10 being 90 cents from the Federal Government and only 10 cents from the local government.

On the new construction, that is at a rate of 80–20; namely, 80 cents from the Federal Government and 20 cents from the locals.

That formula is not one I am particularly fond of. We came in as Senators with 75–25. We wanted to discourage new construction. Every one of us look around, and what is the easy way to do things? Expand the roads, build another lane. Take a look at 495 out here. That is the solution with every problem, instead of having some innovative approaches to it.

But the conference—many things are a compromise in this world, particularly in conferences with the House—so we settle at 80–20; that is 80 percent being Federal funds and 20 percent local for expansion or construction of new roads.

Now, there is a national highway system involved here. That is something new. We have not dealt with that before. But what does that mean?

What it means is you have the Interstate Highway System, and then there will be selected other roads, primary roads in the Nation, that will combine with the Interstate Highway System, and will come to be known as the National Highway System.

I personally think there is going to be a lot of battles over how that is going to be determined, because if there is preferential funding for the National Highway System as there is in this bill, then different States are going to say, well we want ours in there, and we want more than you are saying we can have. That is perfectly

logical. We all know how that is going to work out. So when they talk of a 155,000-mile National Highway System, some States are going to have very, very important roads left out of it. And there is where you are going to have trouble, I believe.

But that is part of making decisions. And who is going to make the decision is a little fuzzy, I think. It is going to be left up to the Federal Highway Administrator, but he will be under tremendous pressure.

We are going to rebuild our bridges with $16 billion. Now, more can be set aside for that, but certainly $16 billion has to be set aside.

I mentioned the Magnetic Levitation Program. We have $660 million which has been described as the intelligent vehicle highway system. What wonderful words, "intelligent vehicle highway system." Most of that is for research in our colleges and universities to figure how we can use these roads better.

What are some examples? I will give you an example. Certain automobiles that are going downtown during the rush hour will have a special tag on them. They will pay for that tag. Only those with the tag will be permitted to be downtown or headed into town between the hours of say 7:30 and 9:30. If you do not have that tag, you have to wait until later.

Now, is that harsh? I do not think so, because studies have shown that a lot of people head into town most at those crowded hours that could just as well go at a separate time. But swept up by habit, inertia, custom, they head in town at those specific hours when they could just as easily go at a separate time. The whole objective is how could we get more vehicles using the same roads in an uncrowded fashion.

Mr. President, the other portions of this have been described.

Again, I want to stress the capability to switch funds into mass transit. I do not think many people realize this, that 100 percent, every single dollar of some State's national highway system funds, can be transferred into mass transit if that State is not in attainment with the Clean Air Act and receives the approval of the Secretary of Transportation.

That is a very, very unusual feature. But it certainly is one that will say to those States that are not in attainment under the Clean Air Act, "Here is something you can do. You can put it all into mass transit."

I would just like to conclude. I see my distinguished colleague on his feet and I just want to conclude by saying that several things in here—like all of us, I have had some features I have been working on particularly. I am very pleased that we have some incentives to encourage the use of motorcycle helmets. There is no question there is an absolute direct correlation between motorcyclists suffering severe head injuries and severe trauma without helmets as opposed to those who wear their helmets.

In my little State, we have 17 individuals in our State institutions in comas—some have been there for as long as 17 years—as a result of motorcycle accidents, and carrying them at a cost of, per individual, something close to $200,000 a year. Those injuries might have been avoided and probably would have been avoided if those individual motorcyclists had helmets.

Likewise we have funds in here to encourage the use of seatbelts. There is a direct correlation between the use of seatbelts and the reduction of injuries in automobiles.

Finally, we have had long battles about billboards, and on this floor when the Senate considered the legislation the provision that I had in there to permit the States to amortize billboards was soundly defeated, regrettably, from my point of view. However, in this particular legislation we provide for the construction or the designation of scenic byways. The distinguished Presiding Officer, I am sure, has some lovely roads in his State which would qualify for being scenic byways, particularly charming sections of road that should be preserved and kept that way.

Under this legislation, we provide not only that no new billboards can be constructed on those scenic byways, but 10 percent of the scenic byway money can be used to purchase these billboards to get rid of them forever.

So I think in future generations people are going to ride in these scenic byways and say, "Thank goodness those individuals in the Congress did something to preserve these sections of road in 1991 when they passed that bill."

I look for an expansion of this program in future years, so motorists can take these trips on these lovely roads—I have some in my State; all of us have some in our State—without the offensive sight, visual pollution, that is provided by billboards.

I thank the Chair.

And some people say "Oh, well, how are you going to know where the next inn is? How are you going to know where there is a restaurant?"

We all know the answer to that is there are very discreet signs designating fuel, food, or lodging, and if need be, they can be a little more explicit than that. But certainly they do not have to be these monstrous billboards.

So I want to thank the Chair, and again congratulate the two real leaders in this situation.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the Senator from Rhode Island has to be at another conference committee meeting right now. He will be leaving the floor. I do not want him to leave the floor with the vague statement that future generations will thank persons who provided, in this legislation, that there will be no new billboards on scenic highways, and that moneys will be available to take down billboards there now. It was not persons, plural, sir. It was JOHN CHAFEE, of Rhode Island. Captain CHAFEE, if you like.

You never saw a marine like him. He stormed into those billboards like they were a short Iwo Jima. He made it his personal concern, and he brought the conference unanimously to this view.

I do not know how we are going to work it out that people who do not see something are going to be aware of the something they do not see. But the history should be recorded, right here and now, that this is the Chafee amendment, worked out in conference, to his great credit, to the great enhancement of this bill, and to the enhancement of our country.

And we thank you, sir.

Mr. CHAFEE. I thank my colleague.

Mr. SYMMS. Mr. President, I want to add my thanks to Senator CHAFEE, who is the ranking member of this committee I am privileged to serve on. Rhode Island is not a donor State. JOHN CHAFEE was like a rock in that conference. Senator MOYNIHAN referred to him as Captain CHAFEE. We all know of his distinguished record as a marine in World War II, in Korea, in the infantry.

But he is like a rock. He stood there for the Senate's position, day after day after day, and gave a lot of strength to the rest of us a lot of times. We all felt that way. We had a good conference, a group of Senators who tried to work together, and we think that is the reason we got this bill.

JOHN CHAFEE had a lot to do with that, and I will be forever grateful for him and Senator MOYNIHAN and other members of the conference for their help on several issues I had.

I was disappointed we did not get the private property amendment. I might just say about my colleagues in the Senate on that issue, most of the colleagues we had in there, over half of them, had voted against my position on the floor. But it was not the Senate that cracked on this issue. The House simply refused to take the Symms private property takings amendment.

JOHN CHAFEE, though he may have had differing views, stood there, and that was at bay for a day or two or three. I had an alternative that the Senators thought they would be glad to go along with, but the House would not take it.

I am grateful to my friend from Rhode Island for the kind things he said about me. I am privileged to be with him in any kind of a fight. I would rather have JOHN CHAFEE on my side. Oftentimes, in the committee, we are not on the same side. But in this particular case, he was a great help, I think, to all of us to keep the Senate position in this bill.

The key to that is flexibility. A lot of my colleagues have been talking about transit here on the floor, and I appreciate what the Senator said. But the State of Idaho—I have talked to the Director of Transportation today. He is elated with this bill, because he has flexibility to try to make the road system better in Idaho and put the money where it is most needed, to improve our important roads in that State. He felt the Senate and the House did a great job coming up with this bill.

I thank the Senator for his help.

Mr. CHAFEE. I thank both of my colleagues for their very generous comments, and I appreciate it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 15 minutes for purposes of introduction of two bills.

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

Mr. GRAHAM. Mr. President, before I proceed to the statement to accompany the introduction of two important pieces of legislation, I would like to make some comments on the discussions which have been proceeding relative to the Surface Transportation Act.

It disappoints me, Mr. President, that we are at this point at almost 8 p.m. on the last day of the session, supposedly, before we recess for the year, without a copy of one of the most important bills we will be asked to vote upon; without the analytical tables that allow us to understand what the implications of that bill will be.

We have been asked to make comments at this time in preparation for the opportunity that we will be afforded when the conference report is before us. I wish to express that concern in hopes that those who have the greatest knowledge about this legislation will be prepared to respond in detail to the questions that those of us who are apprehensive have and, therefore, will give us the solace that we hope their words will be able to provide.

I will personally be focusing my questions on some very fundamental questions, such as: Is there a basic sense of fairness in this legislation? Are the needs of all of the 50 States properly taken into account in terms of their size, their growth, their special economic circumstances, their contribution toward the National Highway System, what their historic commitments have been, and what their future obligations to the public of America will be?

I am also going to be concerned, Mr. President, with some questions relative to the role of this legislation in economic stimulation. I have heard the President, I have heard leaders of Congress point to the highway bill, the Surface Transportation Act, which includes highways as well as mass transit, as being one of the most significant economic bills that the Congress will pass. I agree that it can be one of the most significant economic bills. It can be if it makes a positive contribution toward building America's infrastructure if it is targeted in a way that will put the maximum number of Americans to work immediately during this period of economic recession. Those are contributions that the bill can make.

Whether it does make those contributions we do not know because, with the exception of a small group of people who as recently as 2 hours ago were supposedly still in the process of making this brew, we do not know whether this bill, in fact, will stand up to those standards of analysis. I look forward to an opportunity to engage, at such time as the bill itself and the analytical tables are available, those who know more about this legislation on those issues.

To conclude these preliminary observations, Mr. President, I believe that the Congress is about to do a disservice to the American people if we adjourn tonight or tomorrow. This country is hurting. There are millions of families who have felt the pain of unemployment and economic distress and underemployment, who have felt the personal anxiety that accompanies that, the loss of sense of selfworth and respect. I do not believe that this Congress should be in recess while the Nation is staggering under such economic pain.

I heard earlier tonight on national television the President, in an informal interview, use the phrase that he enthusiastically supported a congressional growth plan which apparently was presented earlier today in the House of Representatives. To me, that is an indication that the President is now prepared to consider today, not at the time of the State of the Union in January or February, a growth plan, a plan to start the American economy. While we do not know the specifics of what he would support, we clearly know that if we are not in session, there will be no opportunity for us to engage the President in that dialog that might lead toward some constructive actions for America.

I believe that we should take this opportunity to join the President in a bipartisan spirit, recognizing our mutual responsibilities for the well-being of the people of this country, and stay here and do our work. I can assure you, Mr. President, that the American people are not going to focus their blame singularly on the White House if they see the Federal Government, if they see Washington stand passive and indifferent for a 2-month period of severe economic recession. They are going to hold all elements of the Federal Government, and specifically the Congress, accountable for what it did. I, for one, will urge my colleagues, as I have in the past, to stay in Washington and do our business and continue to search for those measures which the Federal Government can initiate that would contribute to a lessening of the economic pain for our Nation.

I hope, as I conclude again this preoration to my statement on introduction, that the highway bill can stand that test. I frankly doubt it, and if it cannot, then I believe we have yet another reason, a reason based on the failure of this highway bill to meet the test of contributing to the economic stimulation of America, to return this for further review, analysis, and prescription of a highway bill, mass transit bill that can make a positive contribution to America's economy.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2096 and S. 2097 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SYMMS. Mr. President, I would like to speak for 2 minutes as though in morning business.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 2095 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. SYMMS. Mr. President, I do not see any other Senator seeking recognition, so back to the bill at hand. I am particularly proud of sections 1301 through 1304 of the Surface Transportation Efficiency Act.

I said to Senator MOYNIHAN the other night at 2 a.m., after the conference had accepted the Senate provision which has the National Recreational Trails Trust Fund Act included in it, that now we have made it all the way so it really is a intermodal bill. We are going all the way from the backpacker to maglev and all points in between.

So it is an intermodal bill. And just so that my colleagues will know what is in it, sections 1301 through 1304 of the bill create a national recreational trails trust fund for nonrecreational fuel taxes for the purpose of maintaining and constructing Federal, State, and private recreational trails.

To clarify future congressional oversight and jurisdiction, while keeping responsibility for program administration consistent with budget functions and to use the most conservative estimate of revenue to be generated for the trust fund, two changes were made by the conference substitute to the Senate language. One change made by the conferees was that the fund was moved

from the purview of the Secretary of the Interior. Instead, the conferees decided to put the administration of the fund under the purview of the Secretary of transportation in consultation with the Secretary of the Interior.

This happened primarily because we became embroiled in a jurisdictional fight in the other body, and we think this is a good compromise so that Interior will have consultation with this but the Secretary of Transportation will be responsible.

The other changes was that the conferees decided to take the lowest estimate of revenue under the fund and use this as a cap on obligations for the first 6-year period while this program gets on its feet. Obligations are limited to $30 million a year over 6 years. The conferees intend that as information relating to this revenue is available, it will be provided to the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee, so that recommendations can be made relating to future appropriate obligation limitations.

The third change was the name change that Senators MOYNIHAN and WARNER suggested. I am deeply appreciative of them to name this act the "Symms National Recreational Trails Act."

In closing, I want to thank all of my Senate conferees and House conferees for their support on this section of the highway bill. But because of their interest and determination we have the legislation before us tonight that will send those fund dollars in the National Recreation Trails Act back to the folks at the State level on the ground using these trails where the money is needed and where it belongs.

Mr. President, I would like to have printed in the RECORD a report I prepared on The National Recreational Trails Fund Act provisions in this highway bill. This report outlines our intentions, and how the legal language in the bill should be interpreted and implemented.

I ask unanimous consent that it be printed in the RECORD.

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

REPORT FOR THE CONFERENCE COMMITTEE ON THE HIGHWAY BILL

PART B, THE NATIONAL RECREATIONAL TRAILS FUND ACT

Summary

Section 1301 through 1304 establish a National Recreational Trails Trust Fund, drawn from the excise tax paid on nonhighway recreational fuels, which will provide states with funding for projects promoting safe and environmentally sensitive opportunities for use of recreational trails.

Discussion

Americans going to and from their places of recreation constitute eight percent of national highway usage.

Access to fishing, hunting, camping, climbing and a number of other forms of recreation is often provided by trails; but such trails can also be the source of recreation themselves for hikers, joggers, horseback riders, bicyclists, snowmobilers, trail bikers and others. Recognizing this, the President's Commission on Americans Outdoors in 1987 recommended the establishment of a dedicated trust fund financed by the fuel use taxes paid on "nonhighway recreational fuels," the balance of which would assist the states in providing and maintaining recreational trails. This concept is very similar to the Aquatic Resources (Wallop-Breaux) Trust Fund, which dedicates motorboat fuel taxes to the protection and enhancement of fisheries and boating facilities.

Part B follows the Commission's recommendation by establishing a National Recreational Trails Fund. The Fund is created out of "nonhighway recreational fuel taxes." By definition, this revenue source is not derived by any usage of highways, and under the "user-fee" concept of highway funding, should either be refunded or dedicated to a program more directly related to the activity being taxed. While the recreational fuel taxes paid by individuals are not practically refundable, the taxes paid by outfitters and guides, snowmobile excursion operators, motorcross racing establishments, ski lodge and snow trail groomers, and other commercial fuel users are currently refunded. Part B utilizes these unrefunded nonhighway recreational fuel taxes by dedicating this revenue source to a Fund that directly benefits recreation in general.

The Fund is distributed to the states, one-half equally divided and one-half divided based on a measure of recreational usage. Under this formula, those states which face the greatest recreational demands will receive a proportionately greater share of funds to address that demand.

Many states already dedicate taxes and fees on equipment and fuels for funding recreational programs. The provision of federal Trails Fund moneys should not reduce any state's financial commitment in this regard. In fact, after three years, states with certain trail-recreation-based revenue sources are required to make a reasonable estimation of such revenues available for recreational trail funding within that state.

The Fund provides assistance to state and local governments, since it is at this level that the goal of "closer-to-home" recreation can be best achieved. While trails on federal lands can be expected to benefit when the impacts of heavy usage are mitigated by the provision of more local trail opportunities, the Fund is not intended as a substitute, or supplement, to appropriations for trail programs on federal lands. To emphasize this, the bill does not authorize the use of Fund moneys for trail construction on federal lands, except to the extent that such construction furthers a specific objective of a State Comprehensive Outdoor Recreation Plan (SCORP).

Section 143(d) lists the authorized uses of Fund moneys. The various activities lettered (A) through (K) have been listed in order of suggested priority. It is well recognized among trail users that the need for construction of new trails is often not as immediate as the need for maintenance and repair of the existing trails system. Furthermore, education, enforcement and training activities are essential to prevent further erosion and damage to existing trails. These activities are therefore ranked when allocating Fund moneys.

The Recreational Trails Fund is designed so that, once a decision is made concerning a trail, states have access to funds that will improve the enjoyment, safety and environmental soundness of that trail. The Fund itself is not intended to alter public land management policies, dictate when or where a trail is to be built, or what kind of usage should occur on that trail. Rather, it is assumed that such decisions have already been made through public policy processes, such as state or local recreation plans. In conformance with this process, states should specify trail needs and priorities in statewide park and recreation plans or their supplements prior to commitment of Fund moneys.

In regard to administration and allocation of funds to states, it is recognized that institutions and processes for administering recreation and park grants already exist, including assistance for trails and trail-related projects. To avoid a proliferation of agencies and administrative burdens, the state and local activities benefitting from the Fund should, to the extent practicable, be administered in conjunction with the state grant program authorized by the Lan l and Water Conservation Fund Act, including the utilization of existing administration procedures and organization. For the purposes of Federal-State coordination, the Secretary of Transportation should encourage each Governor to appoint the entity currently administering the Land and Water Conservation Fund state assistance program to administer Trails Fund moneys.

The Fund is structured to encourage as much consensus between diverse trail users as possible. In order to remain eligible for Fund moneys after three years, a trail-user representative advisory committee must exist within each participating state. Many such committees already exist as provided under the National Trails System Act, and it is not anticipated that duplicate committee structures would be necessary to satisfy the eligibility requirement. These committees should reflect the diversity of trail use within each state.

Priority is given to those proposals which satisfy more than one recreational demand, i.e., hiking and bicycling, horseback riding and skiing, alternating and time-shared use proposals, and other combinations of differing uses. In no case, however, should this encouragement for diversified use of trails result in the placement of two or more incompatible or dangerous uses together on a trail.

The Fund also ensures that states take a "good faith look" at proposals which address different trail needs, including motorized and non-motorized use. A "minimum reservation" for each form of recreation affords all trail users an opportunity to advance sound proposals. In the absence of acceptable proposals, however, this reservation of funds may be dropped with the approval of the trail-user advisory committee in that state.

Further, given that some smaller states may lack a wide array of recreational trail use options, states with a total land area of less than 3,500,000 acres and that contribute less than one percent of total nonhighway recreational fuel use, may choose to be exempted from any consideration of a "minimum reservation" for expenditures relating to motorized or non-motorized recreation.

Part B establishes a National Recreational Trails Advisory Committee to advise the Secretary of Transportation on Fund administration. Further, final administrative decisions by the Secretary are made in consultation with the Secretary of Interior. It is anticipated that trail-user involvement will result in policies that reduce administrative

overhead, promote volunteerism, and increase and improve trail experiences. As is required under the Federal Advisory Committees Act, the Secretary should select committee members who are most qualified and knowledgeable on the issues of importance to trail users.

The National Recreational Trails Trust fund is not meant to be the exclusive source of funding for recreational trails projects. Instead, the conferees intend that it compliment other private and public funding sources.

Mr. SYMMS. Mr. President, I want to add a few other things about some of the groups that support this bill, and the statements that go with them. Derrick Crandall, president of the American Recreation Coalition had this to say:

The prospect strikes us as one of the most logical and most important recreational initiatives underway. The fund offers a balanced, fair program which will draw all trail users together, just as the Wallop-Breaux fund has helped bond the Nation's anglers and boaters.

I ask unanimous consent that the entire document be printed in the RECORD.

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

OUTDOOR ENTHUSIASTS SUPPORT THE NATIONAL RECREATIONAL TRAILS FUND ACT

"The prospect strikes us as one of the most logical and most important recreation initiatives underway. [The Fund] offers a balanced, fair program which will draw all trail users together, just as the Wallop-Breaux Fund has helped bond the nation's anglers and boaters."—Derrick A. Crandall, President, American Recreation Coalition.

"The National Recreational Trails Fund Act would supply a stable and consistent source of funding that could be used to meet long term trail planning needs through a dedicated trust, rather than the fluctuating budget process."—Edwin E. Kibler, Legs Dir., National Campers and Hikers Association.

"Legislation such as this engenders a continued love affair between our great outdoors and America's people. [The] bill is a step in the right direction by protecting and enhancing the great outdoors and specifically the trails in our country."—Daniel N. Thomas, President, Great Lakes Sport Fishing Council.

"We have reviewed the bill and are pleased to see many positive ideas incorporated in the legislation. The recreational trail system has needed rehabilitation and upgrading for some time and it is good to see Sen. Symms' willingness to move forward on it."—Scott Sutherland, Dir. Fed. Relations, Ducks Unlimited, Inc.

"The American Horse Council believes that this legislation will expand our nation's available trails and ensure that riders will have an opportunity to participate in the use and development of new and existing trails."—R. Richards Rolapp, President, American Horse Council.

"Our members are well acquainted with the sad plight of recreation trails generally, and with the many contributing factors. [This] proposal to dedicate an ongoing source of funds for the benefit of recreation trails is timely and commendable."—Larry Cash, President, Fed. Of Western Outdoor Clubs, Pacific Crest Trail Conference.

"Our members believe that they will benefit both from the additional trails and from the development of trail-side and trail-head facilities that will be made possible by the Trails Fund Act."—Sue Bray, Vice President, The Good Sam Club.

"Cost sharing for both trail construction and maintenance with user participation has been effective and [this] Bill would encourage further progress. The Society for Range Management supports such measures and is happy to be listed among supporters of the National Recreational Trails Fund Act."—Stan Tixier, President, Society for Range Management.

"The Wildlife Legislative Fund of America is confident that the National Recreational Trails Fund Act will produce an abundance of opportunities for the many outdoors men of America."—William P. Horn, Dir., Nat. Affairs, Wildlife Legislative Fund of America.

"American Trails expresses it's full support for this legislation. This legislation encourages responsible trail development, and the protection of the environment in the design and development of new trail resources."—Charles A. Flink II, Chairman of the Board, American Trails.

Mr. SYMMS. I see my distinguished colleague from New York is on his feet.

Mr. President, I say to Senator MOYNIHAN that at 2 o'clock in the morning when this was accepted by the conference—Or was it Sunday afternoon? Those days start running together—I said to Senator MOYNIHAN, we have come full circle, my friend. We now have gone all the way from backpackers to maglev in this bill.

So it truly is an intermodal transportation bill. I sincerely thank Senator MOYNIHAN very much for his help that made this possible, and also Senator CHAFEE and others on the committee.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my indefatigable friend from Idaho mentioned maglev which is a term for magnetic levitation. If no Senator is seeking recognition, it might be useful to expand a little bit on this matter because it goes to the whole question of innovation in transportation, a point with which Americans are familiar, and which shaped out country.

It was 1807, if I get it right, when the *Clermont*, the Fulton steamboat, made its trip from Manhattan up to Albany and steamboat transportation was born.

We took the steam engine which had come out of Britain and put it onto a boat. The next thing you know, we were free of the winds, free of the currents. Railroads were not an American invention but they certainly took a form and magnitude in this Nation that they had never experienced in Europe.

Then the automobile, I think an internal combustion engine was displayed in Vienna on the day that Grant took Richmond. But it was the U.S. production of automobiles in vast numbers that changed the nature of our society.

We were the first to fly at Kitty Hawk. Into our own time, we were the first to send a rocket to fly to the Moon.

We have been on the edge of transportation innovation. It is our intention that we should stay so and this bill embodies that purpose—the Lautenberg provisions—on intelligent vehicles on highways.

But maglev is a nice story of a country getting too set in its ways—which happens to countries. It is a nice story because of the way it came to be invented. The story goes back to the early 1960's.

There is a young nuclear engineer who was then working out of the Brookhaven National Laboratories in the eastern end of Long Island. He still is. His name is Dr. James Powell, Canadian by birth. He did his graduate work at MIT. He was on his way back to MIT one Friday evening, I think, for a beer party as young men will do. He got to the Bronx Whitestone Bridge which crosses Long Island Sound on the mainland. He got into that permanent traffic jam that awaits you before you get your toll ticket at the Bronx Whitestone Bridge. Between the time he slowed down and the time he got his ticket, he had thought up magnetic levitation.

Well, that is what it means to be a nuclear engineer in your late twenties. We recall that Leo Szilard, in 1933, was waiting for a traffic light to change in London and thought up fission. I suppose somebody else would have done it if he had not. But those are little moments of genius that come rarely and then change the world.

Dr. Powell was then rooming with Dr. Gordon Damby. They were bachelors, and they have since formed families of their own. They both are still at Brookhaven. In 1966, they published in a scientific paper their invention. It is a very simple idea, like most great ideas in physics, once you get it clear. Magnets attract and magnets repel.

They envisioned a pathway in which magnets are placed in the roadbed, to use that term from railroading, on which a car or series of cars also with magnetic implants would rise when the current was turned on in such a way as to repel, and then move forward also with magnets attracting.

Suddenly you had a form of locomotion unlike that has ever been conceived. All the energy of friction is eliminated, all the energy cost, and also, as in the case of flying, all the tremendous power that is required to get an airplane high enough to move in atmosphere where it is efficient to do so.

In the early 1970's the U.S. Department of Transportation experimented a bit with this work. Other very able engineers were involved. But then we dropped it. We had highways, we had automobiles, we had airplanes. What

did we need with this new technology? We dropped it.

And, bang, the Japanese picked it up. Bang, the Germans picked it up. They could see something new. I visited the test track in northern Germany where about $1 billion has been invested already in trains that move without any contact with the earth at 220 miles an hour. They can move up to 300 miles per hour. Maximum efficient speed is about 220. The Japanese have put several billion dollars into this technology.

They have just now commenced their first commercial project. Senator CHAFEE said it may, in the end, not work; it may be that high-speed rail is a more efficient form. The French TGV is already in place, and I read in the Economist magazine, just this week's issue, I believe, that it has transformed the economy of France, connecting Paris with Lyon, and suddenly a country that is concentrated in one big city is diffuse. The Economist is a careful journal, and they would not casually say that something has transformed the economy of France. They said the TGV has transformed the economy of France.

Would maglev do the same? Well, it might. It has the great virtue of being able to move at very high speeds between cities, in situations such as we have here in the Eastern United States where air traffic is at its saturated limit. There is so much air space over the National Airport and LaGuardia, that a flight from New York to Washington takes an hour. Actual flight time is about 25 minutes, but the other time is spent circling, slowing down, and waiting.

The advantage of maglev, from our point of view, is that we have the rights-of-way in the interstate system; absent the rights-of-way, you would not think of putting in any new surface transportation system in this area. But we have that in this bill. We already started.

The Bureau of the Budget, under Mr. Darnan, has been very supportive of this idea. The Corps of Engineers is very interested. And the Department of Energy is very much so, in the possibility of linking up maglev with new modes of electrical transmission, which we are just now developing.

Again, we have much less cost of transmission over distances for electricity, and that gives you the possibility of something really new.

These are ideas that began here. I do not think we are willing to settle for a day when you have an extensive system of maglev here in the United States, and you pick up one of those trains and look at the bottom of one of those cars and it says, "Invented in the United States, made in Japan." If that happens, it will have been our choice.

Tonight, we are going back to where we would have been any time in the 19th century, where we ought to be in the 21st century. It is our idea. We are going to develop it, and find out how good it is. It is of particular interest to places like Florida.

One of the first opportunities we had to see how promising this was, or how necessary it was, was in Florida. That State began looking at the question of high-speed rail after a traffic study told them that by the year 2020, it would take 44 lanes of interstate highway to carry the traffic between Miami and Orlando—44 lanes, Mr. President.

Russell Baker, as only Russell Baker could do, picked this up and wrote a column, the heading of which was a takeoff on that terse BBC announcement from World War II. It simply said, "One of our States is missing, paved over." We can do better. Or if we cannot, we can surely try to do better. We cannot fault our nuclear engineers. We cannot fault our electrical engineers. They keep coming up with ideas that seize the imagination of the world, the great opportunities which the rest of the world seizes.

After all of those years of the cold war, after so much of our energies, innovation, and science and technology went into weaponry, here is an opportunity to do something for the folks at home.

This program will be run by the Department of Transportation with the cooperation of all of the agencies involved. It will be given out as an award to whatever consortium of States or private enterprises or municipalities comes in with the best bid. Before this decade is out, we are going to find out. And people may be coming from around the world to ride on our maglev, rather than us going around the world looking at theirs.

Mr. President, I see my learned, able friend from New Jersey on the floor. I am happy to yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I will not be long. I do want to take the opportunity to express the satisfaction that I derived from having been engaged in the process of developing, as a participant, this surface transportation bill, of having worked with colleagues who, through very serious and diligent efforts, made the whole thing come together, and at the same time representing various diverse interests around the country.

Mr. President, I think it is important to note that we were members on the Senate side, for the most part, of a Subcommittee on Infrastructure of the Environment and Public Works Committee. Senator MOYNIHAN is the distinguished chairman of that subcommittee, and it was through an exceptional show of patience, skill, and knowledge that he was able to produce a bill in an incredibly short period of time.

I want to remind my colleagues here that we were ready to start talking very seriously in June; that our friends in the House had some different ideas, and produced one bill that needed some changes, and it took them until October to get their bill ready. This is not, in any way, intended to be a criticism, because they came up with a wonderful bill, and they had lots more people to satisfy, by the very nature of the two bodies being considerably different, they with 435 Members, and we with 100.

But when you saw the group gathered around the table—and we had distinguished participants, like QUENTIN BURDICK, the chairman of the Environment and Public Works Committee from North Dakota; we had Senator HARRY REID from Nevada; Senator GEORGE MITCHELL, the majority leader, from Maine; I, from New Jersey; the distinguished chairman of the subcommittee, Senator MOYNIHAN from New York. On the other side, colleagues like Senator SYMMS, who did such an outstanding job in bringing the forces together, representing the State of Idaho, which is quite different in character and population and distances than New Jersey and New York. We had Senator CHAFEE, who comes from a State like mine, very densely populated, small, compact, with different interests in terms of its transportation needs. Yet, they all came together in the spirit of equanimity and fairness that continued almost from the start.

Then a meeting with our colleagues from the House chaired by my Congressman, and an old friend, BOB ROE from New Jersey;

And again, a variety of interests and attitudes about what transportation ought to represent.

Why do I mention this? First of all, I was privileged to work with Senator MOYNIHAN. His leadership is exemplary; his knowledge exceptional. President. I do not know how many books the Senator has written. I just know it is an awful lot. I have read a lot, but I would not want to put my reading up to his writing.

The fact is that Senator MOYNIHAN, when he was meeting to discuss transportation needs of the country, had written a review of Solzhenitsyn's book that appeared in the New York Times in the book review section. He has a breadth of talent and knowledge that all of us look to and listen to at times with wonderment.

But the fact is that Senator MOYNIHAN put his shoulder to the wheel and encouraged, cajoled, pushed, and pulled until we were able to assemble a relatively common opinion, and hammer out what I think is a distinguished piece of legislation that will be one of the hallmarks of the legislative agenda in this century.

Though this body is not unaccustomed to hyperbole, Mr. President, I would have to tell you that in the opinion of many, this transportation bill will be recorded as one of the high points in the legislative agenda of the Congress in this century.

It took a very bold stroke to stir us away from the conventional manner of travel, to put one's car on the highway, to sit in traffic, to bypass the cities, to exploit nature, to in time spoil our air, consume prodigious quantities of energy which we cannot supply within our own borders, and to say to people who are so dependent upon vehicular travel that we are going to find another way; we are going to right a wrong. And that is what happened.

And, without further embarrassing our distinguished colleague from New York, it took a bit of genius, in my view, to be able to say to people: we are going to satisfy your needs, your State, your congressional district needs, and at the same time, we are going to dramatically change the transportation policy of this country. And that is what happened.

Very often, numbers make policy; arithmetic creates direction. And that is the way it was done, very creatively, by saying: Here is a variety of choices that you have—flexibility. If I, in New Jersey, need more money invested in mass transit, the choice is there for me and my State.

And in the case of Senator SYMMS—and I must say on a personal note, Senator SYMMS and I spent a few moments together, as we have, I think, since we have been serving here, in kind of a fresh phase of friendship, able to discuss things—personal—some hilarious; some very sober.

But the fact is that Senator SYMMS, who got an ovation from all of the conferees, had to his, I think, somewhat embarrassment, a program named after him that relates to the trails, our nature trails, throughout our country. And it was a testimonial to Senator SYMMS, with whom we do not—at least I speak for myself—I do not always agree. But nevertheless, there is a sincerity, an honesty, a comradeship, a desire to get the job done that, frankly, obviated any differences in opinion or policy that we may have.

And STEVE SYMMS—I do not want to start the eulogies, by a long shot. But STEVE SYMMS is definitely going to be missed here, not only because he is a decent person, but because also he provokes us into thinking about what there is on the other side of our own opinion.

So I say that to note that during this conference, Senator SYMMS, from the sparsely populated State of Idaho, with its grand mountains and its beautiful terrain, with much different needs than New Jersey—although it has been said on a clear day, from one of the mountain tops in Idaho, one can see for miles. Why, we have days like that in New Jersey, sometimes. We see a mile or so.

But the fact is that we were able, at all times, to come back to the center and say: Listen. It may not be perfect for my State. And there are lots of people around here who are not only complaining that it is not perfect, they are almost saying on occasion: "It ain't even good." Well, it is good. This is a great bill. Let it not be misunderstood. We served the interests of virtually every State in this country and the territories. We took care of the rural and the urban. We took care of those who prefer automobile travel and those who prefer train or transit travel.

We did; we covered all of the bases. And when you have 535 participants, as we have in this Congress of ours, you get a variety of opinions that are often very, very different. But we merged them all because someone like STEVE SYMMS stood up and said: Yes; it is not what I would like, but it is what I am going to settle for in the interest of the many, versus the needs or the interests of the few.

So, Mr. President, when we look at what has taken place these very busy couple of weeks, that we negotiated in good faith at one moment—one of the Members on the House side had to spend a couple of hours in the hospital to recover his strength; one of the staff people who had been working 18, 20 hours a day was taken home ill; a big, strapping fellow, he had to get a respite; he had to get away from it. And the work continued to plow on.

So, Mr. President, I want to say that though perfection is a goal, it is not possible. It is not possible, with 50 States and 435 districts. It is not possible. And the worst thing in the world, in my view, would be for us in any way to lay this aside, continue to work on it at our leisure, if I might say.

This is not a new bill, Mr. President. This is a bill that had its origin 6 months ago, 5 months ago, and this is a bill that people out there are demanding. When the President of the United States, who voiced not only skepticism but sheer opposition to having this transportation bill, said today: I am going to sign that bill. And he did it; why? He did it because it is good for America. It is necessary.

We have people begging for work. We have to get this economy of ours started, and there are few ways better than getting an infrastructure investment like this one going.

So as much as it would be desirable to be able to stand here, continue refinements, continue looking for ways to improve it, they have been exhausted.

Mr. President, we even developed a colloquialism in the committee. We said: I send a formula to the computer and ask for its immediate consideration. I think we were up to version No. 50, or something of that nature. We massaged the numbers. We manipulated them. That sounds wrong, but we manipulated them in the most positive way. We skewed them; we touched them, we moved them. We did everything to satisfy all the participants. And again, while not perfect, there is not anyone in this body who can look at the result and say: I am not better off than I was last year; than I have been in the last few years. I am better off. I do not care what State is represented, Mr. President.

So I would urge us to get on with the work of the country. This is one positive way to do it. That is what brought all of us with disparate interests together. It is that we knew that we needed to say to the American people: We are going to try to put you back to work just as quickly as we can, and the cash will start to flow.

We already know States, Mr. President, where people have been laid off, where work has stopped.

There would be nothing more painful, in my view, than to see highway projects grind to a halt while people are begging to go to work while we are continuing to be noncompetitive because of congestion, where we are continuing to use more than our share of the energy supply of the world, while we are continuing to pollute the air.

This is the time for us to kind of join hands because it is Republicans and Democrats that fashioned this bill, join hands and put our shoulders to the wheel and let us get to work. That is what this bill is about. We are privileged, Mr. President, to have at this hour the opportunity to say yes to America, to put our energy and our resources into the rebuilding of this country. I hope that, though there is some concern—perhaps it can even be described as dissatisfaction, Mr. President—that we are going to say it is not quite everything that we want, but it is most of the things that we want and we should get on with it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if you would like to know the spirit of this legislation, you could not have heard it better than from our beloved friend from New Jersey. He is saying, "Say yes to America. Say yes to 2 million people who will be put to work by this, and say it now, say it tonight." Which we will do.

I thank the Senator for his more than generous remarks which are embarrassing but treasured.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator from New Jersey for his kind comments about this Senator. But I would also like to say, again, I

hope that the Senators in our body will begin to have an opportunity to look at what he is talking about with intelligent-vehicle management. It is an opportunity, I think, to really make this a more efficient use of people, which is our most valuable resource in this country, so they do not spend all their time sitting in a traffic jam.

We thank Senator LAUTENBERG for it. I am one of those people who say we need more business people to come into the Congress. In that conference, which was a brutal, lengthy conference with great confrontations, particularly in the earlier days of it—and lasted through the latter days—FRANK LAUTENBERG was one person whose business experience came through because of the practical pragmatics in business, that you have to get the job done and you cannot just say no to everything because you do not like it. You have to go on. You have to run the company. You have to make a decision. He was a great help to see we got some of those decisions made, and I appreciate him for his role in this. It was a privilege to work with all of the conferees, but I thank my colleague and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to join the previous speakers who have commented on the Surface Transportation Act conference report, which is about to be before us, and join them in urging its prompt passage.

I would like to begin, though, by paying my highest compliments to the chairman of the Transportation Subcommittee: our teacher, our leader, the former Ambassador to India, the former Ambassador to the United Nations, the senior Senator from the great State of New York. There are no other Senators in this body who are his peer, who equal his vision, his perspective, his sense of the future. He has more than ably led us to the brink of passage in a major leap forward in the development of national surface transportation policy.

This is not just another highway bill. As the Senator from New York often reminds us, it is not even close to another highway bill. This is a bill which addresses the future—intelligent vehicle highway systems, mass transportation—a whole host of innovative ideas to launch us into the next century.

I must say I think it is a good precent that this body could follow in many other areas, whether it is tax legislation, whether it is crime legislation—all the areas where America needs to be more competitive, where America must lead the world. We must cast away some of our old ways of thinking. We must look forward. This Surface Transportation Act is an example of the way Congress must lead this Nation forward.

I see other Senators on the floor who also merit the highest praise. The senior Senator from Idaho [Mr. SYMMS], whose unflagging, persistent efforts also helped make this moment tonight possible. He is terrific; a zealous advocate for the American West. I had all kind of reports from other Senators serving on the conference. The Senator from Idaho was in there working away, trying to find an accommodation, working with Senators to get a final bill passed. I thank the Senator from Idaho for all of his efforts. He has truly distinguished himself.

Mr. SYMMS. I thank my colleague.

Mr. BAUCUS. I see also on the floor, if I might say, another transportation guru, the chairman of the Appropriations Transportation Subcommittee Senator LAUTENBERG. Fortunately, he is also on the authorizing committee as a member of the conference so he was able to lend his expertise in transportation policy and development of what has turned out to be a truly superlative transportation bill. I want to thank the Senator from New Jersey for his expertise, his contributions, and efforts as well.

Mr. LAUTENBERG. I thank the Senator.

Mr. BAUCUS. I see also the Senator from Nevada, another member of the conference. In his quiet, no-nonsense way, the Senator from Nevada could not have been more effective or more helpful. This was not an easy matter.

I can think of few bills few programs, which are more difficult to put together. Obviously, that is because our country is so diverse.

For instance, a State as sparsely populated as Montana—with approximately four persons per square mile—must find accommodation with a State as densely populated as New Jersey—a State with approximately 1,000 people per square mile.

Not an easy task. But that is exactly what this highway bill does.

It is interesting to point out here, too, Mr. President, that our area, the area of the State of Montana, the State that I represent, is about the same as the area of the State of California. The population of my State of Montana, though, is only 800,000 people. But our population is only one thirty-seventh that of the State of California.

The point is that with our sparse population, great distances and limited tax base, Montana could not survive without the Federal Aid Highway Program.

For Montana, highways are not only the most important means of transportation, they are our only competitive means of transportation. We have no competitive rail freight service to speak of, limited passenger rail service. We have no bus service to speak of.

We have a minimal, at best, passenger air service in my State. We have no barges in Montana. Unlike our friends downstream on the Missouri River. We have no river transportation. We are not a seaport, we are not on the Great Lakes. Our highways are everything.

And I must say sometimes the weather in the winter gets a little bit severe. Blizzards come up, and it is very important we have a good, strong highway system so that we can survive.

Mr. SYMMS. Will my colleague yield on that point? I talked to the port manager of the Lewiston Port today, Lewiston, ID, which is the highest port—anyway, in our State—I think in the entire system, 700-feet elevation. They are thrilled about the extra funds that will be in for maintenance of the roads so the road between Lewiston, ID, and up to——

Mr. BAUCUS. Great Falls, Highway 200.

Mr. SYMMS. In Missoula, they are thinking of—the trucks come down the old Sacagawea Trail they took Lewis and Clark down, and they are very thrilled about the bill because the importance of grain trucks loading in Lewiston, ID, with the maintenance part, there are adequate roads there; we just need to fix them up. They have a terrible time keeping them maintained. I thank my colleague.

Mr. BAUCUS. I thank the Senator. Highway 200 is critical to both our States. As the conferees know much better than I, transporation is a cost of doing business.

The more there are transportation inefficiencies, whether they are traffic delays, traffic jams, a road in disrepair, the more that is an additional cost of doing business. So from a competitiveness point of view, if no other, the more we have an efficient transportation system, the more transportation costs are lowered to businesses and to Americans and the more competitive we are. The example the Senator just gave is right on point. When highways are up and running and maintained, farmers can get their grain to market—with greater efficiency and lower cost.

Mr. MOYNIHAN. Could I say the world market?

Mr. BAUCUS. An excellent point from the Senator from New York. As this loose grain goes from Idaho, barges on the river, terminals to the coast sent worldwide, to the Far East, to countries around the world. It is a matter of worldwide competitiveness and efficient transportation policy certainly helps America's competitive position in the world.

Essentially, Mr. President, I would like to just point out that I think this bill is very balanced. It helps and pays attention to Western sparesly populated States, it pays attention to densely Eastern urban populated States, and that is because of the vision of the Senator from New York, the chairman of the sub-committee, and

other members of the committee as we crafted this bill.

I am reminded, Mr. President, of another issue that we in my State of Montana are now facing, and that is the attempted passage of a Montana wilderness bill. There is no issue in my State that is more contentious than the wilderness. Everyone in the State of Montana is an outdoors person. We hunt, we fish, we raise grain, we raise livestock, we harvest timber, we mine minerals, we are an outdoors recreation State. Each of us in the State of Montana knows how and has a very strongly held view as to how the out of doors, our public lands, if you will, should be managed. But I must say with 800,000 people not all views are coincident. There is plenty of room for disgreement under the big sky.

The same is true here. We have 50 States. Not all States are identical. Different populations, different climate, different conditions, but we all much work together to form the best amalgamation, if you will, the best combination, if you will, for the greater good.

Benjamin Franklin once said some 200 years ago, and is as true today: "Either we hang together or most assuredly we will hang separately." Our national moto, emblazoned over the Presiding Officer's chair, "el pluribus unum,"—one out of many. We are many States but we need a common single, unifying policy theme to bring us together for the greater good.

We cannot let perfection be the enemy of the good. This bill is not perfect. How many times have we heard that?

Some will say that is trite. Mr. President, often the most trite things are the most true. Perfection cannot be the enemy of the good.

Along with about a dozen other Western Senators Senator REID and I introduced a highway bill, which would have been much better from my State's point of view, and I wish the committee would have passed it; I wish the conference would have adopted it. But it did not.

While I believe the Reid-Baucus bill helped draw strong attention to the needs of the West. The committee recognized there are other competing interests. No Senator is perfectly happy with all provisions of this bill. Not one.

As the Senator from New Jersey said, on the other hand, every Senator can be proud and happy that there are provisions in this bill that will help his or her State, the sum total of this bill is much better than current law as it applies to every State in the Union.

I would like also to thank and praise my colleagues, Senator BURNS from Montana who worked with me, I also worked closely with our Republican Governor, Stan Stephens, and John Rothwell, the director of the Montana Department of Transportation. We pulled our resources together as well as resources of other States.

Again, teamwork is togetherness, which is the hallmark of this bill, balancing the needs of Western States along with the needs of Eastern and urban States have brought us toward passage of an excellent advance in transportation policy. When we all look back several years from now we will be very proud. We will look back and see that in November 1991, when we enacted a surface transportation act that looked toward the future, not just another highway bill.

I very much thank and commend the conferees for their diligent and statesmanlike efforts. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New York.

Mr. MOYNIHAN. Mr. President, praise from the Senator from Montana is praise indeed. He who put together the Clean Air Act of 1990 know what is required, his epic efforts in that regard.

If I would say one thing about our bill, this bill, the bill out of our committee, it is that we for the first time link transportation with environmental issues with our provisions on congestion and clean air which we are very much in your debt, and I am beyond words.

Mr. SYMMS. I join the distinguished chairman in thanking my friend for those kind words. I might say I was one of those who wished he was not so effective when he was doing the Clean Air Act, but when we were in the throws of the conference and fighting with the House over the formula, when I invoked Senator BAUCUS's name that he would be ballistic over this issue——

Mr. MOYNIHAN. They shuttered.

Mr. SYMMS. They realized they had to come back and listen to us.

I thank the Senator. Although he is not a member of the conference, his name was invoked many times by this Senator because I hated to make it sound like it was just Idaho that was getting hurt. The Senator from Montana repeatedly talked to me, as did his colleague Senator BURNS. I appreciate working with him and I thank him.

Mr. BAUCUS. The Senator from Montana is most grateful in helping the Senator from Idaho. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

A GREAT PIECE OF WORK

Mr. REID. Mr. President, this is a time when we find around the country bashing the Congress, blaming Congress for this, blaming Congress for that. But I would like those people who are watching tonite to know that I believe that what has taken place during these past few weeks has been a fine moment for the people's body, the Congress.

It would be appropriate if people all across the country could have watched the workings of this conference: Two bodies that were established by our Founding Fathers, the House and the Senate, one that is a very huge body of 435 Members, another amaller with 100, meeting together in conference to work out the intricacies of a $150 billion bill.

That is what this legislation was. It involved over $150 billion. And after the two bodies passed bills that were certainly different, the conferees met and in a period of 2 weeks, spending literally hundreds of hours, were able to come up with a bill that there as unanimous agreement on, all conferees from the House and the Senate agreed that this bill is the best that could be done.

It did not make everyone happy. There are things, as I was a member of that conference, there are things in that bill that I do not especially like. But for this country, it is a great piece of work. It will supply jobs to million people.

If our constituents could also see the work of their dollars in looking at what the Senate and House staffs did, they work all night long on a number of occasions, slept on couches up in these offices, having things ready so that when we met again after having spent a long day and night of this we would have the information at hand so that we could again try to work out the multitude of differences in this legislation.

I have served in legislative bodies for a number of years. I have been back here 9 years, served in the Nevada State Legislature as the president of the senate and as a member of the assembly for 6 years. I think this is a great example of how a legislative body should work. This is something that should make the American people proud of what their representatives do.

Also, everyone should understand—I have had a number of people come to me and ask, "Well, this is just the authorization. You have to get the money appropriated now, don't you."

The way that Congress is established, there is a process where on most occasions there has to be authorizing legislation. For example, there has to be a bill authorizing what we are going to do for the defenses of this Nation, with out military. Once the Armed Services Committee authorizes the legislation, then the Appropriations Committee has to come along and see if they are going to appropriate money for what was authorized.

That is not what happens here. In this instance, these moneys that we talk about will come to be. They will start immediately. This money is part of a trust fund. We are not out taxing the American public new dollars. These moneys have built up in a trust fund that has been established as a result of people paying money for every gallon of gasoline they purchase. The money

goes into a trust fund, and those are the moneys now that will be spent. That is what we are talking about, the $150 billion. These are real dollars, dollars that will be put to work putting people's children to work, people's fathers to work, mothers, et cetera.

So this is a fine piece of legislation in many different ways.

The senior Senator from New York, I listened to him as he went through a historical narrative as to how this bill came about. I listened to him today. It was certainly something that was illuminating, but I think it was also important that his speech will culminate literally in this legislation becoming effective.

The bill has many good things in it. One thing that has not been talked about, at least I have not heard, is that there will now be air bags in vehicles that are sold in the United States, a safety device. There are many other safety provisions in this legislation, but this is one that we have not talked about. This bill contains so much good that it takes a lot of time to pull out the things that we have been working on for a couple of weeks.

One of the things that is important and is worth repeating, there is no question that the infrastructure in this country is deteriorating. No matter where you go, you see roads that are in bad shape.

If you take the freeway from Reno to Salt Lake City, the road is in bad shape. The freeway was built and it really has not been repaired very much. You take the freeway from Las Vegas to Salt Lake City—both of these roads are about 500 miles long—and it is also in bad shape. Why? Because formulas in the past have been set up not to give States incentives to repair, renovate roads.

This legislation will do that. Why? Because the matching figure gives incentives to States to repair roads. The match is 90-10 for repairing, whereas building new roads is 80-20.

I think it is important that we talk a little bit about the conference. I have done that. I think it is important to talk a little bit about the conferees.

The Western part of the United States does not have a lot of people, if you exclude California. As a result of that, I had the opportunity in this legislation to work extremely closely with the senior Senator from the State of Idaho, STEVE SYMMS. We have served on the committee together for 5 years. While I was in the House, I worked with hin on Western matters, but this is the closest I have worked with him on legislation during the time I have been in Washington. He did a great job of representing the Western part of the United States.

But as the Presiding Officer stated in his remarks earlier on this floor, I was impressed with Senator SYMMS because he not only cared about the Western part of the United States, as was evident in his advocacy in that conference committee, but he also publicly stated and gave up issues because he thought it would be for the common good of this country.

There has been a lot said about the senior Senator from New York, the chairman of this conference. As the history books are written, Senator MOYNIHAN will be one of those people who will be written about for years and years to come as being a great figure in the Senate, a person with great vision, who has been writing about these things. He has been prophesying about things that have come to pass. Things that he has talked about in this legislation will certainly be talked about in the years to come as a result of his vision.

I can remember when we first started talking about a highway bill earlier this year, he called us into his office. He talked about the importance of a highway bill and gave us one of his lectures as if we were students attending a university. He, in effect, told us what surface transportation was all about. I learned at that time, as I have learned through the entire process of this bill.

Mr. President, I express through the Chair to the senior Senator from the State of New York my admiration and respect which has cerntainly grown during this conference—great patience. All the bad news in the Senate we directed to him. All the good news, we took the pats on the back ourselves. The bad news, he got it all—and there was plenty of it, and there probably still will be a little talk here tonight about this bill not being perfect.

One of the people we have not spent enough time talking about—and we really should—is the chairman of the full committee, QUENTIN BURDICK. QUENTIN BURDICK is a man of great wisdom. He attended all of the conferences. He did not talk a lot but when he did talk, we listened. He is a man of great wisdom, and certainly his attending every one of those conferences added to the importance of what we were trying to accomplish.

Another person who has not been talked about, or at least I have not heard him talked about very much tonight, is the silent giant during this conference, DAVID DURENBERGER of Minnesota. I would have to say if a professor gave an examination to the students of this conference, the House and Senate conferees, and asked questions either in multiple choice or essay questions, I think Senator DURENBERGER of Minnesota would probably score as high as anyone, and I would bet a little money that he would probably get the best grade in the class. He, like Senator BURDICK, did not talk a lot, but when he talked, he had everything together. He knew the point he wanted to make and he made it and made it well. Again, I had not had the opportunity in the past to work with DAVID DURENBERGER. I am impressed with his contributions to this conference.

Mr. President. I was lieutenant governor in the State of Nevada and my Governor at that time was a man by the name of Michael Callahan, who taught me in high school. He taught me Government in high school and was my coach. He lost a leg in Korea. I was always fascinated with the Korean war because I had heard so many stories about the Korean war from my friend, Governor Callahan. Therefore, I was really interested, when I read a book review of the "Coldest War," written by James Brady, who is a writer for Newsweek. I read the book because I wanted to learn more about Michael Callahan, who was a Silver Star winner, had a rifle range named after him, a hero of the war.

I was anxious to read that book. I was so surprised when I read that book, surprised from a lack of knowledge that the hero of this book was Captain CHAFEE, a man who was really one of the heroes of the Korean war.

I, during the conference, joked with him because he is such a purist, such a man of high principle that if he believed in something it was tough to get him to vary a little bit, to compromise a litte bit. I referred to him during the conference as Captain CHAFEE; acted just as he did when he was a hero in the Korean war.

It was a great pleasure to work with JOHN CHAFEE and to find out what really a great advocate he is of the things he believes in.

The person I sat next to during the whole conference was the Presiding Officer, the acting President of the Senate.

As was said by Senator SYMMS, it is important that business people come to this body, a person who is without any question or debate whatsoever one of the most successful business people that we have in our country. He took a small business into an extremely large business and decided that he wanted to become involved in public service. That was this Nation's gain, the State of New Jersey's gain, and the business world's loss. He has done so much in Congress to give the business person's view of what we need to hear around here, a person who has been a success in business, and his ability to understand what the bottom line is in business helped us in this conference because he is somebody that was concerned with numbers. What is the bottom line?

I have great respect for Senator LAUTENBERG, as I had during this period to time.

Also, before closing my remarks about the conference, Mr. President, I would like to say that another person that added a great deal to the conference and to show the bipartisan nature of this conference is the fact that

I talked more about my Republican colleagues tonight than I have perhaps or as much about my Democratic colleagues. But JOHN WARNER was a person who added so much to this conference.

One of the other good things that we have not talked about in this legislation is the fact that as a result of the work that we did, after some debate, the construction of National and Dulles Airports will continue. As a result of a court decision construction would have come to a dead standstill. It would have stopped.

As a result of spending 3 or 4 hours one day during this conference we were able to work out a compromise so that construction at Dulles and National Airports will not miss a beat. It will not miss a beat and, in the process, save taxpayers' money so that there will not have to be the startup costs again.

That is virtually the work of Senator WARNER. I joined with Senator WARNER in that amendment which was sponsored by Senator WARNER.

This is typical of the work he did in the conference, looking at the overall picture of what this country needs and recognizing that a State like Virginia is a microcosm perhaps of this whole country. He has the area right around the District, the suburbs of the District of Columbia. He has a lot of rural areas that he had to be responsible for.

So Senator JOHN WARNER, the senior Senator from Virginia, was a great help in our being able to arrive at this settlement on the conference report that will be voted on later tonight.

As has been stated, it is imperfect legislation. All 50 States and the territories also included in this legislation are different. Each State has problems.

One of the things that I personally was extremely interested in is magnetic levitation. I have worked with the senior Senator from New York on magnetic levitation for several years now. One of the people that has been such an advocate of magnetic levitation is the Senator from Florida, Senator GRAHAM. It appears to me that, with his advocacy—"his" meaning the senior Senator from Florida, I think that Florida stands the chance—in fact, I am confident that Florida can have the first magnetic levitation system in this country. I hope we do something to get magnetic levitation going in this, and this bill will contribute some money to that.

But for some jurisdictional problems, and hopefully they can still be resolved before the night is not, but even if they are not, I am sure Florida will get its fair share or more of those magnetic levitation moneys that will be available in this country as a result of the work of Senator GRAHAM.

This legislation is, as has been stated on a number of occasions tonight, imperfect. But we could go back and start all over tomorrow, call the conferees back. We would not come up with any legislation that is any better than what we came up with today. Fifty States and the Territories, 435 Congressmen, each representing approximately half a million people, trying to satisfy each of them, and States as large as the 28 million that live in California, and the 400,000 that live in Wyoming—those disparate views had to be met in this legislation. We did the best we could possibly do.

Mr. MOYNIHAN. Mr. President, I know the Senator from Nevada has to be elsewhere. Before he goes, if you hear the gentle generosity, understanding of his remarks about others, you would have some sense of the grace that he brought to our deliberations. Without him—there was an element of the peacemaker that HARRY REID radiated a moments when it was needed—we would not be here without him.

I am very pleased that Senator REID called attention to the work Senator WARNER did, great, deft use of this vehicle for a very important and urgent purpose, which is to say the National and Dulles Airports; but the tenacity with which he represented those who did not leave the floor entirely happy in June. The bill came out of the Senate 91 to 7. But there were seven. He was of that view.

Then, of course, we would not be the committee we are—we think we are a pretty good committee—without QUENTIN BURDICK, who is our patriarch, and our conscience when matters required. If we ever get drowsy he picks us up just like that. There are moments we get drowsy. Not however, QUENTIN BURDICK. I thank him so much on behalf of his brothers, his colleagues. It was very generous of him, as he is very generous.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have been on the floor for awhile. Might I say to the distinguished chairman who is here that I compliment the committee both for the product which I will discuss in a few moments, and for the obvious collegiality that arose in the committee with very different views and different interests.

After weeks of deliberations and effort, they came away from there rather united and unanimous, and united in their efforts and confident that they had produced a good bill for the United States. That is what the highway bill started out to be. That is why there were differences. We were trying to build a national system. Now we have just about built that system, and we are starting on another one, in another way, with a lot more flexibility.

I rise tonight to say to the committee that you will never please everyone. Someone will always have some notion of how they might have done better in this bill. But, frankly, let me suggest, if you re going to take the entrusted money, and if every State will get 100 percent, what do we need it for? I mean, it is a sham, because why take 100 percent from each State, and give them back 100? We had just as well quit it, and let the States collect their own and spend their own. They will have greater flexibility, no need of the Federal Government. So we cannot be exactly on 100 percent return.

But I think equity has been done, and we have a very good approach to getting a big bill passed with a lot of jobs and resources, and we are not going to go in the red to do it, which is interesting. We will have the money there as we spend it. It will be there, because those who use automobiles and use gasoline and related products are paying it in sufficient quantities to cover this bill

Having said that, let me thank the committee for another thing. My State, much like Montana and others, does not have a divesity of transportation modes. We are just beginning in mass transportation in a second city, which means we have only had it in one, so to speak. We have very little air service, outside of one large city. Frankly, we need roads. We are a large State with not too big a population. For those small populations, if there are not good roads, they are isolated and ruined.

Much like Montana and others, we appreciate the fact that we are going to be able to continue with a very good plan for State highways and for a national system within that State. But we also have an area that, when it comes to roads, is close to being a disaster area. That is one-third of the Navajo Indian reservation, and two other reservations of Indian people, and 17 pueblos, smaller groupings. The one thing that is absolutely obvious about them is that they have little or no roadway system.

I think almost as a direct consequence, as my friend from New York knows, there is no group of Americans with a lower standard of living than the Indian people on reservations. They have fewer jobs, fewer good paying jobs, fewer businesses, fewer factories, fewer of those things that people go to, day by day, to earn a living and share in the wealth produced by the economic system.

We think there is no miraculous cure to that, and we think there are a lot of reasons for it. One reason for it that stands out is that they do not have a highway or roadway system. You cannot exist and compete and grow and prosper with no roadway system on a reservation as large as the Navajo reservation. If you take the reservation in the four States, it is larger than many, many States, literally. Perhaps it is larger than seven States of the Union,

just that piece of geography. The roads are minimal.

I thank you for putting in $190 million a year for the 6 years, if I read the bill right, or what I have been told about the bill. We have $200 million, and the House had much less. You got very close to ours. When you add the bridges and some other things, the Indian people came out fairly well, which means New Mexico gets an added highway system, albeit on the Indian reservations, to be run and managed by them. It will be part of an expanding roadway system for the State of New Mexico, becasuse while it is their territory, so as to speak, it is also New Mexico. They are New Mexicans. They must come and go, and we must come and go. Transportation and commerce flow. So you can add that to what we get as a State, and that is, over the next 6 years, going to be building more and more of the economic lifeblood of our State, which is the highway system.

Having said that, I surely have no reason to thank other members of the committee, as my good friend from Nevada has. That is his prerogative about the committee he is on. I served there for a long time, I say to my friend from Nevada. In fact, I was on the last conference. I know precisely how he resolved it. I know how we got the House to get serious. That was the first time we had one cent of our roadway tax for mass transit, and it turned out many of the House Members liked that.

We voted for that here on the Senate floor, and it was going down. Senator DOLE, Senate BUMPERS, and myself agreed to switch our votes so we would have the 1 cent moving over. So I reminded them if they were not willing to work out some things, we could kill the bill and start over. And I promised them there would be no mass transit money coming, and by the next day, we were negotiating nicely.

And then, as the Senator remembers, we finally settled on a formula by using the formula upon which the previous laws of our country were based, where we split the money with our cities, revenue sharing for our cities. I dream it up on day on the way to work, and found out it would work here also. That is what we used as the formula, and settled it in about 3 hours. It was not so complicated, because we did not have so many new projects.

I think this will be the last bill that our ranking Republican Senator SYMMS, will participate in. He will not be with us next year. He decided that he is going to go home and will not be here with us any longer, of his own volition. I say that it has been a great pleasure working with him, being a friend of his, and seeing the enthusiasm and vigor with which he approaches highway bills.

It just seems like this is something that STEVE SYMMS was born to like, born to kind of handle, highways and roadways, and the kinds of things that he sees as progress.

What a good job he did for his State and for those of us who live in similar States out there in the Rocky Mountains. We have a State much like his, with a lot of public domain, a lot of forest land. We have Indian real estate and property.

I thank him for all he did, and say to him that we will truly miss him in this endeavor. And let us hope that everyone knows, as we move through this bill, that STEVE SYMMS' fingerprints and ideas are all over the place. We thank him for it.

Mr. MOYNIHAN. Mr. President, I thank my friend from New Mexico. Steve's fingerprints are all over this, and his name is in it. The record should surely show that if we have responded to the need for Indian roads, it is at the insistent behest and persuasive advocacy of the very distinguished Senator from New Mexico.

We are all in his debt. I would like to acknowledge that.

Mr. DOMENICI. Mr. President, let me start by thanking the distinguished Senate members of the conference committee, who have toiled diligently to complete their work on this bill.

If we want to talk about jobs for this country, Mr. President, this conference report will provide significant employment opportunities for the people of this country.

Its passage is imperative before we adjourn for the year, and I commend the conferees for coming to agreement, despite the significant differences that existed between the Senate-passed and Housed-passed bills.

I will try to be brief in my comments because I know that there are many Members who wish to speak.

Because of the strong interest in this bill by residents of New Mexico, I began my review of the highway and transit programs 10 months ago. I was fortunate enough to gather the experts in my State together to serve on a Task Force to advise me on pending legislation and issues of greatest concern to my State.

As a result of their advice, I pursued a number of initiatives on the Senate floor.

One initiative on which I devoted a significant amount of time was to provide more funding for the Indian reservation roads program.

Mr. President, if you wish to see a system of substandard roads, I would encourage you to visit some of the Indian reservations of this country. The Indian people live in isolated areas, and that isolation has been magnified because of the difficulty of movement. Their road system has been rated by the Bureau of Indian Affairs, and the results are an embarrassment. Only 11 percent of the paved roads and none of the unpaved roads were rated as good. Conversely, 53 percent of the paved roads and a staggering 90 percent of the unpaved roads were rated as poor!

But this bill finally corrects this inequity.

As I understand what is contained in this bill, we are able to tell the Indian people of this country that we will provide, over the next 6 years, $1.1 billion. Averaged out over 6 years, that means we will be providing, out of the Highway Trust Fund, $190 million a year to finally begin the process of upgrading this system of roads. Mr. President, this action is long-overdue.

In addition, the Conferees accepted several provisions in the House bill to improve key aspects of Indian reservation roads. First of all, there is a one percent set-aside for bridges located on Indian reservations roads.

As well, because about one half of rural roads on Indian lands are not part of the Indian Reservation Roads system, this bill makes it clear that these reservation roads are eligible for funding under the State Rural Mobility System.

Finally, provisions have been included to provide highway training, Indian preference for projects constructed near reservations, transfer of road funds to tribally-controlled postsecondary vocational education institutions, and the use of up to two percent of funds available for Indian reservations roads for planning activities.

I would also like to take this opportunity to thank several of my colleagues on the Select Committee on Indian Affairs, who helped secure these provisions—Senators INOUYE, MCCAIN, DECONCINI, MURKOWSKI, DASCHLE, CONRAD, and SIMON.

Mr. BRADLEY. Mr. President, I am proud to join my colleague from New York, Mr. MOYNIHAN, and many other Senators in supporting the 1991 Surface Transportation Act.

Thirty years ago, we were spending approximately 2.3 percent of our GNP on capital investments in infrastructure. We were building the roads and bridges and airports that were both a backbone of America's postwar growth, and an engine of that growth.

Spending on infrastructure peaked in 1980. Since then, the Federal Government has taken a shortsighted and narrow-minded view of Federal spending, treating it as a burden to be shifted onto the state rather than an investment in the future. As a result of this neglect, we enter the 21st century with an infrastructure that is decaying before our eyes. Our roads and bridges are crumbling. According to the Department of Transportation, the poor condition of our highways meant an additional 722 million hours of vehicle delay in 1985, delays that waste gas, reduce productivity and lower our standard of living. Unless we take action now, DOT estimates that we will spend 3.98 billion hours in delays. Our cities'

mass transit systems are aging and inadequate for their changing needs. Our airports are overcrowded and our railroads need modernization.

We must also begin planning for the next generation of infrastructure: smarter roads and mass transit, the high speed trains that are already in use in Germany and Japan, as well as telecommunications and fiber optics. We must begin today in order to be competitive in tomorrow's leading edge industries.

It is not by chance that the most competitive economies in the world are backed by the highest levels of infrastructure investment. The link between public spending and productivity is well-established, and yet we are spending less and less on our public infrastructure. The investments we will have to make are daunting, and I hope that this legislation marks the beginning of a national effort to rebuild our existing infrastructure.

CONCERNING THE HIGHWAY BILL

Mr. DANFORTH. Mr. President, the highway bill conference report that is before the Senate contains the most significant package of highway safety legislation since the creation of the U.S. Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHSTA) in 1966. The Senate Commerce Committee conferees, Chairman HOLLINGS, Senator EXON, Senator BRYAN, Senator GORTON, and myself, have negotiated provisions that improve vehicle safety, reduce impaired driving, and improve truck and bus safety.

THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Each year, 45,000 Americans die in highway crashes. In my home State of Missouri, there were 1,096 highway deaths last year, a 4-percent increase over the previous year. According to DOT, highway crashes cost the U.S. economy $75 billion annually.

Congress has given NHTSA primary responsibility for solving highway safety problems. Despite the importance of NHTSA, no reauthorization has been enacted since 1982. In the last 9 years, the Senate has approved, without opposition, reauthorization bills on five occasions. The Senate and the House have been unable to reach agreement until this year, however. This NHTSA legislation is a comprehensive highway safety measure. It addresses air bags, issues raised in previous NHTSA bills, requires action on promising new safety technologies, and launches a new offensive against impaired driving.

AIRBAGS AT LAST

The single most important vehicle improvement we can make to reduce highway fatalities and injuries is to require air bags in all cars and light trucks, which include minivans, four-wheel drives, and pickups. Under DOT's passive restraint rule, a car or light truck must be equipped with either air bags or automatic seat belts. Although either option is available to manufacture, statistics prove that air bags provide superior protection. So-called automatic seat belts have not substantially increased belt use rates. These automatic belts can be either manually operated or, in some cases, may have motorized shoulder harnesses. A 1989 Insurance Institute for Highway Safety study on nonmotorized automatic belts found that the automatic feature had been disabled on one or more belts in 95 percent of the new cars it surveyed in dealer showrooms. Motorized automatic belts provide an automatic shoulder harness, but require the driver or passenger to buckle the lap belt. A University of North Carolina study found that less than 30 percent of the occupants of cars with motorized belts connected their lap belts.

Even when a seat belt is worn properly, it is not as effective as an air bag. A German study assessed the effectiveness of automatic belts on more than 600 passengers involved in frontal collisions. The study found that, even with automatic belts, 30.4 percent of the drivers suffered a head impact, and 10.6 percent suffered skull-brain trauma. The study also found that 28.6 percent of the drivers sustained chest injuries.

In light of this overwhelming evidence, safety experts agree that seat belts cannot provide the protection that air bags provide in a severe crash. Even the Automotive News, in an editorial entitled "Most 'Passive' Belts are Actively Foolish; Bring on the Bags," has recognized that:

> A not very funny thing happened on the way to getting air bags in cars: a new generation of ever-worse seat belts. * * * The long-term solution is air bags and normal three-point belts. Fortunately, buyers now want bags. * * * Everybody should hurry it up. The sham-passive belts will be a short-lived, unfortunate footnote in the history of car safety.

In contrast to automatic belts, air bags have been a great success. State Farm Insurance Company has been tracking the experience of its policyholders with air bag-equipped cars. In all but 18 out of 6,521 accidents in which the air bag deployed, the drivers survived. In Missouri alone, 278 State Farm policyholders have been saved from death or more serious injuries by air bags.

DOT has estimated that the general availability of air bags in passenger cars could prevent 8,000 fatalities annually. About 40 percent of all 1991 model cars will have driver-side air bags and a number of models will also have passenger-side air bags. Unfortunately, to date, very few small cars have been equipped with air bags. This omission means that the already existing difference in fatality rates between small and large cars will expand. Moreover, only a few light truck models have air bags.

The conference report eliminates these safety gaps. It requires 95 percent of all passenger cars manufactured on or after September 1, 1996, to have both driver- and passenger-side air bags. Beginning September 1, 1997, all manufacturers must have air bags in 100 percent of these passenger cars. In addition, 80 percent of family vehicles, such as minivans, four-wheel drives, and small pickups manufactured after September 1, 1997, must have driver-side and passenger side air bags, and 100 percent of those manufactured after September 1, 1998, must have both driver- and passenger-side air bags.

The American public has waited long enough for air bags in passenger cars, small trucks, and minivans. Finally, every new vehicle will have them.

OTHE NHTSA ISSUES

An important issue addressed in earlier bills is light truck safety. Light trucks, which include minivans, pickups, and four-wheel drive vehicles, currently account for about one-third of the light-duty vehicle market. In 1990, light truck sales increased to 5 million because these relatively inexpensive vehicles are being used as passenger cars. Although light trucks compete directly with passenger cars, NHTSA has exempted them from a number of passenger car safety standards. These exemptions have contributed to the annual toll of more than 8,500 light truck fatalities.

Recently, some of these exemptions have been eliminated. The conference report would complete the process by requiring NHTSA to conduct a rulemaking on extending the passenger car side impact standard to light trucks.

Another important safety issue is rollover. Many vehicles, particularly ones in the sport-utility class, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle accidents of the discontinued Suzuki Samurai involve rollover. The rollover rate for full-sized sedans in single-vehicle crashes is only 8 percent. The conference report requires NHTSA to conduct a rulemaking on rollover prevention.

Another important piece of unfinished business is the need for a rulemaking on methods to reduce head injuries. Each year, between 400,000 and 500,000 Americans suffer head injuries in automobile crashes. The National Head Injury Foundation estimates that over 50,000 of these head injury victims are permanently disabled. An air bag can eliminate head injuries resulting from frontal crashes. Even if all cars are equipped with air bags, however, head injuries will still occur from rollover and side-impact crashes. This legislation requires NHTSA to issue a final rule to reduce head injuries. The rule would draw on NHTSA's research, which indicates that many of these head injuries can be prevented if additional padding is placed in the interior of the car where a crash victim's head is likely to hit.

The conference report also encourages new technologies to prevent accidents and relieve congestion. One such technology is a smart car/smart highway system. According to NHTSA, driver error contributes to more than 80 percent of all crashes. In advanced smart car/highway systems, automatic braking or steering is used to help overcome a driver's lapse in judgment or his inability to detect risks. These advanced systems will rely on computers and radio signals beamed up from the roadway to keep vehicles spaced safely and moving smoothly.

Less advanced systems might include safety improvements such as enhanced cruise control, which uses a radar technology to help maintain a safe following and leading distance. Another radar-related technology provides a driver with a warning if he attempts to switch lanes when there is a vehicle in his blind spot. The conference report would encourage DOT to develop a strategic plan to maximize the safety benefits of these systems.

Antilock brake systems are another promising safety technology. These brakes greatly increase the ability of a vehicle to stop in a short distance and in a straight line. They are especially effective in wet, snowy, or icy conditions. Currently, antilock brakes are available on some pickup trucks and luxury models. The conference report requires NHTSA to conduct a rulemaking on whether antilock brakes should be mandated for passenger cars.

PREVENTING DRUNK AND DRUGGED DRIVING

The conference report also addresses the leading cause of highway death—drunk and drugged driving—an issue on which Congress has played a leadership role during the last decade.

In 1982, according to NHTSA, 25,170 Americans were killed in alcohol-related crashes. Since that year, Congress has created State grant programs to encourage enactment and enforcement of tough drunk driving laws and the National Minimum Drinking Age Act. These efforts have made a small but measurable difference. NHTSA reports that there were 22,415 drunk driving fatalities in 1989. The percentage of fatal crashes that are alcohol-related has also dropped from 57.2 percent to 49. 2 percent.

The conference report creates an incentive grant program that will encourage states to take some promising impaired driving prevention initiatives. One of these initiatives involves increased use of sobriety checkpoints. These checkpoints have been endorsed as an effective tool to fight impaired driving by DOT Secretary Samuel K. Skinner and National Transportation Safety Board [NTSB] Chairman James Kolstad. In June 1989, the Supreme Court upheld the constitutionality of such checkpoints by a vote of 6 to 3.

Another requirement for receiving a grant under the new program involves efforts to videotape impaired drivers. Some local law enforcement officials are using video cameras to record the image of a weaving car and its incoherent driver. Aetna Life & Casualty and MADD have formed a partnership to purchase a limited number of video cameras for the police departments in cities such as Columbus, OH, and Kansas City, MO. Michael Creamer, a deputy sheriff in Columbus, explained the importance of the camera, "We'll show the judge, the jury and the courtroom how they really looked driving on the wrong side, falling down by the car, unable to walk or recite the alphabet." Creamer said all 17 drunk drivers that his department videotaped have pleaded guilty. Last May, the Supreme Court upheld the use of videotapeing drunk drivers by a 8 to 1 margin.

Two additional features of this new program merit discussion: First, the program endeavors to give States some flexibility by waiving one of the five basic criteria if they can show reduced alcohol-related fatalities over a 5-year period, and second, the program provides a supplemental grant to States that create an effective drugged driving prevention program. A 1988 DOT review of drugged driving indicates between 10, and 22 percent of crash-involved drivers tested positive for drugs.

MOTOR CARRIER ACT OF 1991

Mr. President, over the past decade, Congress has passed a variety of laws to ensure the safe operation of heavy trucks and buses on our Nation's highways. The conference report includes legislation that will further improve motor carrier safety.

Let me take a moment to summarize these efforts over the last decade. The Congressional effort on motor carries safety started in 1982 when we created the Motor Carrier Safety Assistance Program, which is known as MCSAP. This program provides funds to States to do roadside safety inspections of commercial drivers and vehicles and safety audits at the terminals of motor carriers. MCSAP has far exceeded even the high expectations of those of us who created it. In fiscal year 1990, MCSAP funded 1.6 million roadside inspections and 9,863 safety audits. In the State of Missouri alone, MCSAP funded 61,360 roadside inspections and 496 safety audits. Those safety inspections and audits have removed thousands of unsafe vehicles and drivers from the road.

Five years ago, the President signed into law the Commercial Motor Vehicle Safety Act of 1986, which prohibits drivers from spreading their bad driving records over numerous licenses and establishes minimum standards for licensing commercial drivers. Three years ago, we enacted the Truck and Bus Safety and Regulatory Reform Act of 1988, which eliminated a loophole allowing heavy trucks and buses to operate within vast urban commercial zones without obeying critical Federal safety regulations. Finally, last year, we passed the Motor Carrier Safety Act of 1990 which prohibited any trucking firm that receives a DOT unsatisfactory safety rating from hauling hazardous materials. It also prohibited bus companies with unsatisfactory safety ratings from transporting passengers.

Although these and other laws represent great progress, we have a long way to go. Medium and heavy truck and bus accidents account for almost 6,000 deaths in this country annually. Eight percent of those killed were not truck drivers, but rather occupants of passenger cars. Each year, motor carrier accidents also account for about 160,000 injuries. Many of these accidents not only involve loss of life and injuries, but also the loss of countless millions of dollars in the form of traffic delays and cleanup expenses. In April of last year, for example, a collision between two trucks on I-70 in St. Charles, MI, set off an explosion that killed one driver and closed this vital highway for 6 hours.

We must continue our efforts to prevent such tragedies. The majority of motor carriers and commercial drivers take their safety responsibilities seriously. The Motor Carrier Act of 1991, which is contained in the conference report, focuses on the few operators who disregard safety.

Anticipating MCSAP's reauthorization, the Commerce Committee commissioned an extensive study of the program by the Congressional Research Service [CRS]. CRS found that MCSAP could be strengthened significantly if it addressed driver-related factors, such as reckless driving behavior, drug and alcohol use, fatigue, and lack of adequate training. Similarly, a 1988 Office of Technology Assessment [OTA] study found that human error is the cause of over 60 percent of motor carrier accidents. In addition, a Federal Highway Administration-sponsored study found that 95 percent of preventable accidents are related to driver factors.

This bill would increase MCSAP's focus on commercial driver errors resulting from reckless driving behavior, such as excessive speeding, improper lane changes, and tailgating. This bill also expands MCSAP's role in drug interdiction, drugged and drunk driving enforcement, and roadside checks on the status of drivers' CDL's.

This legislation contains a number of other provisions that will enable trucks and buses to operate more safely. It requires DOT to conduct a rulemaking on whether brake performance improvements, such as anti-lock braking systems and better brake compatibility, are needed. These brakes were required on all European Economic Community registered commercial vehicles this fall and will shortly be required on large commercial vehicles in

Japan. In March 1987, DOT completed a congressionally ordered study, which determined that poor brake performance contributed to one-third of all truck accidents. Since that time, both the NTSB and OTA have concluded truck safety studies that find brake performance a leading factor in truck accidents.

Finally, this measure requires DOT to establish minimum training standards for drivers of long combination vehicles and to conduct a rulemaking on establishing such standards for all entry level commercial drivers.

CONCLUSION

This legislation will reduce impaired driving, make vehicles more crashworthy, help drivers avoid accidents and improve motor carrier safety. The driving public needs these protections as part of any highway bill.

Mr. GORTON. Mr. President, I am delighted to lend my support to the passage of the Surface Transportation Efficiency Act which provides funding for highway programs, highway safety programs, and mass transit programs for the next 6 years. I was especially pleased to be named a conferee to the Commerce Committee section of the bill which included the reauthorization of the National Highway Traffic Safety Administration [NHTSA].

Last summer, I was pleased to be asked to offer the Commerce Committee section of the bill during the debate of the underlying measure. It was my and the other members of the committee's hope that by including the NHTSA bill, which had passed the Senate five times, we would be able to force the House to discuss this important piece of legislation. I am delighted to report that this strategy worked and included in the bill is what may well be the single most important piece of legislation ever passed to increase safety on the Nation's highways.

As ranking Republican on the Consumer Subcommittee, I worked with the subcommittee's chairman, Senator RICHARD BRYAN, the full committee chairman, Senator FRITZ HOLLINGS and the ranking minority member of the full committee, Senator JACK DANFORTH on the NHTSA conference. I would like to commend each of them for their work, as well as the staff support provided by Linda Lance of the majority staff and Alan Maness of the minority staff. Each of these Senators are strong and longtime auto safety advocates. While each Senator was totally committed to the Senate position, we knew the conference would be a challenge. At this point, I would like to single out the work of one of the House conferees, Representative AL SWIFT, my colleague from Washington State. Representative SWIFT is the newly named chairman of the Transportation and Hazardous Materials Subcommittee, which has jurisdiction over NHTSA in the House. In my view, Representative SWIFT's involvement and willingness to forge a compromise on this important legislation was one of the key reasons we succeeded. I would like to take this opportunity to commend him and his staff person, Scott Cooper, for the valuable contribution they have made to auto safety.

The Advocates for Highway and Auto Safety have estimated that this bill will save an estimated 12,000 lives per year and thousands of serious injuries. Probably the single most important provision in this bill is one which will mandate airbags in all vehicles sold in the United States. specifically, the bill would require a phase-in, to 100 percent by September 1, 1997, of both driver's side and passenger side airbags on both domestic and imported cars; 100 percent of all light trucks and vans would also have to be equipped with dual airbags by September 1, 1998. The phase-in schedule for cars is 95 percent by 1996 and 80 percent for light trucks and vans by 1997.

The bill also directs NHTSA to undertake a number of high priority rulemakings. Specifically, NHTSA must initiate and complete specific rulemakings in a public forum and in a specified timeframe. Every effort was made to choose rulemakings that the conferees believed would have the greatest life-saving effect. It is my belief that the timeframes provided under the conference report are in some instances longer than what NHTSA will need. Lives can be needlessly lost by unwarranted delay and it is my hope that NHTSA will make every effort to beat the schedule laid out by the conferees whenever possible.

A final rule is required on the head injury caused in accidents in which the occupant hits the interior of the car's roof rails, pillars, and front headers. This type of head impact results in about 3,000 fatalities and 8,000 serious injuries a year. Preliminary research has shown that adding inexpensive padding to pillars and rails will result in greatly reduced occupant injury and death. The conference report also requires a separate study on all other aspects of occupant head injury prevention.

Another important rulemaking required in the bill concerns rollover protection. Due to their light weight, the width of their wheel base, and height, some light trucks, vans and sport utility vehicles are highly susceptible to rollovers. In 1989, approximately 9,600 fatalities were a result of vehicle rollovers. The conference report requires a rulemaking on rollover protection and the conferees included instructions to NHTSA to move quickly on this particular rulemaking due to its lifesaving effects.

The bill also requires a rulemaking on the extension of passenger car side impact protection to multipurpose passenger vehicles—light trucks, jeeps and minivans. Currently multipurpose passenger vehicles make up approximately one-third of all new sales of passenger vehicles. NHTSA has been slow in extending the same passenger protection requirements to these vehicles as it demands in automobiles.

NHTSA must also conduct a rulemaking on the safety of child booster seats. Child booster seats are used for children who are approximately 4 to 6 years old. NHTSA is required to issue a rulemaking on these seats to assess whether there needs to be any redesign of the seats to better position the child's body in relation to lap and shoulder seatbelts.

Another rulemaking is required on possible ways to improve the design for seatbelts. NHTSA will be required to look at the effectiveness and design of certain types of belts including automatic belts, spider web belts, and belts that attach to the door. Preliminary evidence shows consumers are often failing to attach their lap belts when wearing an automatic shoulder belt and often detach spider web belts altogether. Also, NHTSA should examine whether belts should be modified for children and short adults.

NHTSA will be required to consider the need to improve brake performance on automobiles including requiring antilock brake systems. Antilock brake systems have been shown to be very effective but are primarily found on more expensive passenger vehicles due to their cost. General Motors, however, has developed a new system which seems to be quite effective and is far less costly than other systems.

One section of the Senate bill which unfortunately was not included in the conference report would have required a 5 mi/h bumper standard and a label informing the consumer of the impact of a crash that the bumper can resist without damage. I pushed hard for these provisions because they would have saved the consumer a lot of money, time, and frustration by decreasing the damage caused in parking-lot type fender-benders. I think people who have been fortunate enough not to have recently experienced a mere 5 mi/h crash would be appalled to learn how expensive this minor damage costs to repair. The Insurance Institute for Highway Safety found that two moderately priced foreign cars sustained $3,300 damage in low-speed crash tests. Other similarly priced cars sustained far less damage in identical tests. Consumers deserve to have information about how various car's bumpers perform in minor crashes. The State of California has adopted legislation that will require a label disclosing this important information, but it is my belief that all U.S. citizens should have the benefit of this information. It is my hope that NHTSA will independently initiate a rulemaking on this subject.

Mr. President, I am proud to have played a part in enacting this important bill and I urge the Senate's approval.

Mr. DASCHLE. Mr. President, I rise in support of the conference report on the Surface Transportation Improvements Act.

The agreement pending before the Senate represents a true compromise, born of conflict between the diverse demands on highway and transit programs from urban and rural areas of this country, that will initiate much needed improvements in our Nation's infrastructure over the next 5 years. In addition, its passage before adjournment will contribute significantly to the effort to bring the country out of the depths of the current recession by putting Americans to work on important construction projects. The legislation takes us in the right direction by reinvesting in our highway system, strengthening our mobility as a nation, and reestablishing the importance of our transportation system to the national economy.

I commend the authors of the compromise and their staffs for shepherding this complex piece of legislation to the floor despite late efforts by some to derail it. The bill is desperately needed. It will generate substantial momentum for the improvement of the road and bridge systems that are the lifeline for businesses, recreation, international trade and for economic development in each and every State in the Nation, and this challenge should not be further delayed unnecessarily. Moreover, putting on hold the jobs that will be created by the bill would have been unforgivable, and I applaud the conferees for their firm stance on the compromise agreement and their determination to get on with the critical task of reducing the enormous backlog of highway and bridge contruction projects throughout the country.

Of course, as with most bills of this magnitude, there are some provisions in this legislation I would like to change. I am very disappointed that the conference report does not contain the Senate level of effort provisions, which provided bonuses to low-income States that continue to pay higher taxes per capita through State efforts. I would also like to reduce the amount of spending on mass transit and put that money back into highways, where rural States like South Dakota can use it. I would like to include some tangible recognition of the costs to Western States of extreme temperatures or the per capita efforts that rural States contribute to the highway fund.

Nevertheless, this bill represents the essence of a compromise, and, overall, it is a good bill for rural America. Over the last 5 years, for example, South Dakota received approximately $420 million from the Federal Highway Program. Under the compromise, the State's highway funding would increase to $793 million for 6 years, an increase of $48 million per year.

The conference report is a clear victory for rural States over the House proposal, which would have cut many rural States out of a large portion of the funding formulas. Thus, although the overall funding for the highway program would have increased under the House bill, South Dakota's percentage share of the funding, and those of other rural States, would have remained flat or even decreased given inflation and the size of the programs.

Ultimately, considering the inequities the Senate conferees were faced with in the House bill, this compromise represents a victory for equity and for the underlying integrity of the Federal Highway Aid Program. It recognizes that each State has vast highway and transportation needs and that the entire system is only as strong as its weakest link. Efforts to short-change our rural highways make no sense to the entire system and have no place in a national transportation plan.

I urge my colleagues to support this legislation.

RECOGNITION OF RICHARD L. HOWARD

Mr. President, I would like to call to the attention of my colleagues South Dakota's Secretary of Transportation, Richard L. Howard, who has been a key, behind-the-scenes player throughout the reauthorization process.

Through his tireless efforts to monitor the various legislative proposals that have been brought forth during the highway reauthorization debate and to rally his counterparts in other rural and Western States in a united front, Dick Howard has played a signficant role in navigating Congress to the point at which we find ourselves today. He has undertaken numerous trips to the Capitol from South Dakota to advocate on behalf of rural America. He has carried that message to at least two separate hearings and countless meetings with members and staff. And he has coordinated the initiatives of over a dozen State departments of transportation on various legislative proposals.

Dick Howard managed to bring together States as far apart as Maine and South Dakota, Alaska, and Nebraska, Montana and New Hampshire—all to work for a balanced highway bill that treats rural States equitably. With the help of his able staff, Dick has provided me with voluminous documentation, charts, and analysis that have been invaluable to my own efforts to ensure this legislation recognizes South Dakota's pressing infrastructure needs.

The journey to this point has been circuitous, and the road for rural States has been filled with impediments. At each turn in that road, Dick Howard has advised me and my staff how each of the various highway reauthorization proposals would affect South Dakota and other States. He has kept abreast of the fast-breaking changes in the legislation and served his colleagues in other States departments of transportation well.

Mr. President, on the occasion of final passage of this compromise conference report, it is appropriate that I take 1 minute to recognize Secretary Howard for his efforts and his outstanding contribution to this long, but fruitful legislative process.

Mr. SYMMS. 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. REID. 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. REID. Mr. President, it is my understanding we are now in morning business?

The PRESIDING OFFICER. The Senator is correct.

EXECUTIVE SESSION

UNANIMOUS CONSENT ON TREATIES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following matters:

Ex. Cal. 14. Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

Ex. Cal. 15. Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification, that the understandings recommended by the Committee on Foreign Relations to Ex. Cal. 14 be adopted; that no other amendments, understandings or reservations be in order; that any statements appear, as if read, in the RECORD, and that the Senate vote, en bloc, on the resolutions of ratification without intervening action or debate with one vote to count as two.

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

LONDON AMENDMENT TO THE MONTREAL PROTOCOL AND THE WELLINGTON CONVENTION ON LONG DRIFT NETS

Mr. PELL. Mr. President, today the Senate has before it for its consideration two treaties: an amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer and the Convention for the Prohibition of Fishing With Long Drift nets in the South Pacific. Both the amendment and the convention will significantly enhance

protection of the global environment and I urge my colleagues to support them.

Let me first address the amendment to the Montreal Protocol. In broad strokes, the amendment adds new ozone depleting substances to be controlled pursuant to the Montreal Protocol on Substances That Deplete the Ozone Layer. Further, it establishes a financing mechanism to promote participation by developing countries in the control regime and makes technical changes to provisions within the protocol.

At the meeting at which the amendment was opened for signature, the parties also agreed to accelerate the phaseout schedule for substances already controlled under the protocol. This decision is not part of the amendment and does not require the advice and consent of the Senate, but is nonetheless important.

The amendment has taken on particular significance and urgency in light of findings contained in the recently released Executive Summary of the UNEP/WMO Scientific Assessment of Stratospheric Ozone: 1991 that shows that ozone depletion is taking place at more rapid rates, for longer periods, and over larger areas than previously thought.

There is no quick solution to this problem. I think this bears emphasis. It shows the limits on our ability to mitigate damage to the global environment once it has begun. It underscores that, whenever possible, we should concentrate our efforts on prevention rather than mitigation.

Even with the amendment in place, the loading of ozone-depleting substances in the atmosphere will continue to rise into the next decade. The level of stratospheric chlorine—the principal agent in ozone destruction—is expected to rise from its current level of 3.3 parts per billion by volume [ppbv] today to over 4.0 ppbv between 2000 and 2005; by contrast atmospheric chlorine concentrations in the late 1970's—prior to the onset of the Antarctic ozone hole—were about 2.0 ppbv.

The impacts on human health of this accelerated ozone depletion will be severe. The Environmental Protection Agency has estimated that it could cause an additional 11.5 million incidences of skin cancer and roughly 200,000 additional fatalities over the next 50 years in the United States alone, even with the limits in the amendment in place.

Clearly more needs to be done. The committee's report calls on the administration to support:

First, the phaseout as quickly as possible of long-lived chlorofluorocarbons, methylcholoroform, carbon tetrachloride and halons; second, the substitution of long-lived CFC's with hydrochlorofluorocarbons with the lowest possible ozone depleting potential—generally those with short lifetimes; third, the recycling of HCFC's to the maximum extent possible; fourth the not-in-kind substitution of CFC's wherever practical; and fifth, the acceleration and expansion of actions to facilitate the participation and earliest possible phaseout of CFC's by developing countries.

There are likely other steps that are possible and desirable. I think the results of the UNEP/WMO panel that I mentioned earlier underscore the need for ongoing scientific research into the causes, magnitude and effects of ozone depletion. This research can help identify those substances that should be phased out most quickly and thus, to the extent possible, minimize ozone depletion.

As an aside, on Tuesday, November 19, the Committee on Foreign Relations reported Senate Resolution 95, a resolution introduced by Senator GORE, of which I am a cosponsor. The resolution calls on the administration to take a series of steps to reduce emissions of ozone depleting substances in the United States and to work through the Montreal Protocol process to strengthen international efforts to protect the ozone layer. This resolution was reported by voice vote with no opposition. I am hopeful that the Senate will be able to take up that measure shortly.

In concluding my remarks on the amendment, I want to highlight the crucial role played by the United Nations Environment Programme in the establishment and the operation of the Montreal process. It was UNEP's Environmental Law and Institutions Unit [ELIU] under whose auspices the Vienna Convention for Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer was negotiated. It is the UNEP/WMO report cited earlier that focused international attention on the need to accelerate further the phaseout of ozone depleting chemicals.

Looking beyond the issue of ozone depletion, we find UNEP active in a number of areas, including: protection of the oceans, through its regional seas program; protection of endangered species, and promoting the adoption of environmental impact assessment procedures.

I believe these activities underscore the need for UNEP and the merit of strong U.S. support for that organization. As the world increasingly faces environmental problems that require global responses, UNEP is uniquely situated to address those problems.

The other item for the Senate's consideration is the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific and Protocol I to that convention. As its name states, the convention is designed to prohibit large-scale driftnet fishing in the South Pacific.

The convention obligates parties to prohibit nationals and vessels documented under their laws from engaging in driftnet activities in the convention area. It also provides that parties not assist or encourage the use of driftnets within the convention area, and take measures consistent with international law to prohibit the use of driftnets or the transshipment of driftnet catches in waters under their fisheries jurisdiction within the convention area. Article 3 further provides that parties may take measures consistent with international law to prohibit the landing and processing of driftnet catches within their territory, prohibit importation of driftnet-caught fish whether processed or not, restrict port access and port servicing facilities to driftnet vessels, and prohibit the possession of driftnets on board fishing vessels within their jurisdiction.

The protocol essentially duplicates the provisions of the convention, but applies these obligations to distant water fishing nations. Although eligible to become party to the convention by virtue of its exclusive economic zone falling within the convention area, the United States signed the protocol at the urging of the South Pacific nations to show support for the convention's principles and to encourage other distant water fishing nations to sign.

The convention reflects concern on the part of South Pacific nations on the impact of large-scale driftnet fishing on the stock of albacore tuna in the South Pacific. The mid and late 1980's saw a vast increase in the use of large-scale driftnets and the catch of albacore tuna in the region. This increase in driftnetting triggered substantial concern in the developing nations whose economies are highly dependent on albacore tuna. Although not conclusive, scientific data indicated that the continued high levels of driftnet fishing for albacore tuna threatened to destroy the fishery. To address this concern, a series of meetings was held in Wellington, New Zealand at which the text of this convention was finalized.

Mr. President, I strongly endorse ratification of this convention, but I believe it is only a partial response to the use of large-scale driftnets. The United States must continue to push for full implementation of U.N. General Assembly Resolutions 44/225 and 45/197 calling for worldwide moratoria on large-scale pelagic driftnet fishing to go into effect by June 30, 1992.

Mr. President, these are sound treaties, they deserve the Senate's advice and consent, and I urge my colleagues to support them.

WELLINGTON CONVENTION

Mr. ADAMS. Mr. President, the Senate's action today consenting to the ratification of the Convention for the Prohibition of Fishing With Long Driftnets in the South Pacific—known

as the "Wellington Convention—is an important step. It takes us closer to ending a major threat to the environment and fish dependent economies of the South Pacific.

The convention calls upon signatory nations to take key measures, consistent with international law, to prohibit drift net fishing in the region. The measures include the following prohibitions: landing and processing of drift net fish; prohibiting the import of drift net catches; restricting access to ports and port servicing facilities of drift net vessels; and prohibiting the possession of drift nets onboard vessels within the jurisdiction of signatory states.

The convention is an important weapon in the war against the destructive and wasteful drift net fishery. The convention is a clear call to all the drift net fishing fleets to stay out of the South Pacific.

In the mid-1980's, the South Pacific became a major target of the drift net fleets of Japan, Korea and Taiwan. According to the Senate Foreign Relations Committee's report, the activity in albacore tuna fishing by drift nets in the region increased dramatically, from roughly 10 ships in 1983–84 to between 130 and 200 ships in the 1988–89 season. In the 1988–89 season, the catch of tuna caught by drift nets may have exceeded 49,000 tons. The drift net fishery clearly pushed the annual catch of albacore tuna way above the maximum sustainable level.

The Wellington Convention may offer a solution to the South Pacific fishery but it will only force foreign drift net fleets to seek out new locations to victimize and to target other species into oblivion. The mobility of the drift net fleet is the very reason why more action is necessary, including U.N. Resolutions 44/225 and 45/197, calling for worldwide moratoria on large-scale drift net fishing.

Time is running out for endangered fish and marine mammals. The National Marine Fisheries Service recently released the most detailed report to date on the devastating effects of the drift net fishery.

Look at the toll—the latest NMFS report, which covered only 10 percent of the Japanese squid fleet, documented a 1-year incidental catch of at least 1,758 dolphins, 22 whales, 545 northern fur seals, 303,464 sea birds, 3,300 salmon, 3 million pomfret and 27 leatherback turtles and a loggerhead turtle. Japan, Korea and Taiwan together allow more than 1,000 drift net fishing vessels to sail freely in the North Pacific Ocean and the rest of the world's seas. They are driven by commercial greed. They share a collective disregard for the protection of endangered species. In the face of such arrogance, the United States must adopt an aggressive position.

I am tired of hearing the same old excuses. These countries have used these excuses for stubbornly refusing to ban trade in endangered species. They have used the same excuses for continuing the commercial slaughter of whales. And I expect they will let their drift net fleets keep fishing up to and perhaps beyond the U.N. moratorium deadline. We simply will not tolerate such behavior any longer.

CONVENTION FOR THE PROHIBITION OF FISHING WITH LONG DRIFT NETS IN THE SOUTH PACIFIC

Mr. AKAKA. Mr. President, last year the Senate did the right thing and voted to ban the use of drift nets in U.S. waters or by U.S. vessels anywhere in the world. Today we are called upon yet again to do the right thing and approve the Convention on the Prohibition of Fishing With Long Drift Nets in the South Pacific.

I am pleased that the Committee on Foreign Relations strongly endorses ratification of the Convention. No one can doubt that drift nets are the scourge of the seas. They indiscriminately destroy marine life and rapidly deplete our oceanic resources. These curtains of death, which typically stretch from 30 to 40 miles and are several feet deep, literally strip-mine our oceans. Its victims include marine mammals such as the northern right whale, the Pacific white sided dolphin, dall's porpoise, and northern fur seal; sea birds such as the black-footed albatross and the sooty shearwater; the leather-backed sea turtle; and numerous other creatures whose only mistake was to become entangled in these wasteful and senseless nets.

Drift net fishing has resulted in the overharvest of tuna, marlin, swordfish, salmon, and other highly valued commerical fish, threatening the long-term viability of these fisheries. Fishermen from my home State of Hawaii report that as a result of drift net fishing, their catch of albacore tuna plunged from 20,000 metric tons per year in the 1970's to only 1,750 tons in 1989. In response, I joined Senator INOUYE in an amendment to the Magnuson Act which extends existing controls over commercial and sport fishing to include tuna fishing, in the hope of ensuring sufficient stocks of tuna for the future.

Mr. President, the Wellington Convention is a wholly appropriate response to curb the use of large-scale pelagic drift nets in the South Pacific Ocean. The many small island nations in the region are greatly dependent on albacore tuna, and the continued use of drift nets represents nothing less than an encircling noose which threatens to strangle their economies.

By ratifying the Convention, the United States expresses not only its solidarity with the nations of the South Pacific. Ratification also expresses our deep concern to protect our fragile oceanic ecosystems, defend our endangered species, and preserve sufficient stocks of fish for posterity.

Effective measures to limit drift net fishing are required now. But in the context of ensuring that there are sufficient stocks of fish and that endangered species are protected, we should also recognize that longline fishing by foreign nations and by some domestic fishers presents an equally grave challenge and danger to marine life. Longline fishing boats daily lay out lines as much as 35 miles long, each typically holding 450 to 700 baited hooks. Longline fishing is a cousin to drift net fishing in its indiscriminate nature and in the harm it inflicts upon other wildlife such as the endangered Hawaiian monk seal, the gooney bird, and other creatures.

Over 150 longline fishing vessels are now licensed in Hawaii. The fleet, much of which recently arrived in Hawaiian waters from former fishing sites in the Atlantic and the Gulf of Mexico, has soared from a manageable 45 vessels in 1987 to nearly four times as many today. Since the influx of the longline fishing fleet, longline catches have increased more than threefold from a total of 4 million pounds in 1987 to 13 million pounds in 1990. This has adversely affected traditional troll and handline fishing, where catches have decreased 16 percent during the same period. This has greatly reduced the income from the troll and handline fishing, whose fleet numbers about 2,400 vessels, consisting of full and part-time fishers.

The dominance of the longline fishers can be seen in the harvest of the highly valued blue marlin. Longlines have tripled their marlin catch in 2 years from 226,000 pounds in 1988 to 830,000 pounds in 1990. Not suprisingly, the troll/handline fishers experienced a threefold decrease in 1 year. They landed 1.7 million pounds in 1989, but only half-a-million pounds in 1990. Longline fishing is rapidly depleting Hawaii's tuna and billfish stock, threatening the survival of Hawaii's fishing industry.

Furthermore, endangered species like the Hawaiian monk seal as well as mammals such as dolphins, are threatened by longline fishing gear and techniques. The increasing number of monk seals with cut jaws and head wounds and the carcasses of drowned albatrosses—all a result of longline fishing—point to a serious problem in our waters. Troll/handline fishers face the prospect of severe economic problems and, like the monk seal, are being pushed to the limits of extinction. Hawaii's charter boat industry, which engages in recreational fishing of the blue marlin and other species, has reported a noticeable decline in catches because of the longline fishing activities. Hawaii's recreational fishing industry may soon have to be placed on the threatened or endangered species list.

The Western Pacific Regional Fishery Management Council [WESPAC],

with the approval of Commerce Secretary Mosbacher, has established a moratorium which caps the number of longline vessels operating in Hawaiian waters. Another moratorium seeks to minimize gear conflicts between longline and troll/handline fishers by keeping longline fishers from 50 to 75 miles off shore.

Both driftnet and longline fishing are threats to sea life and our vital fishing industry. A comprehensive approach to these problems, with an effective and cooperative strategy to resolve outstanding issues with the longline fishing industry and those nations engaged in driftnet and longline fishing, can result in a lasting solution which will save our oceans and preserve an important aspect of our economy.

Mr. President, ratification of the Wellington Convention is an important, but not a final, step in eradicating large-scale driftnets from our seas. The Foreign Relations Committee said it best when it said, "The Convention is only a partial response to the ongoing threat to the world's fisheries and marine environment * * * the committee believes that this destructive fishing practice should be phased out entirely." I heartily agree.

LONDON AMENDMENT TO MONTREAL PROTOCOL

Mr. MITCHELL. Mr. President, the Senate ratifies the London amendments to the Montreal protocol on substances that deplete the ozone layer. The Montreal protocols provide for phaseout by the year 2000 of production of chlorofluorocarbons [CFC's], which deplete the earth's protective ozone layer. The London amendments add additional substances to be controlled and provides a financial assistance mechanism for developing countries so that they can more easily comply with the terms of the protocol.

The London amendment adds additional CFC's to the list of substances subject to the phaseout, as well as carbon tetrachloride and methyl chloroform. These substances are important ozone depleters.

The London amendments go into effect on January 1, 1992, if 20 signatory nations ratify by that date. The United States should be one of those 20, so I am particularly pleased that we are acting on this amendment today. Only seven other nations have ratified the amendment to date, but I am hopeful that a sufficient number will do so by next year.

While it is necessary that we ratify this amendment, it is already outdated.

A recent scientific assessment under the Montreal Protocol demonstrated that for the first time the ozone layer is depleted at midlatitudes during spring and summer months.

The total ozone mapping spectrometer [TOMS] data indicate that there is approximately a 3 percent depletion of the ozone layer over the last decade. This is of grave concern because human exposure—and the risk of skin cancer—is increased because many more people are outside during these months.

Even before this data on depletion of the ozone layer were released, scientists at the National Aeronautics and Space Administration released new information showing that there is a 4 to 5 percent depletion of the ozone layer over North America. Based on this data, EPA estimated that even under the London amendment there may be an additional 12 million cancers and 200,000 cancer-related deaths in the United States over the next 50 years due to ozone depletion.

We need to act more expeditiously to protect human health and the environment from depletion of the ozone layer. Fortunately, the 1990 amendments to the Clean Air Act provide the Administrator of the Environmental Protection Agency with authority to accelerate U.S. phaseout of CFC's and other substances that deplete the ozone layer. The science demonstrates that such acceleration is necessary.

And U.S. producers have demonstrated that acceleration is possible. For example, on October 22, 1991, the same day as the scientific assessment was released, the DuPont Co. announced its intention to cease production of CFC's by 1996 and 1994 for halons. Under the Montreal Protocol, production of such substances must end by the year 2000, and previous company policy was consistent with the Montreal Protocol.

Other developed nations have accelerated their production phaseout date. Germany is committed to a 1995 phaseout date; the European Community, Canada, Australia, and New Zealand will phaseout by 1997. This is 3 to 5 years faster than under the Montreal Protocol.

The United States should not remain isolated. We have an obligation to act quickly to protect the ozone layer. The environment will not respond overnight to actions we take in the United States. Even with accelerated phaseout, the hole in the ozone layer is unlikely to repair itself for another 50 to 100 years.

A faster phaseout need not be expensive. It is my understanding that a draft technology assessment report may suggest that phaseout by 1997, for example, can be done without excessive cost. Fortunately, the price of technology appears to be decreasing over time.

I support ratification of the London amendment, but I also urge the Administrator of the EPA, Bill Reilly, to use his authority to accelerate phaseout of substances that deplete the ozone layer.

I am also concerned that we may have excluded some chemicals of concern. I hope that EPA and other interested agencies are reviewing the role of methyl bromide in ozone depletion, the level of U.S. emissions, and the availability of alternatives. I am concerned that this substance may play an important role in ozone depletion and we should be sure to act quickly to ascertain the need and feasibility of a production phasedown.

I am pleased that we are ratifying the London amendment to the Montreal protocol. I urge the EPA Administrator and the administration to act quickly to protect the ozone layer and the public from greater risk.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. BURDICK. Mr. President, I rise today to note the ratification of the London amendments to the Montreal protocol on substances that deplete the ozone layer. These amendments are vitally important to the protection of a critical global environmental resource—the stratospheric ozone layer. Without such actions, the erosion of the Earth's protective ozone shield will lead to greatly increased incidents of skin cancers and cataracts, suppression of the immune system, a significant reduction in agricultural crop yields, and damage to marine resources.

I commend my distinguished colleague from Rhode Island, Senator PELL, on his efforts to bring this important treaty to the Senate floor. By our vote here today, we will become the eighth Nation to ratify the London amendments. Ratification by 20 countries is needed to bring the treaty in force. Our actions will send an important signal to the rest of the world that there is still much we can do and must do to protect the ozone layer.

Mr. President, the Committee on Environment and Public Works has long recognized the importance of protecting and healing the ozone layer. The Clean Air Act Amendments of 1990 contain detailed provisions which require a phaseout in the production and use of ozone depleting chemicals on a schedule which roughly parallels that of the London amendments. They also require that the EPA Administrator speed up the phaseout if credible current scientific information determines a more stringent schedule is necessary to protect human health and the environment.

While I applaud the steps taken thus far to protect the ozone layer, our work is not yet done. Twice in the last 6 months, scientific assessments have shown that the ozone layer is degrading much more rapidly than had been thought. We now know that ozone depletion extends into the midlatitudes and into the summer months. Thus the impact on human health and the environment is more staggering than we estimated.

The United States must chart the course for further revision of the Montreal protocol. The United States should back an accelerated schedule

for the phaseout of ozone depleting chemicals and the financial and technical aid to make this happen in both developed and developing countries. We can start by revising our schedule for eliminating ozone depleting chemicals here at home as mandated by the Clean Air Act.

Mr. LIEBERMAN. Mr. President, I rise today to urge ratification of the 1990 amendments to the Montreal Protocol of 1987, which requires the phaseout of chlorofluorocarbons [CFC's] and halons by the year 2000. These changes come into force on the international level as soon as 20 nations ratify the amendments. Our adoption of these revisions will be an encouraging sign to the entire world.

But adoption of these amendments, while a step in the right direction, is only the first of many steps we must take if we are to curtail and correct our current policy. The world community and the United States, unilaterally, must act to speed up the phaseout of ozone depleting substance.

A recent report, commissioned by the United Nations Environmental Programme [UNEP] and the World Meteorological Organization [WMO], contains alarming new scientific information about the extent of ozone depletion. The report found that ozone layer depletion is not limited to the Antarctic and the northern latitudes of the northern hemisphere in winter, but instead occurs in the middle and high latitudes of both hemispheres in spring, summer and winter. But the most frightening part of the report may well be the fact that ozone depletion is occurring at a rate 200 times faster than had ever previously been measured or predicted.

The immediate concern for all of us, and I mean literally the entire globe, is the increased incidences of skin cancer and immunological-deficiency problems in humans, as well as potential damage to crops such as soybeans, rice and timber due to increased ultraviolet [UV] radiation.

Health experts have testified before congressional committees that increased UV radiation poses a serious threat to humans, all over the globe, in the form of immune deficiency disorders. The increased UV radiation reduces the body's ability to protect itself from infectious disease. Higher incidences of lupus, Epstein-Barr, chronic fatigue syndrome, Graves' disease and herpes simplex are but a few of the threats posed to human health by ozone depletion, according to experts. Moreover, studies currently underway in the Antarctic indicate that phytoplankton, the most basic element of the food chain, is being affected by increased UV radiation due to ozone depletion.

I'd like to also remind my colleagues that the ozone question is not just one of health concerns for humans and plant life. It is also a concern for our businesses, our industries, the way we live. Our competitors in the automotive industry appeared to be 1, if not 2 years ahead of the United States in designing auto air-conditioning that no longer uses CFC's. Reports also indicate that commercial and residential refrigeration units are being designed outside the United States that are using CFC substitutes on a quicker schedule than our domestic producers.

I could go on with further examples, but I think the point is well made. The United States needs to take the lead in the systematic phase out of ozone-depleting chemicals.

The Clean Air Act Amendments of 1990 set a timetable for the phase out of CFC's, halons and HCFC's. But section 606 of the Clean Air Act requires the administration to take steps to accelerate the phase out, if and when new data indicates that there is a further threat to health and the environment. Mr. President, I think it is clear that the new evidence demands that the schedule be accelerated.

Many nations, especially in Europe, have timetables that are ahead of our own. When the next set of international talks begin next year, I hope that the President will have acted under the Clean Air Act and participants will take note that once, the United States is at the forefront of this issue, not lagging behind as we have in the past.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. BAUCUS. Mr. President, today we will ratify the 1990 amendments to the Montreal protocol on substances that deplete the ozone layer. These amendments were adopted in London in June 1990, by the second meeting of the parties to the Montreal protocol.

The Montreal protocol, which the United States ratified in 1988, is an unprecedented effort by the nations of the world to protect a critical global environmental resource—the stratospheric ozone layer. It is a carefully constructed and periodically reviewed international effort to heal the Earth's badly frayed ozone layer.

The amendments to the Montreal protocol which we have pending before us today will, when implemented, constitute another major step forward in protecting public health and the environment from the adverse effects of stratospheric ozone depletion. In addition, by controlling the emissions of these chemicals we will also reduce the anthropogenic emissions of greenhouse gases.

The ozone layer is a natural shield that protects all living things from the sun's harmful ultraviolet radiation.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the Earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolet radiation has also been shown to damage crops and marine resources.

Destruction of the ozone layer is caused primarily by the release into the atmosphere of chlorofluorcarbons [CFC's], halons and other similar manufactured chemicals. These compounds are used primarily as refrigerants, fire extinguishers and solvents.

The London amendments significantly strengthen the Montreal protocol in several ways. They require that industrialized nations implement a number of specific actions to stop ozone depletion including:

First, a stepwise reduction in production and consumption of CFC's, leading to a complete phase-out by the year 2000;

Second, a step-wise reduction in production and consumption of halons, leading to a phaseout by the year 2000, except for essential uses; and

Third, a step-wise reduction, leading to the phaseout of carbon tetrachloride by the year 2000 and methyl chloroform by 2005.

So far only seven nations—Canada, New Zealand, China, Maldives, Sweden, Japan, and Mexico—have ratified the London amendments. I am here today to urge that the United States quickly become the next nation to do so.

Mr. President, the parties to the Montreal protocol must be commended for agreeing a year ago to phase out production of several onzone-destroying chemicals, especially carbon tetrachloride and methyl chloroform—substances that were not included in the original Montreal protocol.

Unfortunately, controls still dangerously lag behind the environmental damage these substances cause.

Under the London amendments, industry still has 9 to 14 more years to continue producing these destructive compounds. Over this period, chemical manufacturers will produce approximately 10 billion more pounds of CFC's and more than 50 percent of the total amount of halons produced to date.

Further, the London amendments fail to address, except on a voluntary basis, the production and consumption of hydrochlorofluorocarbons [HCFC's]. These chemicals are brought into the protocol as transitional substances whose production and consumption must be reported. Parties to the London amendments adopted a nonbinding resolution calling for HCFC's to be phased-out not later than 2040 and if possible, not later than 2020.

Unfortuantely, we may not have that much time.

This spring, we were given more bad news about the status of the ozone layer. Scientists at the National Aeronautics and Space Administration released new data which show that between 4 and 5 percent of the ozone layer over North America, Europe and the midlatitudes in both hemispheres

has been destroyed in the last decade. This rate is twice as fast as believed earlier by NASA scientists.

The Environmental Protection Agency reported that as a result, some 12 million Americans would develop skin cancer, and more than 200,000 of them would die, over the next 50 years.

And Mr. President, just when things looked bad, we found they were really a lot worse. Last month, international ozone experts working with the United Nations released new data which showed that ozone depletion is not limited to the winter months. For the first time, scientists have found that in the summertime over all of our country, the ozone layer decreases by 2- to 3-percent.

We have substantially increased the risk of skin cancer and crop damage from ultraviolet radiation at precisely the time when schoolchildren are playing outdoors and crops begin to grow.

We and our children and our children's children will be forced to reevaluate our practices of going outside during the summertime months when our exposure to ultraviolet radiation is at a maximum.

In short, we have precipitated through our actions, a major environmental crisis that requires decisive action—both domestically and internationally. Ratification of the London amendments is the next in a series of steps necessary to preserve the ozone layer.

However, while tremendous important, the London amendments do not go far enough toward protecting the Earth's ozone layer. Other actions are needed.

The Clean Air Act Amendments of 1990 require the Administrator of the Environmental Protection Agency to accelerate the phaseout schedule of ozone depleting chemicals more rapidly than the year 2000 deadline, if scientific information suggests it is necessary to protect human health and the environemnt.

The new data showing the severity of the global ozone depletion demands action by the EPA Administrator.

Mr. President, the United States is far from being the world leader on its phaseout schedule.

All of the other industrialized countries, with the exception of the United States and Japan, have committed to an earlier phaseout of ozone depleting chemicals. Germany and Nordic countries have accelerated their phaseout date to 1995; the European Community, Canada, Australia, and New Zealand are committed to 1997. Interim deadlines would also be quickened. The United States should do no less.

For this reason I have written to President Bush urging more aggressive action. This letter was cosigned by 29 of my colleagues. I would like to submit a copy of this letter, dated April 24, 1991, for the RECORD.

In the letter I proposed that the United States adopt a four point plan to demonstrate our leadership in protecting the Earth's ozone layer. The plan proposes strengthening the Montreal protocol as follows:

First, the interim phaseout schedules and final phaseout dates for all of the ozone depleting chemicals currently covered by the protocol should be accelerated.

Second, recapture and recycling provisions should be added to the protocol. Venting or releasing any chemicals from refrigeration and air conditioning units into the atmosphere should be prohibited by a date certain with new provisions analogous to those in the Clean Air Act.

Third, while the current version of the protocol allows unlimited production and use of other ozone depleting chemicals, such as HCFC's, a strengthened protocol should place limits on the production and use of such chemicals.

Finally, the parties to the protocol need to continue financial aid and technical assistance to developing countries to accelerate their participation and compliance with the terms of the Montreal protocol.

For ourselves, our children, and our children's children, the United States must provide forceful leadership on this issue.

Mr. President, I ask unanious consent that a letter to President Bush, dated April 24, 1991, from various Senators be printed in the RECORD.

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

UNITED STATES SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, April 24, 1991.

The Honorable GEORGE BUSH,
The White House.

DEAR MR. PRESIDENT: We are writing to urge that you adopt a four point plan to demonstrate United States leadership on the international environmental problem of protecting the Earth's ozone layer. The plan involves specific proposals to strengthen the Montreal Protocol as soon as possible.

As you know, the current version of the Montreal Protocol as modified by the June 1990 London agreement, requires that industrialized nations implement: 1) a step-wise reduction in production and consumption of chlorofluorocarbons (CFCs), leading to a complete phase-out by the year 2000; 2) a step-wise reduction in production and consumption halons, leading to a phaseout by the year 2000 (except for essential uses); and 3) a step-wise reduction, leading to a phase-out of carbon tetrachloride and methyl chloroform by the years 2000 and 2005, respectively. Our four-point plan includes a number of provisions to modify and strengthen the Protocol.

First, the interim phase-out schedules and the final phase-out dates for all of the ozone depleting chemicals currently covered by the Protocol should be accelerated. Simply moving the final phase-out dates to the year 1997 is not sufficient. The step-wise percentage reductions for the interim years should be increased.

Second, recapture and recycling provisions should be added to the Protocol. These will achieve significant reductions in the emissions of CFCs, halons, carbon tetrachloride, methyl chloroform, and substitute compounds, such as hydrochlorofluorocarbons (HCFCs), that are destroying the ozone layer or that have the potential to contribute to global climate change. The venting or releasing of any chemicals from refrigeration and air-conditioning units into the atmosphere by date certain, should also be prohibited with new provisions analogous to those in the Clean Air Act.

Third, while the current version of the Protocol will allow unlimited production and use of other ozone depleting chemicals such as HCFCs, a revise, strengthened Protocol should place limits on the production and use of such chemicals. The limits should be designed to discourage the production of HCFCs that have relatively long atmospheric lifetimes, high ozone depletion potentials, or high global warming potentials.

Finally, the Parties to the Protocol need to continue financial aid and technical assistance to developing coutries to accelerate their participation and compliance with the terms of the Montreal Protocol.

The ozone layer is under significant attack.

Scientists have already concluded that man-made chlorinated and brominated chemicals are largely responsible for the "antarctic Ozone Hole"—the large decrease in stratospheric ozone over Antarcica in springtime.

In 1989 scientists confirmed that the same ozone depleting chlorine species found in the Antarctic are also present in the Arctic stratosphere. Thus the Arctic is primed for an ozone depletion event similar to that in Antarctica. Whether or not any future Arctic ozone depletion occurs will depend on the particular meteorology of each Arctic winter.

Most recently, NASA scientists have shown that ozone depletion is not confined to the polar regions of the globe. In fact, there has been a world-wide depletion of the protective ozone column. Specifically, new data shows a significant downward trend of three to five percent in the ozone column over the past twelve years in the northern hemisphere. This actual, measured decease is larger by a factor of two to three than the decreases predicted by current theoretical models.

The ozone layer cannot tolerate more abuse.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolet radiation has also been shown to damage crops and marine resources.

The new ozone losses measured by NASA raise serious questions about the adequacy of the control measures set forth in the Montreal Protocol to protect public health and the environment. For these reasons, we urge you to place the United States in a position of world leadership and to adopt our four-point plan for strengthening the Montreal Protocol.

We look forward to working with you on this important issue.

Sincrely,

John H. Chafee, Dave Durenberger, Richard G. Lugar, James M. Jeffords, Bob Packwood, Slade Gorton, Albert Gore, Jr., Max Baucus, Harry Reid, Joseph I.

Lieberman, Paul S. Sarbanes, Herb Kohl, Dale Bumpers, Patrick J. Leahy, Timothy E. Wirth, Bill Bradley, John F. Kerry, Barbara A. Mikulski, J. Robert Kerrey, Robert W. Kasten, Jr., Terry Sanford, George J. Mitchell, Clairborne Pell, Quentin N. Burdick, Paul Wellstone, Edward M. Kennedy, William S. Cohen, Thomas A. Daschle, Richard Bryan, Howard M. Metzenbaum.

RATIFICATION OF THE LONDON AMENDMENTS TO THE MONTREAL PROTOCOL

Mr. GORE. Mr. President, humankind has entered a new—and disturbing—relationship with planet Earth. Our industrial society—with its excessive consumption and unrelenting pollution of the land and sky—is colliding violently with the planet's delicate life sustaining processes. Our rivers and streams are often foul and lifeless; the air we breathe is thick with smog; our forests are disappearing and thousands of species are vanishing forever.

And yet, somehow we have failed to see and to feel the damage that we are inflicting. But if there is any one of our insults to the earth that has begun to open our eyes, it is the enormous hole that we have torn in the Earth's protective ozone shield. The hole is some four times larger than the size of the continental United States and it continues to grow and it now persists through all seasons of the year.

Just last month, an international team of scientists who have been monitoring and studying the ozone layer sounded a loud alarm. They discovered in April that the depletion is occurring at a rate that is 200 to 300 percent faster than had ever before been detected or predicted and that the depletion is ocurring over nearly every part of the globe. But in October they told us that, for the first time, they have found that the ozone layer is impaired not only in winter, but also in the spring and summer months when we are more likely to be out doors and when crops are at a crucial point in their growing season.

And the damage will continue to intensify. The chlorinated and brominated chemicals that we continue to pump into the atmosphere—even under the limited controls we now have in place—will destroy as much additional ozone as has already been destroyed over the last decade—so, by the turn of the century, we will experience total ozone depletion that is two times as large as that we see today.

In the near term, we may also experience particularly severe spikes in ozone loss because of the violent eruptions of Mount Pinatubo. I have been in close communication with scientists from NASA and NOAA who have been closely monitoring the impact of Pinatubo. Their preliminary findings indicate that Pinatubo may be the largest volcanic eruption this century—2 to 3 times larger than the El Chichon eruption in 1982. This is a tremendous problem because the scientists suspect that—just as the ice crystals in the polar stratospheric clouds catalyze ozone destruction over the Arctic and Antarctic—sulfur compounds that are emitted in volcanic eruptions catalyze ozone loss over the midlatitudes—that is, over our heads. Because we have continued to pump chlorine into the atmosphere, this means that losses of ozone of up to 30 percent may be experienced over the northern midlatitudes in the fall and winter.

And let us make no mistake—increased exposure to ultraviolet radiation as a consequence of depleted ozone poses a grave threat to human health. The Environmental Protection Agency estimated that the increased ozone loss that the scientists have detected will lead to some 200,000 deaths from skin cancer in the next 50 years in the United States alone. And the international team of experts expects an additional 1.6 million additional cases of cataracts as a result of the depletions.

Moreover, recent studies provide alarming evidence that increased ultraviolet radiation will, as has been suspected, wreak havoc on the human immune system—making us not only more susceptible to skin cancers, but to all infectious diseases. In recent tests, 40 percent of those who were exposed to ultraviolet radiation experienced a failure of their body's ability to fight off harmful substances. And, unlike our increased susceptibility to skin cancer, increased vulnerability to infectious disease affects all human beings—regardless of skin pigmentation.

We know too, that increased exposure to UV-B could disrupt entire ecosystems. Phytoplankton, for example, the small organisms at the base of the oceanic food chain are particularly vulnerable and again, the latest scientific results show that the ability of these organisms to grow is severely impacted by excess radiation. Should plankton populations fail, all other species that feed on plankton are in jeopardy, too.

Mr. President, I have argued that the consequences of ozone depletion require us to do all that we can to end the use of ozone destroying chemicals as quickly as possible. The London Amendments to the Montreal Protocol are an important step forward in that regard, and I urge my colleagues to vote for their immediate ratification.

But, the new scientific findings clearly indicate that phasing out chlorofluorocarbons by the year 2000 as provided for in the London Amendments simply is not fast enough. We must do more; we must move faster. Ozone loss is cumulative and the longer we wait, the more damage we inflict; the more cancers, cataracts and deaths we will suffer.

I therefore hope that, after ratifying the London Amendments, the Senate can move immediately to consideration and passage of S. Res. 95—a resolution that I introduced in April and that the Senate Foreign Relations Committee reported unanimously last week. That resolution calls on the Administrator of the Environmental Protection Agency to accelerate the phaseout of ozone destroying chemicals as he is required to do under section 606 of the Clean Air Act when there is evidence that the current schedule is not sufficient to protect human health and the environment. The resolution also urges the President to take a leadership role in the international community on this issue and to call on the parties to the Montreal Protocol to accelerate the phaseout that is required under that agreement.

Action on S. Res. 95 is required now. European countries are moving ahead on this and we need to, too. Industry also recognizes the urgency of this situation—in light of the new scientific findings, DuPont and other companies have announced their intention to stop producing these chemicals years before they otherwise would be required under domestic and international law.

I urge my colleagues to join me in calling for the immediate consideration and passage of this measure.

LONDON AMENDMENTS TO THE MONTREAL PROTOCOL IN THE UNITED STATES SENATE

Mr. CHAFEE. Mr. President, I am pleased that the Senate is acting to ratify the amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer which were adopted in London in June 1990.

I feel that the Senate can take great pride in this new step to protect the ozone layer. It was Senate action in January 1990 on the Clean Air Act amendments accelerating the phaseout of CFC's and other ozone depleting chemicals that paved the way for this new international commitment.

Chlorofluorcarbons—the CFC's—which are used in refrigeration, insulation and many other products can breakdown the ozone molecules high in the stratosphere above the Earth's surface. Although there is only a small amount of ozone in the stratosphere, it plays a very important role in shielding us from ultraviolet radiation. Too much ultraviolet radiation can increase cases of skin cancer and cataracts and may cause significant damage to plants and the ocean food chain.

In the 1970's the United States took the first action to reduce CFC emissions by banning the use of CFC's as propellants in aerosol products. In 1989, many nations of the world community joined together on the Montreal Protocol an agreement that would reduce production of CFC's by 50 percent by the year 1998. That action was spurred in large measure by the discovery of a massive hole in the ozone layer over the Southern Hemisphere in winter months.

Since the adoption of the Montreal Protocol, new and more troubling information had been gathered. Ozone levels over the midlatitudes have been depleted more rapidly than anyone expected. This new information formed the basis for the London amendments that we are considering now and for the provisions in the Clean Air Act that the Congress adopted to guide Unites States policy.

The London amendments follow the outline of the Clean Air Act in some respects. They provide for a virtual phaseout of CFC production by the year 2000. They also provide for a phaseout of two other chemicals, carbon tetrachloride and methyl chloroform, which also deplete the ozone layer because they add large amounts of chlorine to the atmosphere as they breakdown. U.S. production of these chemicals is banned under the 1990 Clean Air Act Amendments.

Another major provision of the London amendments would provide new financial mechanisms to encourage full participation by the developing countries in this international effort to protect the ozone layer. This is most important. As everyone understands, this is a problem that can only be solved if the whole world acts together. That the United States has consistently provided strong leadership to assure world cooperation to protect the ozone layer with such success is something every American can be proud of.

But we can do more. There are three areas I would mention in particular. First, we can move out of the CFC's even more rapidly. The Clean Air Act amendments and this London agreement set a deadline of 2000 on the production of CEF's. The most recent information suggests that we must not wait another 10 years. The Clean Air Act directs the Environmental Protection Agency to accelerate that schedule when scientific information such as the recent NASA reports warrants such action. EPA should take that step and the United States should once again urge the parties joined in the Montreal Protocol to follow our lead.

Second, the Clean Air Act provides for the recapture of CFC's that might otherwise be released during the maintenance or after the disposal of various products already in commerce. Rather than simply vent the freon to the atmoshpere when an auto air conditioner is repaired, the Clean Air Act requires that the spent freon be captured and destroyed or recycled. EPA needs to use its full authority here and again we should ask that the whole world join in amendments to the Montreal Protocol that would provide for recapture of CFC's in other nations.

Third, there are a group of chemicals called HCFC's that will be produced and used as substitutes for CFC's. They are not as damaging to the ozone layer. But they are not benign. Last year the Congress adopted a careful regulatory regime for these substances that will allow us to take full advantage of their properties as substitutes to make a quick exit from CFC's, but will at the same time prevent a permanent commitment to a large HCFC burden on the stratosphere. Again, we need to urge the world community to adopt similar standards for HCFC's.

In addition to these London amendments, the Senate will soon consider a resolution sponsored by the Senator from Tennessee [Mr. GORE] that would accomplish the additional steps that I have outlined. I was very pleased to be a principal cosponsor of that resolution and I urge my colleagues to support it when it comes to the floor of the Senate.

Thank you, Mr. President.

Mr. REID. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. The question is on agreeing to the resolutions of ratification.

A division is requested. Senators in favor of the motion will rise and stand until counted. [After a pause.] Those opposed will rise and stand until counted.

Two-thirds of those Senators voting having voted in the affirmative the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

CONVENTION FOR THE PROHIBITION OF FISHING WITH LONG DRIFTNETS IN THE SOUTH PACIFIC

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, done at Wellington on November 24, 1989 (the "Wellington Convention"), and Protocol I, done at Noumea on October 20, 1990, to the Wellington Convention, subject to the following understandings:

1. that the United States signed the Convention in its own name and on its own behalf because a portion of its exclusive economic zone is located within the Convention Area. It is the United States understanding that upon becoming a party to the Convention the United States will be obligated to prohibit driftnet fishing in all areas of its exclusive economic zone within the Convention Area, and to prohibit all United States nationals and vessels documented under United States laws from fishing with driftnets in the Convention Area.

2. that Article 3 provides for measures consistent with international law to restrict driftnet fishing activities by vessels within areas under a party's fisheries jurisdiction. It is the United States understanding that the measures in Article 3 will only be applied when consistent with navigation and other international transit rights under customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea.

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of an Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at London on June 29, 1990, by the Second Meeting of the Parties to the Montreal Protocol.

Mr. REID. Mr. President, I ask unanimous consent that the motion to reconsider the vote be tabled, that the President be notified of the Senate's action, and that the Senate return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

ALZHEIMER'S DISEASE RESEARCH, TRAINING, AND EDUCATION AMENDMENTS OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 373, S. 1577, a bill to reauthorize the Alzheimer's Disease and Related Dementias Services Research Act of 1986; that the committee-reported substitute amendment be agreed to; that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

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

The Senate proceeded to consider the bill (S. 1577) to amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the act, and for other purposes, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research, Training, and Education Amendments of 1991".

SEC. 2. SHORT TITLE OF ACT.

Section 901 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 note) is amended by striking "Services Research Act of 1986" and inserting "Research Act of 1991".

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alzheimer's Disease and Related Dementias Research Act of 1991 (42 U.S.C. 11201 et seq.).

SEC. 4. FINDINGS.

Section 902 (42 U.S.C. 11201) is amended—

(1) by redesignating paragraphs (7) through (12) as paragraphs (9) through (14);

(2) by striking paragraphs (4), (5), and (6); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

"(5) progress in the neurosciences and behavioral sciences has demonstrated the interdependence and mutual reinforcement of basic science, clinical research, and services research for Alzheimer's disease and related dementias;

"(6) programs initiated as part of the Decade of the Brain are likely to provide significant progress in understanding the fundamental mechanisms underlying the causes of, and treatments for, Alzheimer's disease and related dementias;

"(7) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias, and more progress can be expected in the near future, there is little likelihood of a breakthrough in the immediate future that would eliminate or substantially reduce—

"(A) the number of individuals with the disease and dementias; or

"(B) the difficulties of caring for the individuals;

"(8) the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating;".

SEC. 5. COUNCIL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 911 (42 U.S.C. 11211) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and Communicative Diseases" and inserting "Disorders";

(B) by striking paragraphs (10), (11), and (12); and

(C) by adding at the end the following new paragraphs:

"(10) the Administrator of the Agency for Health Care Policy and Research;

"(11) the Administrator of the Health Resources and Services Administration;

"(12) the Director of the National Center for Nursing Research;

"(13) the Chief Medical Director of the Department of Veterans Affairs;

"(14) the Director of the National Center for Health Statistics; and

"(15) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary') considers appropriate.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) The Assistant Secretary for Health shall serve as the Chairman of the Council."; and

(3) in subsection (d), by striking "twice" and inserting "once".

(b) FUNCTIONS.—Section 912 (42 U.S.C. 11212) is amended—

(1) in subsection (a)—

(A) by adding "and" at the end of paragraph (3);

(B) by striking "; and" at the end of paragraph (4) and inserting a period; and

(C) by striking paragraph (5); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Chairman of the Council shall submit to the committees listed in paragraph (2) a report containing information on—

"(A) progress made by research, sponsored by the Federal Government, on Alzheimer's disease and related dementias; and

"(B) new directions that the Council considers potentially important in research on Alzheimer's disease and related dementias.

"(2) The Chairman of the Council shall submit the report described in paragraph (1) to—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Ways and Means of the House of Representatives;

"(C) the Committee on Veterans' Affairs of the House of Representatives;

"(D) the Committee on Appropriations of the House of Representatives;

"(E) the Committee on Labor and Human Resources of the Senate;

"(F) the Committee on Finance of the Senate;

"(G) the Committee on Veterans' Affairs of the Senate; and

"(H) the Committee on Appropriations of the Senate.".

SEC. 6. ADVISORY PANEL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 921 (42 U.S.C. 11221) is amended—

(1) in subsection (a)(2), by striking "the Director of the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Administrator of the Agency for Health Care Policy and Research";

(2) in subsection (d), to read as follows:

"(d)(1)(A) Except as provided in subparagraph (B), members of the Panel appointed under subsection (a)(1) shall each serve for a term of 3 years.

"(B) Of the members appointed under subsection (a)(1) that are serving on the Panel on the day before the date of the enactment of this subsection—

"(i) five shall serve for a term that expires on such date;

"(ii) five shall serve for a term that expires 1 year after such date; and

"(iii) five shall serve for a term that expires 2 years after such date.

"(2) A vacancy on the Panel shall be filled in the same manner as the original appointment was made, and not later than 90 days after the date on which the vacancy first arises. A vacancy on the Panel shall not affect the powers of the Panel.";

(3) in subsection (f), by striking "twice" and inserting "once";

(4) in subsection (h), by striking "of $100 per day" and inserting "at the daily equivalent of the maximum rate specified for GS–15 of the General Schedule under section 5332 of title 5, United States Code,"; and

(5) by adding at the end the following new subsection:

"(i) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), on September 30, 1996, the Panel shall be abolished and all programs established under this part shall terminate.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 923 (42 U.S.C. 11223) is amended to read as follows:

"SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $150,000 for fiscal year 1992, $157,500 for fiscal year 1993, $165,500 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 7. RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND FAMILIES OF THE INDIVIDUALS.

(a) RESPONSIBILITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.—

(1) GRANTS.—Section 931 (42 U.S.C. 11251) is amended—

(A) by striking subsections (b)(2) and (c);

(B) in subsection (a), by inserting "and specialized care" after "services"; and

(C) in subsection (b)(1)—

(i) by striking "Within 6 months" and all that follows through "plan shall" and inserting "The Director of the National Institute of Mental Health shall";

(ii) in subparagraph (A)—

(I) by striking "provide for" and inserting "ensure that the research conducted under subsection (a) includes";

(II) by striking clause (iii) and inserting the following new clause:

"(iii) the optimal range, types, and cost-effectiveness of services and specialized care for individuals with Alzheimer's disease and related dementias and for their families, in community and residential settings (including home care, day care, and respite care), and in institutional settings, particularly with respect to—

"(I) the design of the services and care;

"(II) appropriate staffing for the provision of the services and care;

"(III) the timing of the services and care during the progression of the disease or dementias; and

"(IV) the appropriate mix and coordination of the services and specialized care;";

(III) in clause (iv), by inserting "the evaluation of best practices for the development of" before "appropriate"; and

(IV) in clauses (v) and (vii), by striking "and nursing home services" and inserting "nursing home services, and other residential services and care"; and

(iii) in subparagraph (B), by striking "research carried out under the plan" and inserting "the research".

(2) CONFORMING AMENDMENTS.—Section 931(b) (42 U.S.C. 11251(b)) is amended—

(A) by striking "(1)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated by subparagraph (B) of this paragraph), by redesignating clauses (i) through (vii) as subparagraphs (A) through (G), respectively.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 933 (42 U.S.C. 11253) is amended to read as follows:

"SEC. 933. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(b) RESPONSIBILITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—

(1) RESEARCH PROGRAM AND PLAN.—Section 934 (42 U.S.C. 11261) is amended to read as follows:

"SEC. 934. RESEARCH PROGRAM.

"(a) GRANTS FOR RESEARCH.—The Administrator of the Agency for Health Care Policy and Research shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and for their families.

"(b) RESEARCH SUBJECTS.—The Administrator of the Agency for Health Care Policy and Research shall ensure that research conducted under subsection (a) shall include research—

"(1) concerning improving the organization, delivery, and financing of services for individuals with Alzheimer's disease and related dementias and for their families, including research on—

"(A) the design, staffing, and operation of special care units for the individuals in institutional settings, as well as individuals in home care, day care, and respite care; and

"(B) the exploration and enhancement of services such as home care, day care, and respite care that provide alternatives to institutional care;

"(2) concerning the costs incurred by individuals with Alzheimer's disease and related

dementias and by their families in obtaining services, particularly services that are essential to the individuals and that are not generally required by other patients under long-term care programs;

"(3) concerning the costs, cost-effectiveness, and effectiveness of various interventions to provide services for individuals with Alzheimer's disease and related dementias and for their families;

"(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring for persons with Alzheimer's disease and related dementias and for their families, including the role of a physician in connecting such persons with appropriate health care and supportive services, including those supported through State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A)); and

"(5) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning legal and ethical issues, including issues associated with special care units, facing individuals with Alzheimer's disease and related dementias and facing their families.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 936 (42 U.S.C. 11263) is amended to read as follows:

"SEC. 936. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $4,000,000 for fiscal year 1992, $5,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 8. TRAINING AND EDUCATIONAL ACTIVITIES.

(a) ACTIVITIES.—Section 962 (42 U.S.C. 11292) is amended to read as follows:

"SEC. 962. EDUCATION OF THE PUBLIC, INDIVIDUALS WITH ALZHEIMER'S DISEASE AND THEIR FAMILIES, AND HEALTH AND LONG-TERM CARE PROVIDERS.

"(a) TRAINING AND CONTINUING EDUCATION GRANTS AND CONTRACTS.—

"(1) GRANTS AND CONTRACTS.—The Secretary, acting through the Director of the Bureau of Health Professions may make grants and enter into contracts to assist eligible entities in meeting the costs of projects—

"(A) to train the faculty of schools and graduate departments of medicine, nursing, osteopathic medicine, dentistry, public health, psychology, allied health, and clinical social work, and marriage and family therapists, to teach health care professionals, paraprofessionals, students, and family caregivers of patients with Alzheimer's disease and related dementias;

"(B) to improve the skills of health care professionals, paraprofessionals, and family care givers regarding the diagnosis, care, and treatment of Alzheimer's disease and related dementias; and

"(C) to develop and disseminate curricula relating to the care and treatment of individuals with Alzheimer's disease and related dementias.

"(2) AWARD OF GRANTS.—In awarding grants under this subsection, the Secretary shall—

"(A) award the grants on the basis of merit;

"(B) award the grants in a manner that will ensure access to the programs described in paragraph (1) by rural, minority, and underserved populations throughout the country;

"(C) ensure that the grants are distributed among the principal geographic regions of the United States; and

"(D) give preference to entities that demonstrate a multidisciplinary approach to training health professionals and paraprofessionals.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require, including, at a minimum—

"(A) an assurance that the eligible entity will make the training programs and continuing education programs described in paragraph (1) available to—

"(i) health care professionals, including mental health professionals;

"(ii) health care paraprofessionals;

"(iii) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and to the families of the elderly; and

"(iv) family caregivers; and

"(B) an assurance that the entity will coordinate such training programs and continuing education programs with—

"(i) the Alzheimer's Disease Research Centers described in section 445(a) of the Public Health Service Act (42 U.S.C. 285e-(2)); and

"(ii) the State agency designated under section 305(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)), in the State in which the entity will provide such programs.

"(4) ELIGIBLE ENTITY.—To be eligible to receive grants under this subsection, an entity shall be—

"(A) an educational institution providing training and education in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(B) an educational institution providing preparatory training and education of personnel for nursing homes, hospitals, and home or community settings;

"(C) an Alzheimer's Disease Research Center described in section 445(a) of the Public Health Service Act; or

"(D) any other public or not-for-profit sources of assistance to individuals with Alzheimer's disease or related disorders and the families of such individuals.

"(5) COORDINATION.—The Secretary shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.

"(b) NATIONAL INSTITUTE ON AGING GRANTS.—

"(1) TRAINING MODELS GRANTS.—

"(A) GRANTS.—The Director of the National Institute on Aging may award grants to eligible entities to assist the entities in developing and evaluating model training programs—

"(i) for—

"(I) health care professionals, including mental health professionals;

"(II) health care paraprofessionals;

"(III) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and the families of the elderly;

"(IV) family caregivers providing care and treatment for individuals with Alzheimer's disease and related disorders; and

"(V) personnel of local organizations (including community groups, business and labor groups, and religious, educational, and charitable organizations) that have traditionally not been involved in planning and developing long-term care services; and

"(ii) with attention to such variables as—

"(I) curricula development for training and continuing education programs;

"(II) care setting; and

"(III) intervention technique.

"(B) ELIGIBLE ENTITY.—To be eligible to receive a grant under this paragraph, an entity shall be an entity described in subparagraph (A), (B), or (C) of subsection (a)(4).

"(2) EDUCATIONAL GRANTS.—The Director of the National Institute on Aging is authorized to make grants to public and nonprofit private entities to assist such entities in establishing programs, for educating health care providers and the families of individuals with Alzheimer's disease or related disorders, regarding—

"(A) caring for individuals with such diseases or disorders; and

"(B) the availability in the community of public and private sources of assistance, including financial assistance, for caring for such individuals.

"(3) AWARD OF GRANTS.—The Director of the National Institute on Aging shall award grants under this subsection in accordance with the requirements specified in subparagraphs (A) through (C) of subsection (a)(2).

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency designated under section 305(a)(1) of the Older Americans Act of 1965, in the State in which the entity will provide such programs.

"(5) COORDINATION.—The Director of the National Institute on Aging shall coordinate the award of grants under this subsection with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 964 of such Act (42 U.S.C. 12294) is amended—

(1) by inserting "(a)" after "964.";

(2) in subsection (a), as designated by paragraph (1) of this section, by striking "this part" and inserting "sections 961 and 963"; and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(a).

"(c) There are authorized to be appropriated $2,000,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(1).

"(d) There are authorized to be appropriated $5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996, to carry out section 962(b)(2).".

SEC. 9. ALZHEIMER'S DISEASE CENTERS.

Section 445 of the Public Health Service Act (42 U.S.C. 285e-2) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following new paragraphs:

"(2) Notwithstanding section 496(b), Federal payments made under a cooperative agreement or grant under subsection (a) may be used for construction of the centers described in subsection (a).

"(3) As used in this subsection:

"(A) The term 'construction' does not include the acquisition of land.

"(B) The term 'training' does not include research training for which National Research Service Awards may be provided under section 487."; and

(2) by adding at the end the following new subsection:

"(d) There are authorized to be appropriated to carry out subsection (b)(2) such sums as may be necessary for fiscal year 1992 and each of the subsequent fiscal years.".

SEC. 10. GRANTS FOR PROMOTING INDEPENDENCE AND PREVENTING SECONDARY DISABILITIES IN PERSONS WITH ALZHEIMER'S DISEASE.

Section 445C of the Public Health Service Act (42 U.S.C. 285e-5) is amended by adding at the end the following new subsection:

"(d) The Director of the Institute shall develop, or make grants to develop—

"(1) model techniques to—

"(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

"(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

"(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.".

So the bill (S. 1577), as amended, was deemed read a third time and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

JAMES MADISON MEMORIAL FELLOWSHIP

Mr. REID. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 3932 relating to the James Madison Memorial Fellowship, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

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

Mr. KENNEDY. Mr. President, I am pleased to join Senator HATCH in introducing legislation to make minor changes to the enabling statute for the James Madison Foundation.

This bill makes minor substantive changes to the Madison Foundation statute to enable the foundation to operate more effectively and efficiently.

The bill makes two changes to the foundation's enabling statute: First, it provides that a board member whose term has expired may serve a limited time beyond the expiration of his term until his successor takes office; second, it provides that the Madison Foundation may begin in the next academic year to award fellowships for graduate study to students who plan to become teachers.

I urge my colleagues to pass this measure expeditiously.

EXTENSION OF PROGRAMS FOR EDUCATION OF HEALTH PROFESSIONALS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 337, H.R. 3508, relating to the Public Health Service Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I commend the distinguished chairman of Senate Labor and Human Resources Committee for his commitment to the education and training of health professionals through the reauthorization and expansion of the Public Health Service Act. This bill will go a long way toward encouraging access to health care in rural and other medically underserved areas.

In addition, I thank my colleague for his willingness to include a provision in H.R. 3508 to enable a smooth transition to occur due to the passage of the Nutritional Labeling and Education Act of 1990. The nutrition labeling bill is yet another example of the chairman's commitment to the good health of our Nation's citizens. Enacted last November, this bill will ensure clear and accurate food labeling so that American consumers are sure to have the information necessary to choose a healthful diet.

Because of the need to ensure continuity and consumer certainty in understanding the significance of particular kinds of labeling, the nutrition bill included a national uniformity in labeling provision. A separate provision was also included to allow States to petition the Secretary of Health and Human Services for an exemption to the uniformity requirement when the States had a concern about particular informational needs.

Unlike most of the provisions to assure uniformity in labeling, Federal preemption with respect to content requirements called standards of identity, became effective on date of enactment of the bill. The immediate effective date of this section, combined with the need to create a formal procedure for exemption petitions, has resulted in problems for purchasers of maple syrup in Vermont.

The Vermont law regarding the contents equirements for maple syrup assures consumers in Vermont that maple syrup is at optimum density and contains no salt or chemical preservatives. Unfortunately, Federal law allows for a more watery syrup, containing salt and other additives, to also be called maple syrup.

Section 301 of title III of H.R. 3508 will enable Vermont to continue its current policy regarding the purity and thickness of maple syrup until the Secretary is able to consider Vermont's petition for exemption from the weak Federal contents requirements for maple syrup. This will give Vermonters the security of knowing that the maple syrup they have used and enjoyed for years will continue to be the same superior product.

Vermont is also concerned about the potential impact of the Nutrition Labeling and Education Act on other portions of the Vermont Maple Program, such as the effect of the new law on grading standards. However, we are confident that the petition process provided for in the nutrition bill will enable Vermont's needs to be addressed by the Secretary of Health and Human Services in due course.

I commend the drafters of this legislation for their foresight preemption provisions and their solution in enabling the Secretary to grant exemptions to the national uniformity in food labeling requirements.

I look forward to working with the bill's sponsors toward ensuring that the goals of the Nutrition Labeling and Education Act are in fact achieved.

AMENDMENT NO. 1447

(Purpose: To provide for a substitute amendment)

Mr. REID. On behalf of Senator KENNEDY, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. KENNEDY, and Mr. HATCH) proposes an amendment numbered 1447.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am extremely gratified by the Senate's expeditious passage of S. 1933, the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. The fact that this legislation has been approved unanimously by the Senate reflects the broad support for this legislation that is intended to address the Nation's alarming shortage of primary care practitioners, nurses, public health, and allied health professionals.

The critical shortages among allied health and nursing fields have impeded the provision of quality care. They have already forced some hospitals to reduce services, close beds or units, and refer patients to other facilities.

Over the past 5 years, the proportion of graduates from medical schools planning to enter primary care specialties has decreased from 30 to 23 percent. Currently about 2,000 communities in this country are designated by the Federal Government as health professions shortage areas, with over 4,300 additional physicians required to provide needed primary care services. These figures mean that 30 million people are without access to primary and preventive care services.

A major source of primary care providers in underserved or rural communities comes from nonphysician providers, mainly nurse practitioners, certified nurse midwives, and physician assistants. There are over 20,000 nurse practitioners and 4,300 certified nurse midwives in practice, but for every additional of these nurses that graduates, there are at least four medically underserved communities requiring their services. Further, the percentage of physician assistants working in primary care has dropped from 74 to 55 percent between 1978 and 1989; and the percentage of physician assistants practicing in rural areas has been reduced by over half since 1981.

All of these problems are compounded by the rising cost of education in the health professions. Increasing numbers of students are dependent on the Federal Government for assistance to finance their education. In 1976, the Health Education Assistance Loan Program [HEAL] was created to provide financial assistance to graduate students in high-tuition health professions schools, and to help provide access to a health professions education. Since then, HEAL has insured more than 300,000 loans totaling over $2.6 billion in loan principal to students in 11 health professions. Unfortunately, problems exist in the HEAL Program that Congress must address. The rising costs of default has forced the Congress to appropriate $25 million in fiscal year 1991 and an estimated $61 million in fiscal year 1992. This bill, S. 1933, includes important improvements to the HEAL Program.

S. 1933 also reauthorizes programs and provides new opportunities to train additional health professionals in the following critical areas: First, mid-level primary care providers such as nurse practitioners, nurse midwives, nurse anesthetists, and physician assistants; second, primary care physicians such as in family medicine, general internal medicine and general pediatrics; and third, allied health professionals in shortage fields such as physical therapists, occupational therapists, respiratory therapists, dental hygienists, and clinical laboratory technologists.

S. 1933 provides important incentives to improve the geographic distribution of health professionals, and increase access to health care in medically underserved and rural communities, reversing recent trends that show that fewer physicians and other health care personnel are choosing to work in primary care fields and in medically underserved and rural communities.

S. 1933 was introduced on November 7, 1991, and was marked up in the committee on November 13, 1991, passing unanimously. The bill and the committee intent is described in detail in Senate Report 102-227 which accompanies this legislation.

S. 1933 is a bipartisan effort, a product of a great deal of thoughtful consideration concerning the Nation's future needs for health professionals in all fields and specialties. I commend Senator HATCH and other members of the Senate Labor and Human Resources Committee the other interested members of the Senate who helped to develop this comprehensive bill.

By the unanimous passage of S. 1933, the Senate is sending a clear message that we are committed to training an adequate supply of health professionals to meet the Nation's future needs. I look forward to working with my colleagues in the House toward early enactment of S. 1933.

(By request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD.)

• Mr. HARKIN. Mr. President, I rise in strong support of H.R. 3508, the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991. I want to commend our chairman, Senator KENNEDY, for his leadership in crafting this important bill and bringing it forward today. Because of its many component parts, it is always a difficult and complex measure to put together. And, as usual, the chairman has done a fine job.

This legislation, Mr. President, is especially important in light of what I hope will be our imminent action on a national health plan for the American people. All of the debate on health care reform tends to focus on how we are going to pay for insurance to cover the health bills of Americans. While this is indeed a fundamental component of the issue, we too often overlook the need to assure that we have sufficient skilled and properly trained professionals to deliver health care services in the first place. In many areas of the country, particularly in rural America, people are denied decent access to health care because of a shortage of appropriately trained health professionals. So that to simply to provide people in these areas will not be sufficient to solve the serious health care problems they face. In addition, health care professionals generally are not adequately trained in the prevention of disease and disability and the promotion of good health.

The Health Professionals Training and Nurse Education programs play a vital role in improving Americans' access to quality health services. And the amendments to these programs contained in S. 1933 will further strengthen nurse education programs and allied health training programs and places a greater emphasis in all of the programs toward disease prevention and health promotion and to primary care for our Nation's many rural and medically underserved communities. This is exactly the direction we need to be moving in federally supported health professionals training programs.

I am very pleased, Mr. President, that this bill incorporates many of the provisions of S. 694, the Allied Professionals Promotion Act of 1991, legislation I introduced along with Senators DASCHLE, SIMON, ADAMS, INOUYE, and AKAKA. These provisions, which include an increase in the authorization for training programs, the creation of an Advisory Council on Allied Health Professionals and the establishment of a Division of Allied Health within the Department of Health and Human services, are designed to alleviate the severe national shortage of allied health professionals. These health professionals make up two-thirds of our Nation's health care work force, and they share important responsibilities for the delivery of health care services—from those related to the prevention, identification, and evaluation of diseases and disorders, to health promotion services, to rehabilitation and health systems management services. The lack of an adequate supply of these key health professionals is limiting many Americans' access to quality health care and is adversely affecting hospitals, nursing homes, home health agencies, clinical laboratories, rehabilitation facilities, school systems and other service providers. These shortages are particularly acute among rehabilitation professionals such as occupational therapists, physical therapists, speech-language pathologists, respiratory therapists and other whose skills and services are so important in the provision of care to older Americans, the chronically ill and children and adults with disabilities.

Information from a variety of sources indicates that the shortage of allied health professionals will steadily worsen in the years to come without a renewed Federal effort to train additional personnel. A recent study by the Institute of Medicine projected that by the year 2000, the demand for physical therapists will increase by 87 percent and the demand for occupational therapists will jump by over half—52 percent. A national survey of over 7,000 hospitals found that vacancy rates for

16.4 percent for physical therapists 13.6 percent for occupational therapists, and 9.9 percent for speech-language professionals are significant all over the nation and are forcing facilities to reduce services, close beds and divert patients to other hospitals.

Mr. President, the Department of Health and Human Services, in its seventh annual report to the President and Congress on the status of health personnel in the United States noted that "* * * the allied health field is faced with growing shortages of personnel in a number of critical professional categories, reductions in program enrollments, closures of training programs, underrepresentation of minorities and shortages in faculty and trained researchers." Additional studies, surveys and reports from diverse organizations and agencies such as the American Medical Association, the National Institute on Aging, the Department of Education, the Easter Seals Society and the Institute of Medicine all point to this significant and growing threat to our nation's ability to provide important health and rehabilitative services.

In my own State of Iowa, we face severe shortages of allied health professionals. The vacancy rate for occupational therapists is 21 percent, some 5 percent higher than the national average. Fully 56 counties in Iowa have no occupational therapist. Iowa's current statewide vacancy rate for physical therapists is approximately 10.6 percent and is significantly higher in many rural parts of the State. Over the next 5 years, rural hospitals estimate a need for 62 additional physical therapists. Each year, the University of Iowa physical therapy program is only able to accept 30 students of the 250 individuals who apply. Our State's 21 percent vacancy rate for respiratory therapists is well over double that of the national average. In addition, Iowa is suffering from shortages of laboratory technicians, emergency medical technicians, medical technologists and other allied health professionals.

Mr. President, the bill's emphasis on increasing the number of health professionals generally in rural and other medically underserved areas is a critical step forward. Nearly 2,000 communities, home to over 33 million Americans, face a shortage of health personnel and have been designated as shortage areas by the Federal Government. These communities, including at least 23 in my State of Iowa, are literally starving for access to basic medical care. Small town after small town have no doctor or other basic health care provider, such as a nurse practitioner, nurse midwife or physician assistant. Over 150 towns in Iowa are actively seeking family doctors and many more face similar problems as health care providers retire and replacements must be found.

S. 1933's focus on underserved communities builds on last year's enactment of the National Health Service Corps Revitalization Act. The Labor and Human Resources Committee took the lead in reworking that critical program and with this legislation, it is once again taking up the cause of Americans who live in these areas across the nation.

Mr. President, perhaps the most important component of S. 1933 is its emphasis on the prevention of disease and disability and the promotion of good health. The bill requires that priority be given to applicants for competitive grants that can demonstrate that their training programs have—or are making progress toward the development and integration of—effective approaches and educational strategies to promote health and prevent disease and disability. It also requires that the Council on Graduate Medical Education develop mechanisms to assure the inclusion of health promotion and disease and disability prevention as a part of graduate medical education. As you know, these provisions are similar to those contained in S. 506, legislation I introduced earlier in the year but not under the jurisdiction of this committee. My bill would have required graduate medical education programs to include training in disease prevention and health promotion in order to be eligible for Medicare reimbursement.

These provisions represent a crucial change in the direction of our health care system—a direction towards common sense principles of prevention. These changes, which I have been promoting as a key component of my "Prevention First" initiative, will both improve the quality of health enjoyed by Americans and significantly reduce its costs by producing health professionals who are trained to prevent as well as to treat.

As you know, in addition to my position as a member of the labor and Human Resources Committee, I have the privilege to serve as chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies of the Appropriations Committee. This subcommittee funds the programs authorized by S.1933. I am pleased to say that we were able to provide an increase of $34 million over last year's level. Even this modest increase was very difficult to achieve given the fact that our subcommittee had $1 billion less that would have been necessary to provide all its programs level outlays and the fact that, as has been the case for the past 11 years, the administration requested virtually no funding for these important health professions programs. I call upon the President to reconsider his longstanding opposition to these critical health programs and to provide for their adequate funding in his budget request for fiscal year 1993.

Mr. President, there are many other important provisions in this bill—too many to list here. But I again applaud your efforts to bring this health professions bill to us and urge that it be adopted and was moved to conference with the other body so that this bill might be sent to the President prior to our adjournment.●

Mr. COATS. Mr. President, thank you for the opportunity to speak in support of S. 1933. I preface my remarks today by saying that I am pleased to be a cosponsor to this important legislation.

I believe the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991 does a very good job of targeting needed dollars to mid-level primary care providers, primary care physicians, and allied health professionals. In my home State of Indiana, this means improved funding for programs that train and serve: Nurse practitioners, nurse midwives, nurse anesthetists, physician assistants, physical therapists, occupational therapists, clinical laboratory technologists, and primary care physicians for professionals serving in general pediatrics, family medicine, and general internal medicine. These are the professionals that deliver the babies in a small town like Paoli or prepare elderly senior citizens for surgery in cities like Elkhart to the north.

Why is this reauthorization so important? The 1990 report from the Health Resources and Services Administration on "states' assessment of health personnel shortages: Issues and concerns," listed severe manpower shortages in each of these areas. A few alarming statistics shine light on why this reauthorization is so important, especially to rural areas.

First, over the past 5 years, the proportion of graduates planning to enter the primary care specialties has decreased from 30 percent to 23 percent. In fact, data from the 1990 national registry matching program indicates only 55 percent of the available family practice residency positions were filled.

Second, graduates for nurse anesthetist programs dropped by 44 percent from 1980 to 1990. Several rural hospitals in Indiana rely solely on these professionals. Undoubtedly, these mid-level practitioners play a role in solving our access problem to health care.

Third, today over 20,000 nurse practitioners and over 4,300 certified nurse midwives serve in the United States. Unfortunately, for every nurse practitioner and nurse midwife serving today, there are at least four medically underserved areas needing their services.

Fourth, registered nurses provide the hands-on care that is essential to treatment in rural areas. In Indiana, projections show that about 8,330 licensed practical nurses and nearly

35,000 nursing assistants will be needed by the year 2000. This means financial assistance for Health Services Administration and student traineeships.

Mr. President I believe the strength of S. 1933 is that new incentives will motivate health professionals to serve in medically underserved areas. Additionally, the student loan repayment provisions in the Health Education Assistance Loan Program [HEAL] have been strengthened to enhance individual responsibility.

Mr. President, this bill sends a strong message that the U.S. Congress is willing to provide needed resources to help train the health professionals who meet the health needs of the United States. Today, I join several of my committee colleagues in strong support of S. 1933. My hope is that our colleagues on the Appropriations Committee will follow through with adequate funding for these important programs in the next few years.

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

So the amendment (No. 1447) was agreed to.

The PRESIDING OFFICER. Are there further amendments? Is there further debate? If not, the bill is deemed read for the third time and passed.

So, the bill (H.R. 3508), as amended, was deemed read a third time and passed.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. LAUTENBERG) appointed Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. HATCH, and Mrs. KASSEBAUM conferees on the part of the Senate.

NONTRADITIONAL EMPLOYMENT FOR WOMEN ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 97, S. 367, a bill to amend the Job Training Partnership Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 367) to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, 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.

Mr. METZENBAUM. The President, the Nontraditional Employment for Women Act, S. 367, will create opportunities for thousands of women to obtain employment in fields with good wages, benefits, and job security. The evidence is clear that women participating in training programs under the Job Training Partnership Act have been clustered in programs for clerical, retail, and other traditionally female fields of work. Indeed, a recent General Accounting Office analysis on gender disparities in services provided by the JTPA indicates that many women receive classroom training for lower wage occupations. At the one service delivery area the GAO examined so far, 43 percent of the women who received classroom training were trained in clerical occupations.

It is no secret that technicians earn more than typists, and carpenters earn more than cashiers. Women deserve their fair share of the training available for the jobs with the best wages, benefits, and earning potential. The NEW Act will open the door to these jobs by increasing Federal efforts to prepare women for traditionally male fields of work.

The bill creates a 4-year, $6 million demonstration program to aid in the development and replication of programs to prepare women for careers in construction, electronics, and other traditionally male fields of work. The NEW Act is bipartisan legislation with impressive support from Wider Opportunities for Women and the National Women's Law Center, among other groups. I am pleased to be joined in this effort by Senators HATCH, KASSEBAUM, PACKWOOD, KENNEDY, PELL, ADAMS, SIMON, MIKULSKI, DODD, and HARKIN.

The NEW Act is a modest measure, but it will go a long way toward improving employment opportunities for women participating in programs under the JTPA. I thank my colleagues for their support in moving this legislation forward.

The PRESIDING OFFICER. Are there further amendments? Is there further debate? If not, without objection, the bill is deemed to be read the third time and passed.

So, the bill (S. 367) was deemed read a third time and passed, as follows:

S. 367

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 "Nontraditional Employment for Women Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this Act are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 3. DEFINITION.

Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(30) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work."

SEC. 4. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), and (11) as paragraphs (6), (7), (8), (9), (10), (11), and (12), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated in paragraph (1) above, by—

(A) striking "and" at the end of subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment.".

SEC. 5. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) of the Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) of the act is amended by—

(1) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

SEC. 6. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

SEC. 7. STATE EDUCATION COORDINATION AND GRANTS

(a) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(b) USE OF FUNDS.—Section 123(c) is amended—

(1) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(2) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

SEC. 8. USE OF FUNDS.

Section 204 of the Act is amended by—

(1) redesignating paragraphs (27) and (28) as paragraphs (28) and (29), respectively; and

(2) inserting after paragraph (26) the following new paragraph:

"(27) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment,".

SEC. 9. DEMONSTRATION PROGRAMS.

Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"SEC. 457. (a)(1) From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontradition employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

SEC. 10. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 457 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 11. DISCRIMINATION.

(a) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age

SEC. 12. EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect upon the date of enactment of this Act, except that the requirements imposed by sections 4, 5, and 6 of this Act shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1992.

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

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

The motion to lay on the table was agreed to.

JUDICIAL NATURALIZATION ACT OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3049, the Judicial Naturalization Act of 1991, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1448

Mr. REID. On behalf of Senators KENNEDY and SIMPSON, I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KENNEDY (for himself and Mr. SIMPSON) proposes an amendment numbered 1448.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Are there further amendments?

Mr. SIMPSON. Mr. President, I rise to join my colleague, Senator KENNEDY—the chairman of the Immigration Subcommittee—to urge the adoption of H.R. 3049, the judicial naturalization bill.

This bill is the result of a compromise between those Members of Congress who wish to place the fewest impediments possible before aliens wishing to become citizens and the judges who work in our Federal and State courts. Before 1990, all immigrants were naturalized by Federal district or State courts. The Immigration Act of 1990 made that process swifter by allowing the Attorney General to naturalize aliens.

Some judges expressed disappointment that they no longer were able to preside at the happy occasion of administration of the oath of citizenship. In addition, many Members of Congress agreed that the courts added a necessary ceremonial aspect to this important step in an immigrant's life. Therefore, this bill strikes an intelligent compromise: It gives authority to administer the oath of citizenship back to the courts for 45 days after the alien becomes eligible. If the court fails to act within 45 days, then the Immigration Service may administer the oath of citizenship.

I salute my good friend from Kentucky, Congressman RON MAZZOLI, for this fair and responsible compromise bill, and I encourage my colleagues to support it.

Mr. President, Senator KENNEDY and I intend to offer two immigration bills to H.R. 3049, as amendments.

In amendment No. 1, we are attaching language which reflects the compromise agreement between organized labor and artist groups reflected in S. 1776 and H.R. 3048, regarding the admission of foreign artists, entertainers, and other similar specialty immigrants. This is essential legislation which will ensure that we will have a continued flow of international artists and cultural exchange into the United States, and from the United States to foreign countries.

I would like to make a few specific remarks to some portions of this amendment, which is title II in the amendment offered by Senator KENNEDY and myself:

Proposed section 214(c)(4)(B)(ii) enables the Attorney General, in consideration of special circumstances, to waive the international recognition requirement for P-1 groups and to rely instead on national recognition.

This provision is designed primarily to benefit entertainment groups from countries such as Canada and Australia that may find it difficult to demonstrate recognition in more than one country except through access to the United States, due to such factors, for example, as limited access to media or consequences of geography. In these types of special circumstances, the Attorney General may waive the international recognition requirement.

For individuals under section 101(a)(15)(O)(i), except for those in motion picture or television production, where there is both a labor organization and a peer group that is not a labor organization, an advisory opinion from one of them is all that is required to adjudicate the petition. However, if the advisory opinion is not from the labor organization, the Attorney General will forward the petition to the labor organization, as required by section 214(c)(6)(B).

Subsection (c) of section 206 deletes references to nation-to-nation exchanges in order to clarify that what is required for those seeking to enter the United States under section 101(a)(15)(P)(ii) is that they be part of an exchange program between organizations, not nations, that represents a fair balance over a reasonable period of time; numerical equivalency is not required. The consultations for P-2 petitions shall be on the issue of whether those for whom P-2 petitions are submitted are part of such an organization-to-organization exchange program; no substantive standards apply to the participants in such programs.

I would like to note that it is the sponsor's intention that new paragraph 214(c)(6)(C) of this bill, which state that the Attorney General is not required to consult on visa applications where the applicant successfully demonstrates there is no appropriate peer group, labor organization or other person or persons, applies to all O and P category applicants. Thus, regulations in this area should cover aliens seeking entry for a motion picture or television production.

In amendment No. 2, we are attaching a compromise version of the Immigration Technical Corrections Act of 1991 (S. 1620 and H.R. 3670). This amendment, which will be title III of the substitute amendment, would make certain technical changes to the Immigration Act of 1990. The 1990 act made sweeping changes in our immigration laws, and these technical changes are the inevitable fine-tunings that must be done whenever legislation this broad in scope is enacted. The technical changes in this package have been agreed to by Democrats and Republicans of both House and Senate Immigration Subcommittees.

Included in the changes are improvements in the H-1B visa program, which employers use to bring in skilled aliens for temporary employment. These improvements: First, clarify the wage rate that employers must pay to H-1B aliens and to their own workforce, and second, alter the standard for penalizing employers, so that employers who make good-faith efforts to pay the correct wage rate would not suffer any penalties if the wage rate they selected

is later proven to have been inaccurate. I would like to thank representatives of the employer community and organized labor for their cooperation and assistance in drafting this language, which has been approved by all interested parties.

I would like to make just a few comments regarding the specific contents of title III:

First, this title clarifies that, when an employer seeks to hire an H-1B worker, the employer is not required to use any specific methodology to determine that the alien's wage complies with the wage requirements of the act and may utilize a State agency determination, such as SESA, an authoritative independent source, or other legitimate sources of wage information. Employers are known to use a variety of legitimate methods for determining appropriate wages, and we do not intend to mandate any specific change to these practices.

Second, in determining the actual wage level paid to other individuals with similar experience and qualifications for the specific employment in question, we intend the specific employment to mean the specific position held by the H-1B worker at the place of employment. By similar experience and qualifications, we intend factors that should be considered to include experience, qualifications, education, job responsibility and function, specialized knowledge, and other legitimate business factors.

Third, this title clarifies how complaints against employers of H-1B workers are to be handled and that the complaint process must differentiate between inadvertent or good faith failures or mistakes on the one hand and willful violations of employer obligations on the other. The system we envision works like this: If a complaint alleges that an employer has not provided the required wage of an H-1B worker, the employer is given the opportunity for a hearing and, if the allegation proves true, may be ordered to raise the worker's salary and to pay back wages. Other administrative remedies, including civil fines and debarment from the program, may be imposed on a wage complaint only if the Secretary finds a willful failure to meet a condition of subparagraphs (1)(A) (i) or (ii), by which we mean a knowing disregard for the requirements of these subparagraphs. If an employer establishes a good faith basis for its determinations, that will be a complete defense to a charge of willful failure to meet its obligations. Of course, if it is determined that the employer intentionally violated its other obligations in regard to the H-1B worker, administrative remedies may also be imposed, such as a one year bar on petitioning for alien workers.

Fourth, this title underscores that the H-1B program's labor condition application process is complaint-driven.

Mr. President, I urge the adoption of this legislation.

Mr. SEYMOUR. Mr. President, I am pleased to join today with the chairman and ranking member of the Immigration Subcommittee, Senators KENNEDY and SIMPSON, in support of their amendment to H.R. 3049, the Judicial Naturalization Amendments of 1991. I am particularly pleased that title II of this amendment contains the provisions from H.R. 3048. Passage of this legislation finally will bring to an end the controversy with respect to the admission of "O" and "P" nonimmigrant visas for performing artists, entertainers, and athletes.

The purpose of this legislation is to correct the flaws found in the Immigration Act of 1990. Though the proponents of the House-drafted provisions creating the "O" and "P" visas argued last year that these new categories would not represent a departure from the current H-1 visa category, it was clear after passage that this was not the case. In fact, after the Immigration and Naturalization Service published proposed regulations governing the "O" and "P" visas last July, it became strikingly clear that these provisions would have a significantly adverse affect on the ability of talented artists, entertainers and athletes from sharing their excellence and innovation in our country.

California is well-known throughout the world as a cultural mecca of creative motion pictures, music, and other unique forms of arts and entertainment. It thrives in this role because of the significant contributions and performances given by first-rate talent from every corner of the globe. Thus, it was no surprise when the leaders of the California arts and entertainment community first met with me and my staff to express their strong concerns that the "O" and "P" provisions and regulations would artificially restrict the cultural exchanges that are essential to their programs.

At the same time, I also heard from concerned Californians who rightly feared that any change in the 1990 act may undermine effective enforcement mechanisms and procedures that attempt to limit abuse of the nonimmigrant visa process. Abuse of this process has had a real and adverse affect on employment opportunities in this country to equally qualified Americans.

Furthermore, I was concerned that the provisions in the 1990 act, if left unchanged, would prompt other nations to retaliate and impose unnecessary travel and visa restrictions on American entertainers. Despite the fact that exporting American arts and entertainments this Nation's third largest generator of trade surplus, many countries currently have arbitrary restrictions on nonimmigrant visas for American artists and specialists. If we expect these nations to reduce their unfair barriers, then we must set the example and pursue fair nonimmigrant regulations and effective enforcement of those regulations. This balanced approach serves both goals of protecting American jobs and sharing the accomplishments of foreign and American artists and entertainers.

Fortunately, a balanced approach was achieved last September. With the assistance of my colleagues and their staffs of the Immigration Subcommittee, leaders of the arts community and organized labor worked diligently on compromise legislation. This legislation, S. 1776, of which I am a cosponsor, was introduced on September 30, and was largely incorporated in the House companion legislation, H.R. 3048, and in title II of the amendment to the legislation before us today, H.R. 3049.

We sought compromise. We got compromise. That is the reason we are able to take quick action on this legislation so that it may be sent to the President and signed into law before the end of this year.

Specifically, title II does the following: Repeals the 25,000 ceiling on "O" and "P" visas, and requires the General Accounting Office to conduct an investigation on the impact of the "O" and "P" visa procedures on the American labor force and the ability of American artists to obtain similar visas abroad; amends the arbitrary 1-year association requirement for P-1 applicants by exempting 25 percent of the performers and entertainers in the group seeking entry; eliminates the 3 month out-of-country rule for P-2 and P-3 nomimmigrants; clarifies the definition of "O" nonimmigrants with extraordinary ability in the arts to mean "distinction;" and amends the consultation requirement that gives labor organizations an opportunity to submit an advisory opinion on possible "O" and "P" applicants, but reaffirms that the Attorney General maintains full discretion to deny or accept a nonimmigrant application.

Mr. President, we cannot ignore the tremendous contributions made by the arts and entertainment industry to our national economy and cultural diversity. They must continue now and in the years ahead.

So I am pleased that with passage of this compromise legislation, all sides of this issue—international arts organizations, the American arts and entertainment community, and organized labor—can claim victory. They worked together to achieve this important compromise and in so doing, ensured that American audiences will be able to enjoy the best and most innovative artists and entertainers the world has to offer.

Finally, Mr. President, I want to take a moment to congratulate my distinguished chairman and the distinguished ranking member of the Immi-

gration Subcommittee and their exemplary staff for their efforts to reach a fair and balanced resolution on this important matter. It is said that all the world's a stage. With this legislation, America can continue to be a stage for all the world.

Mr. KENNEDY. Mr. President, for the RECORD, and for the benefit of my colleagues, let me state what we are considering with this substitute amendment. We are making some technical corrections and clarifications to last year's major immigration reform legislation—the Immigration Act of 1990. They have been cleared on both sides, as well as with our counterparts on the House Judiciary Committee. They are noncontroversial, but they are necessary.

As our colleagues may remember, the opportunity to achieve final action, after a decade-long effort to secure immigration reform came only in the last days before the 101st Congress was scheduled to adjourn sine die. It came when the House completed action October 3, 1990, on a bill previously passed by the Senate the year before.

That gave conferees only a matter of days to resolve major differences between bills that were several hundred pages long. Inevitably, drafting errors and oversights occurred.

On August 1 of this year, the Senate adopted a technical corrections bill, S. 1620, which was introduced by Senator SIMPSON and myself. This Senate passed bill is reflected in title III of the pending substitute amendment. But there are two additional titles that amend and correct the Immigration Act of 1990.

TITLE I OF AMENDMENT

The first title relates to restoring court-administered naturalizations. Last year, we acted to provide for administrative naturalizations as a means of assuring that large backlogs would not grow in naturalization petitions—as was becoming the case in many districts. These backlogs were posing unnecessary and unfair impediments to those seeking to become U.S. citizens. Although the legislation provided that court-administered ceremonies should continue, the actual naturalization would be completed administratively.

Many judges subsequently expressed their concern that this unnecessarily denied the participation of courts where there was never a backlog problem, and denied the naturalization process of the solemnity of a court administered oath of citizenship.

In order to deal with these concerns, Congressman MAZZOLI, the House subcommittee chairman, and JACK BROOKS, chairman of the Judiciary Committee, hit upon a reasonable compromise—a compromise we probably should have considered during our conference on the legislation last year, had we had sufficient time.

It allows courts to have 45 days to administer naturalizations, but if they can not during that period of time, then an applicant may choose to have it completed administratively by INS. This assures that the courts have a role, but also that naturalization backlogs do not grow because of crowded court dockets.

Mr. President, this is a good compromise which I support. It has already passed the House of Representatives overwhelmingly. Our amendment adopts the House bill with some technical amendments on the fee structure to assure that naturalization fees administered by the courts do not become prohibitive or an impediment to citizenship.

Of all immigration related fees that should be kept to a minimum, I believe naturalization fees are first among them. We do not want a fee to become an obstacle for some with less means from accomplishing what our laws and policies encourage them to do—that is to become full participating citizens of the United States, with all the rights and responsibilities that implies.

TITLE II OF AMENDMENT

Mr. President, title II of our substitute amendment relates to revisions in the new O&P visa categories for the temporary admission of artists, entertainers and athletes. Later in the debate I will go into more detail on the revisions we make, and explain the intent of these changes. But title II basically reflects the bill Senator SIMPSON and I introduced (S. 1776), which has been favorably reported last week to House floor by the House Judiciary Committee.

In short, both the Senate and House Judiciary Committee have cleared title II of this amendment.

TITLE III OF AMENDMENT

Finally, as I indicated at the outset, the final title reflects the technical corrections bill (S. 1620) adopted by the Senate on August 1 and reported out of the House Judiciary Committee last week.

H-1B VISAS

Among the corrections contained within this legislation are changes to the so-called H-1B visa for certain aliens coming to work temporarily in the United States.

The corrections incorporated address problems raised by academic institutions and businesses. We would anticipate, with these corrections, that the H-1B visa will be more functional. However, we expect to review this visa category thoroughly in the coming year as we see how it is implemented.

The first problem which these corrections address is the rigid wage determination formula contained in the provisions of the Immigration Act of 1990. The corrections to section 101(a)(15)(H)(i) of the Immigration and Nationality Act, as amended by the Immigration Act of 1990, clarify that when an employer seeks to hire an H-1B worker, the employer is not required to use any specific methodology to determine that the alien's wage complies with the wage requirements of the Act and may utilize a state agency determination, such as a SESA, an authoritative independent source, or other legitimate sources of wage information.

Second, in determining the actual wage level paid to other individuals with similar experience and qualifications for the specific employment in question, we intend the specific employment to mean the the actual set of duties and responsibilities to be performed by the H-1B worker at the place of employment. By similar experience and qualifications, we intend factors that should be considered to include experience, qualifications, education, job responsibility and function, specialized knowledge, and other such legitimate factors.

Third, we clarify the standards by which complaints against employers of H-1B workers are to be handled and that the complaint process must differentiate between inadvertent or good faith failures or mistakes on the one hand and willful violations of employer obligations on the other.

We would envision the system to work as follows: If a complaint alleges that an employer has not provided the required wage to an H-1B, worker, the employer is given the opportunity for a hearing and, if the allegation proves true, may be ordered to raise the worker's salary and to pay back wages. Other administrative remedies, including civil fines and debarment, may be imposed on a wage complaint only if the Secretary of Labor finds a willful failure to meet a condition of subparagraphs (1)(A)(i) or (ii), by which we mean a knowing disregard for the requirements of these subparagraphs. If it is determined that the employer violated its other obligations in regard to the H-1B worker, administrative remedies may also be imposed with a one year bar on petitioning for alien workers.

Finally, the H-1B corrections underscore that enforcement of the program's labor condition application process is complaint driven and that the Department of Labor's responsibility is to check applications they receive "only for completeness and obvious inaccuracies." And it is furthermore our intention, in the corrections regarding the posting of the applications, that the documents which must accompany the posted application be only those which are necessary to support the application.

Another correction clarifies the authority of the Attorney General to release certain aliens from detention, pending their deportation hearings. In including this provision, which amends

section 242(a)(2) of the Immigration and Nationality Act, we intend that aliens be permitted to exercise all rights to be a hearing, as allowed under section 242. Furthermore, we expect that should an abuse of the Attorney General's discretion occur, this abuse will be fully challengeable in court.

In conclusion, Mr. President, this substitute amendment providing for Immigration amendments and technical corrections has been carefully reviewed and drafted in a bipartisan fashion in consultation with the House Judiciary Committee, as well as with all the relevant departments of the executive branch.

It is noncontroversial, but it is extremely important that we make these corrections in a timely fashion as we begin the full implementation of the immigration act of 1990.

I urge the adoption of the substitute amendment.

O AND P VISA REVISIONS

Mr. KENNEDY. Mr. President, I would now like to take this opportunity to review in more detail the reforms this amendment brings to the O and P visa provisions on the temporary admission of artists, entertainers and athletes to the United States. As I indicated, this section reflects the provisions of the bill (S. 1776), which Senator SIMPSON and Senator SIMON joined me in introducing last September, and which has been reported favorably by both the House and Senate Judiciary Committees.

One of the more controversial provisions of the Immigration Act of 1990 has turned out to be the creation of these new O and P nonimmigrant visas for performing artists and athletes. In the final drafting of the conference report on this section of the bill, the terms governing the issuance of these visas went considerably beyond what was understood during our discussions at the time.

To correct this, Mr. President, we have met over the last several months with representatives of organized labor and those representing the fields of the arts, culture, entertainment; and athletics. The arts community had expressed alarm over the the new O and P visa provisions. They perceived last year's changes as being not only a major departure from current practice, but a serious threat to their artistic programs.

To provide remedial changes while we study this issue further, over the past several months, our subcommittee staff have undertaken lengthy consultations with all parties to reach a compromise. The bill we are offering today is that compromise, and it is supported by the following interested parties.

From organized labor, represented by the Department for Professional Employees, AFL–CIO, the following have been consulted: Actors' Equity Association; American Federation of Musicians; American Federation of Television and Radio Artists; American Guild of Musicial Artists; International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada; International Brotherhood of Electrical Workers; National Association of Broadcast Employees and Technicians; Screen Actors' Guild, and the Writers' Guild of America—East.

From the arts community, the following have agreed: the American Symphony Orchestra League; OPERA America; Dance/USA; American Arts Alliance; Association of Performing Arts Presenters; International Society of Performing Arts Administrators; National Association of Performing Arts Managers and Agents; Western Alliance of Arts Administrators; North American Folk Music and Dance Alliance; Columbia Artis Management Inc.; International Creative Management Inc. and subsidiaries; Shaw Concerts, Inc.; the Recording Industry Association of America; the League of American Theatres and Producers; Ringling Bros. and Barnum & Bailey Circus; and the Big Apple Circus.

To clarify the legislative history behind the changes being made by this amendment, let me review the principal revisions our bill makes to the new O and P visa categories:

First, we would repeal the proposed 25,000 ceiling on P–1 and P–3 individuals. We then require the General Accounting Office to undertake a 2½-year study and report to Congress. The GAO will be required to provide information on admissions under these and other categories, and on laws, regulations and practices elsewhere that affect the American labor force in the arts and entertainment field.

In undertaking this study, Mr. President, it is my intention to ask the GAO to review this issue in a very broad fashion. We are aware of the importance of encouraging the free and fair interchange of artists and cultural activity between nations. The new P–2 visa provision for reciprocal arrangements between organizations in this country and other lands underscores this interest. The purpose of these arrangements should be to open doors of opportunity for U.S. citizen and resident alien artists, entertainers and support personnel while welcoming such people from other countries. More should be done.

Therefore, to assist the Congress, the GAO will study the employment opportunities of U.S. citizen and resident alien artists, entertainers and support personnel both here and abroad, the extent of nonimmigrant alien employment in these occupations and the impact of practices by other governments that may inhibit the ability of U.S. citizens and resident aliens to obtain employment in the arts, entertainment, and supporting occupations, to have their art and skills embodied in audiovisual materials and sound recordings disseminated and enjoyed in other lands, and to earn fair compensation for their efforts abroad.

This will allow Congress to consider the GAO report, as well as to receive the first report of the new commission on immigration reform established in last year's bill. That commission is charged with reviewing all aspects of U.S. immigration law and policy, and the changes made by the 1990 Act, including the nonimmigrant O and P visas.

We believe this is a fair compromise between those who believe these nonimmigrant visas should be capped at some limit, and those who have argued that any ceiling is arbitrary and unnecessary.

Second, we significantly modify the requirement that P–1 visa applicants must have a 1-year association with the group with which he or she is entering. As rigidly drawn last year, this requirement and certain associated rules are unrealistic given the realities of the entertainment industry and the performing arts community. We also provide expressly for essential support personnel in this category.

Third, we clarify the consultation requirements for O, P–1 and P–3 petitions to assure that if the collective-bargaining representative or other appropriate union has not had the opportunity to provide an advisory opinion, that entity shall receive a copy of the petition and supporting documentation with an opportunity to comment before the attorney general adjudicates the petition. We have taken various steps to streamline the consultation process.

Fourth, we extend the requirement for the return transportation for dismissed employees, as is now done for other nonimmigrant visa categories. If an employee is dismissed before the end of the period of his authorized admission, then the employer should pay reasonable costs for return transportation home.

Fifth, in some of the other provisions of this legislation, we clarify the definition of extraordinary ability for O–1 applicants and drop the need for the attorney general to determine their prospective benefits to the country; eliminate the 3-month out-of-country rule for P applicants; return fashion modeling to the H–1b category, but not as a specialty occupation; clarify the nature and purpose of P–3 applicants seeking to enter to perform culturally unique programs; and require the attorney general to report certain statistics annually respecting the H and Q, as well as the O and P categories.

These are obviously technical immigration provisions, but they have enormous consequences for the performing arts community. We believe these revisions represent a fair and satisfactory

compromise between the interests of organized labor and the foreign artists, performers and athletes who come each year to the United States, bringing their talents their art, their performances to share with American audiences.

Finally, Mr. President, let me state the intent behind some of the other statutory changes we are making.

The first relates to the new standards for classification of P-1 nonimmigrants in section (3) of our bill.

The P-1 visa category is for aliens who make an important contribution to the quality of a performance group that is recognized as being outstanding in more than one country, including the United States. Such international recognition is not earned easily; it reflects a consistently outstanding level of performance sustained over a substantial period during which time the group has been tested in a number of performances for varying material. Recognition for outstanding quality extends to the group itself and not to any particular entertainment, play, composition, or event the group may present.

The requirement that a group be together for a sustained and substantial period of time serves to ensure that its reputation is not ephemeral. The attorney general, in his discretion, shall determine the length of time necessary to serve this purpose. Most groups should be able to produce appropriate documentation, the foreign sale of sound and/or video recordings, and significant critical reviews to demonstrate that their reputation is international in scope.

However, in subsection (b), in what will become section 214(c)(4)(B)(ii) of the Immigration and Nationality Act, we recognize that despite being outstanding in their discipline for a sustained and substantial period of time, it may be difficult for entertainment groups to demonstrate recognition in more than one country, due to such factors, for example, as limited access to media—at home or abroad—or consequences of geography that make it difficult for entertainment groups in certain countries to establish an international reputation except through access to foreign markets. Canadian entertainment groups, for instance, often are unable to establish international recognition unless they establish themselves in the United States as well as in Canada. In these types of special circumstances, the attorney general shall consider other types of evidence, advisory opinions, and/or appropriate expert opinion to adjudicate the petition, and may waive this requirement.

Since the reputation of the group is paramount, the P-1 provision requires the integrity of the group as a cohesive unit to be maintained. Because the quality of the work for which the group has achieved recognition rests on the collective efforts of the individuals who comprise it, this provision requires that individual alien performers and entertainers—but not essential support personnel—seeking to enter the United States as part of an outstanding group must establish that they have had a substantial relationship with the group ordinarily for at least 1 year.

To accommodate the everyday business and artistic operations of various types and sizes of groups, subsection 214(c)(4)(B)(iii)(I) of the act will waive the requirement of 1-year's association for 25 percent of the performers or entertainers in a group. Subsection (B)(iii)(II) will also enable the attorney general to waive the 1-year association requirement for illness or other unanticipated and exigent circumstances, such as death, injury, discharge, or resignation of a member; unforeseen events such as natural disasters; unanticipated emergencies that require the substitution of long-term members by others; and the presentation of certain works which require that the group be augmented by additional personnel performing critical roles.

Subsection (B)(iv) will make special provision for alien circuses and circus personnel, in light of their unique needs, circumstances and traditions.

In implementing these provisions, the Attorney General should avoid requiring unnecessary paperwork and documentation. For instance, for purposes of applying under subsections (B)(iii) (I) or (II), petitioners should be required only to provide a brief statement listing the particular circumstances that being the alien within the exception. Further initial individual documentation should prove unnecessary, particularly because the key issue will be the reputation of the group itself. Also, of course, a consultation with a labor organization prior to adjudicating the petition will be required. If an issue arises respecting a particular group member, the petitioner will have an opportunity to supply additional evidence.

Second, section (4), which contains revised consultation requirements, has been restructured. Petitioners for O-1 aliens not involved in motion picture or television productions will have the flexibility to consult with a broad range of individuals, groups or other entities, including labor organizations, with expertise in the particular field. However, inasmuch as a purpose of the consultation requirement is to provide notice of the petition to the affected labor organization, when the petitioner does not directly contact an appropriate labor organization prior to filing, the Attorney General is obligated to notify the national office of the collective-bargaining representative, if any, or an otherwise appropriate labor organization, by forwarding a copy of the petition and supporting documents. Collective-bargaining representative means the labor organization with which an employer has a legal obligation to bargain.

As used in this legislation, we intend the term "advisory opinion" to mean a written opinion respecting the qualifications of the beneficiary or beneficiaries of the petition in relation to the requirements of sections 101(a)(15)(O), (P)(i) and (P)(iii). To avoid imposing undue burdens, in the case of labor organizations, the terms may also mean a written comment regarding any aspect of the proposed beneficiary's or beneficiaries' qualifications under the respective sections, or simply a letter of no objection. Provision of an advisory opinion fulfills the Attorney General's consultation obligation under these sections.

With regard to O-2 beneficiaries in the motion picture and television field, we have broadened the nature of the underlying activities on the basis of which accompanying O-2 aliens can request entry despite their lack of a preexisting working relationship with the principal O-1 alien. We also restore the original understanding between organized labor and that industry in that an O-2 consultation will now be required with an appropriate union and a management organization, except in cases where there is no labor organization or peer group for an applicant.

For all O, P-1, and P-3 petitions, where the petitioner establishes that no appropriate peer group—including a labor organization—exists, the attorney general will render a decision without further consultation. This does not preclude the Attorney General from obtaining the same from a closely related peer group, labor organization or other person or persons, nor does it obviate the need for an advisory opinion, letter of no objection, or comment upon the later establishment of such entity. To implement this provision, the Attorney General should establish and maintain a list of occupations for which no appropriate peer group or union exists. Upon request, the Attorney General should provide notice of the disposition of each petition to any person, persons, labor or other organization that has provided an advisory opinion or comment.

In administering these provisions, it is essential that processing times be kept to an absolute minimum so as not to interfere with normal industry operations. For instance, in addition to the times specified in the statute, where additional evidence is required or rebuttal evidence may be appropriate, the attorney general should ensure that the petitioner receives a request and a copy of any negative comments promptly, to enable the petitioner to respond without further delaying adjudication of the petition.

Out of concern to avoid unnecessary paperwork and undue burdens, we have

made a number of additional changes. For instance, if an O-1 artist or entertainer seeks readmission to the United States under a new petition within 2 years of having undergone a consultation as required in section 214(c)(6)(A), no new consultation will be required, although organized labor will still receive notice of the petition. In addition, we have provided that the attorney general may short any relevant processing timeframes for emergency reasons. Similarly, the attorney general may set expedited consultation procedures for all O or P applicants where needed to accommodate exigencies or scheduling in relation to productions or events. We provide similar arrangements for athletes. It is our intention that, in establishing such emergency procedures, the attorney general incorporate the use of telecopiers, and even the telephone where appropriate, provided adequate written administrative record is created.

Third, regarding section (d), the definition of extraordinary ability for O nonimmigrants, we intend that the attorney general adopt specific criteria to establish distinction in the arts, including essentially the same regulatory standards for prominent aliens of distinguished merit and ability as in effect on September 30, 1991. Thus, an alien could qualify under this section by meeting a number of standards for distinction; alternatively, the alien could qualify by winning a major, nationally or internationally recognized competition that is generally regarded as a benchmark for oustanding achievement in the alien's field. When the competition is of such prestigious nature, the Attorney General may consider second or third place ranking as sufficient qualification. The concept of distinction in the arts encompasses not only performers, but all essential technical personnel. Thus, the term "arts" should include: fields of creative activity or endeavor such as, but not limited to, music, opera, dance, drama and theater, painting and sculpting, literature, photography and circus performances, and encompassing not only principal creators and performances but other essential persons such as, but not limited to, directors, set designers, lighting designers, sound designers, choreographers, choreologists, conductors, orchestrators, musical, language or other coaches, arrangers, musical supervisors, costume designers, makeup artists, fight masters, stage technicians, and animal trainers.

We recognize that most O-1 individuals will be able to produce appropriate documentation to fulfill the specified criteria. However, some individuals may be unable to produce the types of documentation normally relied upon to prove extraordinary ability; for example, certain circus performers or persons who reside in societies where there has not been a modern tradition of compensation based on market principles or where access to media has been limited. In these instances, the attorney general may consider other types of evidence combined with appropriate advisory opinions and other comment.

Fourth, in section 6(d), we recognize the special needs and potential of P-3 culturally unique performers or groups. In addition to enabling them to perform, we wish to encourage them to pass along their craft by teaching or coaching. We also acknowledge that without the ability to present, teach or coach, their unique cultural talent in commercial as well as noncommercial venues, culturally unique performers may be unable to afford U.S. tours; indeed, without access to the U.S. market, they may be unable to afford to continue their art altogether.

In conclusion, Mr. President, I believe these changes, although highly technical, are extremely important to both the arts community and in the interest of American labor.

Mr. SIMON. I wish to join my friend, Senator KENNEDY, the chairman of the Immigration and Refugee Affairs Subcommittee, in offering this substitute amendment.

The immigration-related amendments we offer today make a number of minor and technical changes to the Immigration Act of 1990, adjust the 1990 reforms in our naturalization procedures and address problems related to the O and P entertainer visa provisions.

These amendments are the product of separate Senate and House legislation and contain provisions that have been cleared by the subcommittees on each side and have the support of the parties most affected.

The Immigration Subcommittee in the Senate is the smallest subcommittee so it is easy to discern the intentions of the Senate sponsors. In addition to the points raised by Senator KENNEDY, I wish to especially reiterate my strong support for the naturalization provisions and the O and P visa adjustments.

The naturalization amendments revise current law to address valid concerns that have been expressed by members of the judiciary in Illinois and around the Nation. These amendments are also cognizant of the great necessity to eliminate all unnecessary barriers to naturalization. These amendments ensure that naturalization ceremonies can take place in Federal district courts which can best provide the proper decorum and seriousness of purpose as we welcome newcomers, as citizens, to the American family.

At the same time, in enacting this legislation we are mindful of the backlogs that do take place in the naturalization process. No extraordinary delays should be caused by this legislation. In those areas of the country that cannot readily schedule naturalization ceremonies at the district court, a prospective citizen should not be forced to wait. This legislation provides that flexibility.

This package of amendments also addresses another potential barrier to naturalization. Between December 1989 and April 1991, the Immigration and Naturalization Service [INS] raised naturalization fees from $50 to $160 and revenues exceeded expenses related to the naturalization process. Following action taken by Congress in the Immigration Act of 1990, the INS partially reduced fees to $90. The confusion around the amount of fees assessed for naturalization prompted various House Members to request the General Accounting Office [GAO] to conduct a study on the INS fee structure. GAO has not yet conducted this study and it is not expected that the report will be complete until some time next year.

In the meantime, there is substantial concern that fees may be raised once again. I am pleased, therefore, that the naturalization amendments require the Attorney General to consult with the Judiciary Committees of the House and Senate prior to raising naturalization fees and to report to Congress where the fees fit into its overall budget.

A tremendous amount of work has gone into the O and P provisions of the Immigration and Nationality Act. These provisions repeal the previous 25,000 visa annual cap for P-1 and P-3 nonimmigrants that was established by the 1990 Immigration Act. They also require the General Accounting Office to report to Congress by the end of fiscal year 1993 on the use of O and P visas by artists, entertainers, and athletes to determine how many visas are actually used. The report will enable Congress to better evaluate the impact these visas have on entertainer employment and earnings among American workers. The report will also provide information on the policies of other countries regarding Americans who seek this work abroad.

Another important change contained in these provisions relate to the peer group consultation requirement of section 207 of the Immigration Act of 1990. These provisions clarify that if there is a collective-bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization for purposes of the peer group consultation requirement. These provisions give the peer group 15 days in which to file its response or "no objection" letter. The Attorney General will then give the employer an opportunity to respond and adjudicate the application within 14 days.

Where no appropriate peer group or labor organization exists and the em-

ployer can establish this to the satisfaction of the Attorney General, no advisory opinion or comment is required. I simply echo Senator KENNEDY's statement of subcommittee intent that this provision applies to all O and P category applicants. Thus, regulations in this area should also cover aliens seeking entry for a motion picture or television production.

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

So the amendment (No. 1448) was agreed to.

Mr. DIXON. Mr. President, I am pleased the Senate has passed H.R. 3049, the judicial naturalization ceremonies amendments. I introduced the Senate companion legislation, S. 1726, which attempted to provide a balance between the numbers of individuals ready to be sworn in as new citizens, and the number of people who could conduct the ceremony.

Prior to enactment of the Immigration Act of 1990, Federal judges had exclusive authority to administer the oath of allegiance. The Immigration Act eliminated the exclusivity and replaced it with a choice system. Individual applicants could choose to be sworn in by a judge in a formal ceremony, or by an employee of the Immigration and Naturalization Service. The purpose of the choice system was to cut back on the mounting backlog of individuals waiting to be sworn in as new citizens of the United States.

The choice system, while appealing, had an unintended negative effect. It lessened the significance of the swearing-in ceremony. It also effectively stripped the judges of their historic role of administering the oath of allegiance.

Clearly, the Immigration Act went too far in its attempt to address a very real problem: Too many people to be sworn in, and too few judges and ceremonies.

S. 1726, and H.R. 3049 attempted to achieve a balance of interests, and I believe the legislation enacted today has achieved that balance. The legislation provides a temporary exclusive authority for the judges, while also allowing for Immigration and Naturalization Service officials to conduct ceremonies in a number of situations.

Mr. President, the oath of allegiance culminates a multi-year process by which an immigrant seeking a new and better life is fully incorporated into the American citizenry. It is their idealism, their desire to fully contribute to the American dream, that continue to enrich our country.

H.R. 3049, as did my companion legislation, S. 1726, balanced the historic importance of a judicial ceremony with the realities of an overburdened system. I applaud the Senate for acting so swiftly on it, and I thank my distinguished colleagues, Senators BIDEN, KENNEDY, SIMPSON, and SIMON, for their leadership in shepherding this legislation through the Judiciary Committee to the Senate Floor.

I thank my colleagues.

The PRESIDING OFFICER. Without objection, the bill is considered read for the third time and passed.

So, the bill (H.R. 3049), as amended, was passed.

The title was amended.

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

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

The motion to lay on the table was agreed to.

S. 1776—INDEFINITELY POSTPONED

Mr. REID. I ask unanimous consent that Calendar No. 339, S. 1776, be indefinitely postponed.

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

CHANGES IN THE COMPOSITION OF THE EASTERN AND WESTERN DISTRICTS OF VIRGINIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 829, regarding changes in the composition of the eastern and western districts of Virginia, just received from the House; that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table.

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

So, the bill (H.R. 829) was deemed read the third time and passed.

MYRTLE FOESTER WHITMIRE DIVISION OF THE ARKANSAS NATIONAL WILDLIFE REFUGE

Mr. REID. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2105, designating the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge," and that the Senate then proceed to its immediate consideration, that the bill be deemed read a third time and passed and the motion to reconsider be laid upon the table.

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

The bill (H.R. 2105) was deemed read the third time and passed.

Mr. BENTSEN. Mr. President, this bill designates a section of the Arkansas National Wildlife Refuge as the "Myrtle Foester Whitmire Division of the Arkansas National Wildlife Refuge" when the area is acquired by the U.S. Fish and Wildlife Service. This designation honors a family that has recognized the significance of their land and the value it has for Texas and the Nation. The approximately 5,000 acres of vital wetland habitat known as Rancho la Bahia has been in Myrtle Foester Whitmire's family for over 100 years. With the generous cooperation of the Whitmire family, this area will be preserved for the wildlife of the area and for the enjoyment of generations to come.

The area represents some of the finest remaining wetlands on the Texas midcoast. The wetland types occurring in the area have been identified in the national wetlands priority conservation plan as being rare in occurance and that this acquisition will ensure preservation of high quality waterfowl habitat.

The Whitmire family should be commended on their desire to preserve this land. I am encouraged to know that local support is high for naming the area after Mrs. Whitmire and that her name would bring about a positive response from the general public. The Arkansas National Wildlife Refuge is a part of preserving a significant area of the Texas coast.

APPOINTMENT OF ROBERT CURRY AS ADMINISTRATOR OF THE FAA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2098, a bill to provide for the appointment of Robert Curry as Administrator of the FAA, introduced earlier today by Senator FORD, that the bill be deemed read three times and passed and the motion to reconsider be laid upon the table; that any statements appear at an appropriate place in the RECORD.

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

The bill (S. 2098) deemed to have been read the third time and passed is as follows:

S. 2098

Be it enacted by the Sentate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration. Major General Curry's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Army, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Major General Curry shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Army, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United

States Army, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Major General Curry shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Army.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

Mr. FORD. Mr. President, I am introducing legislation which would enable the appointment, notwithstanding that provision of current law, of Jerry R. Curry to the poisition of FAA Administrator without affecting the status, rank, and grade which he holds on the retired list of the U.S. Army. During the time in which he serves as Administrator, Mr. Curry will not receive any of his retired pay.

This legislation is necessary because the FAA statute requires that the Administrator be a civilian. This waiver applies only to Mr. Curry, and not to any future administrators, unless another waiver is passed for them.

I ask my colleagues to act promptly on this legislation, so that it may be sent to the House, and we may be prepared to confirm Mr. Curry soon.

ORDER TO PRINT HEARING RECORD OF POW-MIA INVESTIGATION POLICY AND PROCESS

Mr. REID. Mr. President, on behalf of Senator KERREY, the chairman of the Select Committee on POW-MIA Affairs, I ask unanimous consent to print the hearing record, POW-MIA Investigation Policy and Process, from November 5, 6, 7, and 15, 1991, during adjournment, and the printing of additional copies for a total of 2,000 copies.

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

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1532.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1532) entitled "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act Amendments of 1991".

SEC. 2. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (3), by striking "the vast majority" and inserting "an unacceptable number";

(2) in paragraph (6), by striking "the number of cases" and all that follows and inserting the following: "the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;";

(3) in paragraph (7)—

(A) by striking "more than 80 percent of" and inserting "many such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome";

(4) in paragraph (8)—

(A) by inserting "such" before "infants"; and

(B) by striking "with acquired immune deficiency syndrome" and

(5)(A) in paragraph (9), by striking "and" at the end;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by inserting after paragraph (9) the following new paragraph:

"(10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and".

SEC. 3. PROGRAM OF DEMONSTRATION PROJECTS REGARDING INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS.

(a) PRIORITY REGARDING CERTAIN INFANTS AND YOUNG CHILDREN.—

(1) IN GENERAL.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

"(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

"(2) who have been perinatally exposed to a dangerous drug.".

(2) CONFORMING AMENDMENTS.—Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(A) in subsection (a)—

(i) paragraph (6), by striking "with acquired immune deficiency syndrome" and inserting "described in subsection (b)";

(ii) in each of paragraphs (2), (4), (5), and (7), by striking ", particularly those with acquired immune deficiency syndrome"; and

(iii) in paragraph (3), by striking ", particularly those with acquired immune deficiency syndrome;"; and

(B) in subsection (d)(1) (as redesignated by paragraph (1)(A) of this subsection), by striking "(d)" and inserting "(e)".

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this section, is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographical area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).".

(c) OTHER REVISIONS REGARDING PURPOSE OF GRANTS.—Section 101(a) of the Abandoned Infants Assistance Act of 1988, as amended by subsections (a) and (b) of this section, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ", including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child"; and

(2) in paragraph (5), by inserting before the semicolon the following: "who are unable to reside with their families or to be placed in foster care".

(d) ADMINISTRATION OF GRANT.—Section 101(d) of the Abandoned Infants Assistance Act of 1988, as redesignated and amended by subsection (a) of this section, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking "(d) ADMINISTRATION" and all that follows through "The Secretary" and inserting the following: "(d) ADMINISTRATION OF GRANT.—

"(1) The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) 2 ems to the right; and

(4) by adding at the end the following new paragraph:

"(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

"(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

"(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.".

SEC. 4. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

"(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to dis-

seminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

"(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

"(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

"(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

"(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

"(i) to providing the information to individuals described in such paragraph who—

"(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

"(II) have been historically underserved in the provision of the information; and

"(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

"(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

"(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.".

(b) STUDY.—Section 102(c) of the Abandoned Infants Assistance Act of 1988, as amended by subsection (a) of this subsection, is amended—

(1) in paragraph (1)(A), by striking "infants who have acquired immune deficiency syndrome" and inserting "infants and young children who are infants and young children described in section 101(b)"; and

(2) in paragraph (2), by striking "The Secretary and all that follows through "Act," and inserting the following: "Not later than April 1, 1992, the Secretary shall".

SEC. 5. DEFINITIONS.

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title:

"(1) The terms 'abandoned' and 'abandonment', with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act.

"(3) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "For the purpose" and all that follows and inserting the following:

"(a) IN GENERAL.—

"(1) For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated $20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $35,000,000 for fiscal year 1995.

"(2)(A) Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

"(B) For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

"(3) Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

"(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—For the purpose of carrying out section 102(b), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1995.

"(c) ADMINISTRATIVE EXPENSES.—

"(1) For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

"(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

"(d) AVAILABILITY OF FUNDS.—Amounts appropriated under this section shall remain available until expended.".

SEC. 7. CONFORMING AMENDMENT.

The heading for title I of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS".

SEC. 8. TERMINATION OF PROGRAM.

Section 105 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

Amend the title so as to read: "An Act to revise and extend the programs under the Abandoned Infants Assistance Act of 1988.".

Mr. LEVIN. Mr. President, it is my understanding that this amendment has been agreed to by the floor managers. This amendment was originally offered as part of the Older Americans Act earlier this month. It was agreed to on a voice vote.

It is further my understanding that it is now uncertain that the conference on the Older Americans Act will be completed prior to recess. So, I am offering this amendment to the current vehicle.

The purpose of this amendment is to make clear that the Older Workers Benefit Protection Act applies equally in terms of effective dates to collective bargaining agreements which have been negotiated between the United Automobile Workers and General Motors, Ford, and Chrysler. This amendment makes clear that the delay in the effective date in the Older Workers Benefit Protection Act which applies to the General Motors and Ford contracts also applies to the contract negotiated between the UAW and Chrysler during that 1990 timeframe.

AMENDMENT NO. 1449

Purpose: To make uniform the effective date for compliance with the Older Workers Benefit Protection Act

Mr. REID. I move that the Senate concur in the House amendments with an amendment on behalf of Senators LEVIN and KASTEN which I now send to the desk.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN (for himself and Mr. KASTEN) proposes an amendment numbered 1449. In the appropriate place in the bill insert the following new section:

"SEC. . Amend Section 105 of the Older Workers Benefit Protection Act (PL 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following:"

"'; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;'"

The PRESIDING OFFICER. Without objection the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3029.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3029) entitled "An Act to make technical corrections to agricultural laws", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments relating to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.
Sec. 120. Cotton classing fees.
Sec. 121. Sense of Congress regarding targeted option payments.
Sec. 122. Transfer of peanut quota undermarketings.
Sec. 123. Cotton futures contracts.
Sec. 124. Lamb price and supply reporting services report and system.
Sec. 125. Cotton first handler marketing certificates.
Sec. 126. Production of black-eyed peas for donation.
Sec. 127. Milk price support program limited to 48 contiguous States.
Sec. 128. Modification of milk production termination program.

TITLE II—CONSERVATION

Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the Future.
Sec. 204. Amendments to the Food Security Act of 1985.

TITLE III—AGRICULTURAL TRADE

Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Technical amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendment to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing United States agricultural expertise and information.
Sec. 339. Conforming amendment relating to the Environment for the Americas Board.

TITLE IV—RESEARCH

Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Teaching Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Deer tick research.
Sec. 407. Miscellaneous research provisions.
Sec. 408. Sustainable agriculture research and education.

TITLE V—CREDIT

Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.
Sec. 503. Federal Agricultural Mortgage Corporation.

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.

TITLE VII—RURAL DEVELOPMENT

Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.

TITLE VIII—AGRICULTURAL PROMOTION

Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

Sec. 901. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 902. Categorical eligibility for recipients of general assistance.
Sec. 903. Exclusions from income.
Sec. 904. Resources that cannot be sold for a significant return.
Sec. 905. Resource exemption for households exempt under AFDC or SSI.
Sec. 906. Technical amendment on transitional housing.
Sec. 907. Performance standards for employment and training programs.
Sec. 908. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 909. Value of allotment.
Sec. 910. Prorating within a certification period.
Sec. 911. Recovery of claims caused by nonfraudulent household errors.
Sec. 912. Demonstration projects for vehicle exclusion limit.
Sec. 913. Definition of retail food store.

Subtitle B—Commodity Distribution

Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Reduction of Federal paperwork for distribution of commodities.

Subtitle C—Indian Subsistence Farming Demonstration Grant

Sec. 931. Purposes.
Sec. 932. Definitions.
Sec. 933. Indian subsistence farming demonstration grant program.
Sec. 934. Training and technical assistance.
Sec. 935. Tribal consultation.
Sec. 936. Use of grants.
Sec. 937. Amount and term of grant.
Sec. 938. Other requirements.
Sec. 939. Authorization of appropriations.

Subtitle D—Technical Amendments

Sec. 941. Technical amendments to the Food Stamp Act of 1977.
Sec. 942. Amendment relating to the Hunger Prevention Act of 1988.

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

Sec. 1001. Organic certification.
Sec. 1002. Agricultural fellowships.
Sec. 1003. Outreach and assistance for socially disadvantaged farmers and ranchers.
Sec. 1004. Protection of pets.
Sec. 1005. Critical agricultural materials.
Sec. 1006. Amendments to FIFRA and related provisions.
Sec. 1007. Grain standards.
Sec. 1008. Packers and stockyards.
Sec. 1009. Redundant language in Warehouse Act.

Sec. 1010. Clarification of Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 1011. Perishable agricultural commodities.
Sec. 1012. Egg products inspection.
Sec. 1013. Prevention of introduction of brown tree snakes to Hawaii from Guam.
Sec. 1014. Grant to prevent and control potato diseases.
Sec. 1015. Collection of fees for inspection services.
Sec. 1016. Exemption and study of certain food products.
Sec. 1017. Fees for laboratory accreditation.
Sec. 1018. State and private forestry technical amendments.
Sec. 1019. Repeal of Public Law 76-543.

TITLE XI—EFFECTIVE DATES

Sec. 1101. Effective dates.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441-2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(b) COTTON.—Section 103B(c)(1)(E) (7 U.S.C. 1444-2(c)(1)(E)) is amended—

(1) by indenting 2 ems the left margin of clauses (i) and (ii) and redesignating such clauses as subclauses (I) and (II), respectively;

(2) by striking "(E) ALTERNATIVE CROPS.—The Secretary" and inserting the following:

"(E) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary";

(3) by indenting 2 ems the left margin of clause (i) (as amended by paragraph (2));

(4) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(5) by striking "rye, mung beans," and inserting "rye, millet, mung beans,";

(6) in subclause (I) (as redesignated by paragraph (1)), by striking "and will not affect farm income adversely"; and

(7) by adding at the end the following new clause:

"(ii) SESAME AND CRAMBE.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sesame and crambe. In implementing this clause, if the Secretary determines that sesame or crambe are considered oilseeds under section 205, the Secretary shall provide that, in order to receive payments under subparagraph (D), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of sesame or crambe produced on the farm.".

(c) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

(d) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b-3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame, castor beans, crambe," and inserting "castor beans,";

(B) by striking "rye, mung beans," and inserting "rye, millet, mung beans,"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, crambe, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b-3a(c)(1)(F)) is amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441-2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) CORN AND SORGHUM BASES.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) RICE.—Clause (i) of section 101B(e)(4)(B) (7 U.S.C. 1441-2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to,

or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(b) COTTON.—Clause (i) of section 103B(e)(4)(B) (7 U.S.C. 1444-2(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(c) FEED GRAINS.—Clause (i) of section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

(d) WHEAT.—Clause (i) of section 107B(e)(4)(B) (7 U.S.C. 1445b-3a(e)(4)(B)(i)) is amended to read as follows:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. If the Secretary determines any county in a State to be arid, the respective State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may designate any other county or counties or all of the State as arid for the purposes of this paragraph.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The State committee, after receiving recommendations from the county committees, shall approve appropriate crops planted or maintained as cover, including, as appropriate, annual or perennial native grasses and legumes or other vegetation. The State committee shall establish the final seeding date for the planting of the cover and shall approve appropriate cover crops or practices, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion. After the Secretary establishes the State technical committee for the State pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), the State committee shall consult with the technical committee (rather than the Soil Conservation Service State Conservationist) regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444-2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444-2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation

under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on program payment acres on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (2), by striking "flaxseed" and inserting "flaxseed, individually,";

(2) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(3) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) SUGAR PRICE SUPPORT AND MARKETING ASSESSMENTS.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) SECURITY INTERESTS.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) SUGARCANE AND SUGAR BEETS.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) SUGAR INFORMATION REPORTING.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) DUTY OF PROCESSORS, REFINERS AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar

beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose or crystalline fructose for human consumption, derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "SUGARCANE ALLOTMENT" and inserting "CANE SUGAR ALLOTMENTS"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2)—

"(A) adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner;

"(B) establish marketing allotments for the fiscal year or any portion of such fiscal year; or

"(C) suspend the allotments,

as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) REASSIGNMENTS OF DEFICITS.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) ACREAGE CONSIDERED PLANTED.—Section 503(c) (7 U.S.C. 1463(c)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8) respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) acreage in an amount not to exceed 20 percent of the crop acreage base for a crop of feed grains or wheat if—

"(A) the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils; and

"(B) payments are not received by producers under sections 105B(c)(1)(E) and 107B(c)(1)(E), as the case may be;".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

(2) by adding at the end the following new paragraph:

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

(c) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) mung beans.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441-2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444-2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444-2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b-3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o);

(ii) by striking "(o) In" and inserting "(o) REVIEW.—In"; and

(iii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a)—

(A) by striking "Administrator of Veterans' Affairs" each place it appears and inserting "Secretary of Veterans Affairs"; and

(B) by striking "Administrator" each place it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,"; and

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f-1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c-2)" and inserting "(7 U.S.C. 1445c-3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(1) (7 U.S.C. 1314e(1))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c-2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c-3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358-1(e)(3) (7 U.S.C. 1358-1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308-1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this

section shall be in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990. This section shall not apply to a pattern of conduct where authorized representatives of the Secretary take actions or provide advice with respect to producers that the representatives and producers know are inconsistent with applicable laws and regulations.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 121. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(e)(3), 1444f(e)(3), 1444-2(e)(3), and 1441-2(e)(3)), respectively.

SEC. 122. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 123. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 124. LAMB PRICE AND SUPPLY REPORTING SERVICES REPORT AND SYSTEM.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry. In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

(b) PRICE DISCOVERY AND REPORTING SYSTEM.—

(1) SYSTEM REQUIRED.—Based on the report required under subsection (a), the Secretary shall—

(A) develop a price discovery system formula for the lamb market, such as carcass equivalent pricing; and

(B) establish a price discovery and reporting system for the lamb market to assist lamb producers to better allocate their resources and make informed production and marketing decisions.

(2) IMPLEMENTATION.—The price discovery and reporting system for the lamb market shall be implemented by the Secretary not later than 180 days after the date of the submission of the report.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to develop and establish the system required under this subsection.

(c) CONSULTATION.—In preparing the report required under subsection (a) and establishing the price discovery and reporting system required under subsection (b), the Secretary shall consult with lamb producers and other persons in the national lamb industry.

SEC. 125. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444-2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

SEC. 126. PRODUCTION OF BLACK-EYED PEAS FOR DONATION.

(a) 50/92 PROGRAM FOR COTTON.—Section 103B(c)(1)(D) (7 U.S.C. 1444-2(c)(1)(D)) is amended by adding at the end the following new clause:

"(ix) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, all or any part of the acreage required to be devoted to conservation uses as a condition for qualifying for payments under this subparagraph to be devoted to the production of black-eyed peas if—

"(I) the producer agrees to donate the harvested peas from the acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(II) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

(b) ACREAGE REDUCTION PROGRAM.—Section 103B(e)(2) of such Act (7 U.S.C. 1444-2(e)(2)) is amended by adding at the end the following new subparagraph:

"(G) BLACK-EYED PEAS FOR DONATION.—The Secretary may permit, under such terms and conditions as will ensure optimum producer participation, producers on a farm to plant black-eyed peas on not more than one-half of the reduced acreage on the farm if—

"(i) the producer agrees to donate the harvested peas from such acreage to a food bank, food pantry, or soup kitchen (as defined in paragraphs (3), (4), and (7) of section 110(b) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note)) that is approved by the Secretary; and

"(ii) the Secretary finds that such action will not result in the disruption of normal channels of trade.".

SEC. 127. MILK PRICE SUPPORT PROGRAM LIMITED TO 48 CONTIGUOUS STATES.

(a) IN GENERAL.—Section 204 (7 U.S.C. 1446e) is amended—

(1) in subsection (a), by inserting "produced in the 48 contiguous States" after "the price of milk";

(2) in subsection (c)(1), by inserting before the period the following: "produced in the 48 contiguous States";

(3) in subsection (d)(5)(B), by striking "United States" both places it appears and inserting "48 contiguous States and the District of Columbia"; and

(4) in subsections (g)(1) and (h)(1), by striking "United States" each place it appears and inserting "48 contiguous States".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of January 1, 1991.

SEC. 128. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b)—

(A) by striking "AFFECT" and inserting "EFFECT"; and

(B) by inserting "and section 1499A" after "subsection (a)"; and

(3) in subsection (c), by inserting "and" after "Animal".

(h) NEW SECTION.—

(1) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1499 (7 U.S.C. 5506) the following new section:

"SEC. 1499A. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

"Subject to the availability of funds appropriated in advance, the Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations that govern the handling of unused or unwanted agricultural chemicals and agricultural chemical containers in the State. The program established under this section shall make available to producers of agricultural commodities and the general public, and provide on request, educational materials developed or collected by the program.".

(2) The table of contents in section 1(b) of such Act (104 Stat. 3363) is amended by inserting after the item relating to section 1499 the following new item:

"Sec. 1499A. Education program regarding handling of agricultural chemicals and agricultural chemical containers.".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

(a) IN GENERAL.—Sections 1465 through 1469 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) are amended to read as follows:

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan (including the interest paid by the State trust fund, State, or State agency on bonds or other obligations described in paragraph (2)).

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund, or to the State acting in conjunction with the State trust fund, to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships,

villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means any trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, where such eligible State is approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for eligible loans described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds.

"(2) ASSISTANCE.—Under the program the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, State trust funds and shall for each such 10-year period subsidize the interest on such eligible loans at the allowable interest rate for the first 5 years after the loan is made, or issued, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan described in section 1465(c)(2) made to, or issued for the benefit of, each State trust fund during each of the first 5 years after the date on which each such loan was made or issued; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made to, or issued for the benefit of, the State trust fund, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each such loan made to, or issued for the benefit of, the State trust fund, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the raising of funds to purchase stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall promptly purchase the stock (within 60 days) being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Agriculture fails to issue stock as required under this chapter, or if funding is otherwise not provided as set forth in this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall promptly purchase stock (within 60 days) offered by the Secretary under subsection (c) and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in subsection (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under subsection (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds from eligible loans (including proceeds from the sale of bonds or other obligations described in section 1465(c)(2)) guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings (including through investments not exceeding 10 years in duration for each eligible loan), to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the eligible loans (described in section 1465(c)(2)) guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loans guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provi-

sions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date any State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees to be provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board regardless of whether the fund had been approved by the Secretary in fiscal year 1991), by the State described in section 1465(c)(3)(A), political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for fiscal year 1992 for the State.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) COMPLIANCE.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any funds provided, or guaranteed, by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) ANNUAL APPLICATIONS.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) MATCH AND MAXIMUM AMOUNT.—

"(1) IN GENERAL.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund (including matching funds described in paragraphs (2) through (4)) in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) EARNINGS.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) OBLIGATIONS.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) LAND.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) CLARIFICATION OF FEDERAL LAW.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.".

(b) REGULATIONS.—Section 1470 of the Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended—

(1) by striking "This" and inserting "(a) IN GENERAL.—This"; and

(2) by adding at the end the following new subsection:

"(b) REGULATIONS.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.".

(c) REPORTS; STOCK ISSUANCE.—Such Act is amended by adding at the end the following new sections:

"SEC. 1470A. COMPTROLLER GENERAL REPORTS.

"On February 15 of 1992, and on December 1 of each of the years 1992 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1470B. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended—

(1) in section 1211 (16 U.S.C. 3811)—

(A) in paragraph (1)(D), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(B) in paragraph (3)(D), by inserting "of subtitle D" after "chapter 2"; and

(C) in paragraph (3)(E), by inserting "of subtitle D" after "chapter 3";

(2) in section 1212 (16 U.S.C. 3812)—

(A) in subsection (f)(4)(A), by striking "such violations" and inserting "such violation"; and

(B) in subsection (g)(2), by striking "XIII," and inserting "XIII";

(3) in section 1221(1)(D) (16 U.S.C. 3821(1)(D)), by striking "(16 U.S.C. 1421 note)" and inserting "(7 U.S.C. 1421 note)";

(4) in section 1223 (16 U.S.C. 3823), by striking "and" at the end of paragraph (3);

(5) in section 1232(a) (16 U.S.C. 3832(a))—

(A) by striking the extra semicolon at the end of paragraph (6); and

(B) in paragraph (7)—

(i) by striking "fall and winter"; and

(ii) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

(6) in section 1237(d) (16 U.S.C. 3837(d)), by striking "subsection (d)" and inserting "subsection (c)";

(7) in section 1239(b)(1)(A) (16 U.S.C. 3839(b)(1)(A)), by striking "corridors," and inserting "corridors;"; and

(8) in section 1247(b) (16 U.S.C. 3847(b)), by striking "subsection 1234(b)" and inserting "section 1234(b)".

TITLE III—AGRICULTURAL TRADE

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

" '(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.' ".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. TECHNICAL AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (1), by striking "September 30," where it appears immediately before "December 31";

(2) in subsection (m), by striking "this Act" each place it appears and inserting "this section"; and

(3) by redesignating subsections (l) and (m) (as amended by paragraphs (1) and (2)) as subsections (k) and (l), respectively.

SEC. 336. MISCELLANEOUS AMENDMENT TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

SEC. 337. REPORTING REQUIREMENTS.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509(f)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXCEPTIONS.—The reporting and recordkeeping requirements of this section shall not apply with respect to cigars, cigar tobaccos, pipe tobacco, chewing tobacco in retail packaging, and snuff in retail packaging. In order to qualify for the exception under this subsection, the tobacco must have a certification that its end use is for cigars, cigar tobacco, pipe tobacco, chewing tobacco in retail packaging, or snuff in retail packaging.".

SEC. 338. SHARING UNITED STATES AGRICULTURAL EXPERTISE AND INFORMATION.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) by striking the subsection heading and inserting the following:

"(d) E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall establish a program, to be known as the 'E (Kika) de la Garza Agricultural Fellowship Program', to develop agricultural markets in emerging democracies and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and the Soviet Union, as follows:

"(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—";

(2) in paragraph (1), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(3) in paragraph (2), by indenting 2 ems the left margin of subparagraphs (A) and (B) and redesignating such subparagraphs as clauses (i) and (ii), respectively;

(4) by indenting 2 ems the left margin of paragraphs (1) through (9) and redesignating such paragraphs as subparagraphs (A) through (I), respectively;

(5) by striking "subsection" each place it appears and inserting "paragraph";

(6) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(7) by striking "paragraph (2)(A)" each place it appears and inserting "subparagraph (B)";

(8) by striking "paragraph (2)(B)" each place it appears and inserting "subparagraph (B)";

(9) in paragraph (1)(B) (as so redesignated)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies.";

(10) in paragraph (1)(I) (as so redesignated), by striking "$5,000,000" and inserting "$10,000,000"; and

(11) by adding at the end the following new paragraph:

"(2) AGRICULTURAL INFORMATION PROGRAM.—

"(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging democracies export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in the Soviet Union in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of a free market food production and distribution system in the Soviet Union and the enhancement of agricultural trade with the United States.

"(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

"(i) compile, through contacts with the Government of the Soviet Union and private sector officials in the Soviet Union, a list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

"(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

"(iii) carry out a program—

"(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

"(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i); and

"(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and the Soviet Union, which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises.

"(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to the Soviet Union.

"(D) DEFINITION.—For the purposes of this subsection, the term 'Soviet Union' means the Soviet Union, its successor entities, or any of the individual republics of the Soviet Union.

"(E) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.".

SEC. 339. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "five" and inserting "six"; and

(B) by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government"; and

(2) in subparagraph (B), by striking "four" and inserting "five".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89-106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

(2) by adding at the end the following new paragraph:

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR-4 program" and inserting "IR-4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) DISTRIBUTION OF FUNDS.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) TABLE OF CONTENTS.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) PUNCTUATION CORRECTION.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) ESTABLISHMENT OF REGIONAL CENTERS.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. DEER TICK RESEARCH.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (i), by striking "Agricultural Research Service" and inserting "Secretary of Agriculture, acting through the Cooperative State Research Service, to make competitive grants"; and

(2) in subsection (k)(1), by striking "Except for research funded under subsection (i), research" and inserting "Research".

SEC. 407. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101-624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(1) (7 U.S.C. 5843(1)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "WITHOLDINGS" and inserting "WITHHOLDINGS";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c) (7 U.S.C. 5928(c))—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) ESTABLISHMENT.—Notwithstanding subsection (g)(1), the Secretary shall establish not more than four centers."; and

(B) in paragraph (2), by striking "PERIODS AND PREFERENCES.—Grants" and inserting the following: "OPERATING GRANTS.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 408. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) AMENDMENT TO SECTION 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) AMENDMENTS TO SECTION 331.—

(1) DIRECT AMENDMENTS.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) INDIRECT AMENDMENTS.—

(A) CLARIFICATION OF REPEAL.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) CLARIFICATION OF TECHNICAL CORRECTIONS.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331E.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end the following new subsection:

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (F)"; and

(2) by adding at the end the following new subparagraph:

"(F) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products thereof" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, to any domestic or foreign entity that is eligible for a guarantee or insurance as described in subparagraphs (A) and (B) with respect to transactions involving the Soviet Union (its successor entities or any of the individual republics of the Soviet Union) or an emerging democracy (as defined in section 1542(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note)) for the export of agricultural commodities and products thereof from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance—

"(i) covers at least 95 percent of the amount loaned for the purchase of the commodities or products; and

"(ii) is issued on or before September 30, 1995.

"(3) A bank for cooperatives is authorized to provide such services as may be customary and normal in maintaining relationships with domestic or foreign entities to facilitate the activities specified in paragraphs (1) and (2), consistent with this Act.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1), by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C).".

(g) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(h) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(i) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(j) AMENDMENT TO SECTION 5.58(4)(B).—Section 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(k) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(l) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each

place such term appears and inserting "subchapter I".

(m) AMENDMENTS TO SECTION 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b-3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(n) AMENDMENT TO SECTION 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

SEC. 503. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(A) SUPERVISION AND OVERSIGHT.—Section 8.11 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to provide, acting through the Office of Secondary Market Oversight—

"(A) for the examination of the Corporation and its affiliates; and

"(B) for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the authorities granted to the Farm Credit Administration under—

"(i) part C of title V; and

"(ii) beginning 6 months after the date of enactment of this section, section 5.17(a)(9).";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) OFFICE OF SECONDARY MARKET OVERSIGHT.—

"(A) Not later than 180 days after the date of enactment of this paragraph, the Farm Credit Administration Board shall establish within the Farm Credit Administration the Office of Secondary Market Oversight

"(B) The Farm Credit Administration Board shall carry out the authority set forth in this section through the Office of Secondary Market Oversight.

"(C) The Office of Secondary Market Oversight shall be managed by a full-time Director who shall be selected by and report to the Farm Credit Administration Board.";

(3) by adding at the end thereof the following new subsection:

"(f) The Farm Credit Administration Board shall ensure that—

"(1) the Office of Secondary Market Oversight has access to a sufficient number of qualified and trained employees to adequately supervise the secondary market activities of the Corporation; and

"(2) the supervision of the powers, functions, and duties of the Corporation is performed, to the extent practicable, by personnel who are not responsible for the supervision of the banks and associations of the Farm Credit System.".

"(b) REGULATION OF FINANCIAL SAFETY AND SOUNDNESS.—Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended—

(1) by inserting after section 8.0 the following:

"Subtitle A—Establishment and Activities of Federal Agricultural Mortgage Corporation"; and

(2) by inserting after section 8.14 the following new subtitle:

"Subtitle B—Regulation of Financial Safety ad Soundness of Federal Agricultural Mortgage Corporation

"SEC. 8.31. DEFINITIONS.

"For purposes of this subtitle:

"(1) COMPENSATION.—The term 'compensation' means any payment of money or the provision of any other thing of current or potential value in connection with employment.

"(2) CORE CAPITAL.—The term 'core capital' means, with respect to the Corporation, the sum of the following (as determined in accordance with generally accepted accounting principles):

"(A) The par value of outstanding common stock.

"(B) The par value of outstanding preferred stock.

"(C) Paid-in capital.

"(D) Retained earnings.

"(3) DIRECTOR.—The term 'Director' means the Director of the Office of Secondary Market Oversight of the Farm Credit Administration, selected under section 8.11(a)(3).

"(4) OFFICE.—The term 'Office' means the Office of Secondary Market Oversight of the Farm Credit Administration, established in section 8.11(a).

"(5) REGULATORY CAPITAL.—The term 'regulatory capital' means, with respect to the Corporation, the core capital of the Corporation plus an allowance for losses and guarantee claims, as determined in accordance with generally accepted accounting principles.

"(6) STATE.—The term 'State' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"SEC. 8.32. RISK-BASED CAPITAL LEVELS.

"(a) RISK-BASED CAPITAL TEST.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this section, the Director of the Office of Secondary Market Oversight shall, by regulate, establish a risk-based capital test under this section for the Corporation. When applied to the Corporation, the risk-based capital test shall determine the amount of regulatory capital for the Corporation that is sufficient for the Corporation to maintain positive capital during a 10-year period in which both of the following circumstances occur:

"(1) CREDIT RISK.—With respect to securities representing an interest in, or obligations backed by, a pool of qualified loans owned or guaranteed by the Corporation and other obligations of the Corporation, losses on the underlying qualified loans occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing industry practice in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (as established by the Director), experienced the highest rates of default and severity of agricultural mortgage losses, in comparison with such rates of default and severity of agricultural mortgage losses in other such areas for any period of such duration, as determined by the Director.

"(2) INTEREST RATE RISK.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (A) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (B) 600 basis points, and remain at such level for the remainder of the period. This paragraph may not be construed to require the Director to determine interest rate risk under this paragraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

"(b) CONSIDERATIONS.—

"(1) ESTABLISHMENT OF TEST.—In establishing the risk-based capital test under subsection (a)—

"(A) the Director shall take into account appropriate distinctions based on various types of agricultural mortgage products, varying terms of Treasury obligations, and any other factors the Director considers appropriate;

"(B) the Director shall conform loan data used in determining credit risk to the minimum geographic and commodity diversification standards applicable to pools of qualified loans eligible for guarantee;

"(C) the Director shall take into account retained subordinated participating interests under section 8.6(b)(2);

"(D) the Director may take into account other methods or tests to determine credit risk developed by the Corporation before the date of the enactment of this section; and

"(E) the Director shall consider any other information submitted by the Corporation in writing during the 180-day period beginning on the date of the enactment of such Act.

"(2) REVISING TEST.—Upon the expiration of the 5-year beginning on the date of the enactment of this section, the Director shall examine the risk-based capital test under subsection (a) and may revise the test. In making examinations and revisions under this paragraph, the Director shall take into account that, before the date of the enactment of this section the Corporation has not issued guarantees for pools of qualified loans. To the extent that the revision of the risk-based capital test causes a change in the classification of the Corporation within the enforcement levels established under section 8.35, the Director shall waive the applicability of any additional enforcement actions available because of such change for a reasonable period of time, to permit the Corporation to increase the amount of regulatory capital of the Corporation accordingly.

"(c) RISK-BASED CAPITAL LEVEL.—For purposes of this subtitle, the risk-based capital level for the Corporation shall be equal to the sum of the following amounts:

"(1) CREDIT AND INTEREST RATE RISK.—The amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation, adjusted to account for foreign exchange risk.

"(2) MANAGEMENT AND OPERATIONS RISK.—To provide for management and operations risk, 30 percent of the amount of regulatory capital determined by applying the risk-based capital test under subsection (a) to the Corporation.

"(d) SPECIFIED CONTENTS.—The regulations establishing the risk-based capital test under this section shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to value ratios, taxes, yield curve slopes, default experience, prepayment rates, and performance of pools of qualified loans). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

"(e) AVAILABILITY OF MODEL.—The Director shall make copies of the statistical

model or models used to implement the risk-based capital test under this section available for public acquisition and may charge a reasonable fee for such copies.

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraphs (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.45 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(b) 18-MONTH TRANSITION.—during the 18-month period beginning upon the date of the enactment of this section, for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.50 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraphs (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.40 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) the percentage of the aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is determined under subsection (c).

"(c) LINKED PORTFOLIO ASSETS.—The percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g) that is referred to in subsections (a)(3) and (b)(3) of this section (and in section 8.34(3)(A)) shall be—

"(1) during the 5-year period beginning on the date of the enactment of this section—

"(A) 0.45 percent of any such assets not exceeding $1,000,000,000;

"(B) 0.75 percent of any such assets in excess of $1,000,000,000 but not exceeding $2,000,000,000;

"(C) 1.00 percent of any such assets in excess of $2,000,000,000 but not exceeding $3,000,000,000;

"(D) 1.25 percent of any such assets in excess of $3,000,000,000 but not exceeding $4,000,000,000;

"(E) 1.50 percent of any such assets in excess of $4,000,000,000 but not exceeding $5,000,000,000; and

"(F) 2.50 percent of any such assets in excess of $5,000,000,000.

"(2) after the expiration of such 5-year period, 2.50 percent of any such aggregate assets.

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 1.25 percent of the aggregate on-balance sheet assets of the Corporation (other than assets referred to in paragraph (3)), as determined in accordance with generally accepted accounting principles;

"(2) 0.25 percent of the unpaid principal balance of outstanding securities guaranteed by the Corporation and backed by pools of qualified loans and substantially equivalent instruments issued or guaranteed by the Corporation, and other off-balance sheet obligations of the Corporation; and

"(3) a percentage of any aggregate assets of the Corporation acquired pursuant to the linked portfolio option under section 8.6(g), which shall be—

"(A) during the 5-year period beginning on the date of the enactment of this section, one-half of the percentage that is determined under section 8.33(c)(1); and

"(B) after the expiration of such 5-year period, 1.25 percent of any such aggregate assets.

"SEC. 8.35. ENFORCEMENT LEVELS.

"(a) IN GENERAL.—The Director shall classify the Corporation, for purposes of this subtitle, according to the following enforcement levels:

"(1) LEVEL I.—The Corporation shall be classified as within level I if the Corporation—

"(A) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established under section 8.32; and

"(B) equals or exceeds the minimum capital level established under section 8.33.

"(2) LEVEL II.—The Corporation shall be classified as within level II if—

"(A) the Corporation—

"(i) maintains an amount of regulatory capital that is less than the risk-based capital level; and

"(ii) equals or exceeds the minimum capital level; or

"(B) the Corporation is otherwise classified as within level II under subsection (b) of this section.

"(3) LEVEL III.—The Corporation shall be classified as within level III if—

"(A) the Corporation—

"(i) does not equal or exceed the minimum capital level; and

"(ii) equals or exceeds the critical capital level established under section 8.34; or

"(B) the Corporation is otherwise classified as within level III under subsection (b) of this section.

"(4) LEVEL IV.—The Corporation shall be classified as within level IV if the Corporation—

"(A) does not equal or exceed the critical capital level; or

"(B) is otherwise classified as within level IV under subsection (b) of this section.

"(b) DESCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing (and provides written notification to the Corporation and the Farm Credit Administration) that the Corporation is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages securitized by the Corporation or property underlying securities guaranteed by the Corporation, has decreased significantly, the Director may classify the Corporation—

"(1) as within level II, if the Corporation is otherwise within level I;

"(2) as within level III, if the Corporation is otherwise within level II; or

"(3) as within level IV, if the Corporation is otherwise within level III.

"(c) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Corporation for purposes of this subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made for the quarter ending March 31, 1992.

"(d) NOTICE.—Upon determining under subsection (b) or (c) that the Corporation is within level II or III, the Director shall provide written notice to the Congress and to the Corporation—

"(1) that the Corporation is within such level;

"(2) that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and

"(3) stating the reasons for the classification of the Corporation within such level.

"(e) IMPLEMENTATION.—Notwithstanding paragraphs (1) and (2) of subsection (a), during the 30-month period beginning on the date of the enactment of this section, the Corporation shall be classified as within level I if the Corporation equals or exceeds the minimum capital level established under section 8.33.

"SEC. 8.36. MANDATORY ACTIONS APPLICABLE TO LEVEL II.

"(a) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level II, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

"(b) RESTRICTION ON DIVIDENDS.—If the Corporation is classified as within level II, the Corporation may not make any payment of dividends that would result in the Corporation being reclassified as within level II or IV.

"(c) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Corporation as within level III (and the Corporation shall be subject to the provisions of section 8.37), if—

"(1) the Corporation is within level II; and

"(2)(A) the Corporation does not submit a capital restoration plan that is approved by the Director; or

"(B) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(d) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 30-month period beginning on the date of the enactment of this section.

"SEC. 8.37. SUPERVISORY ACTIONS APPLICABLE TO LEVEL III.

"(a) MANDATORY SUPERVISORY ACTIONS.—

"(1) CAPITAL RESTORATION PLAN.—If the Corporation is classified as within level III, the Corporation shall, within the time period determined by the Director, submit to the Director a capital restoration plan and, after approval, carry out the plan.

"(2) RESTRICTIONS ON DIVIDENDS.—

"(A) PRIOR APPROVAL.—If the Corporation is classified as within level III, the Corporation—

"(i) may not make any payment of dividends that would result in the Corporation being reclassified as within level IV; and

"(ii) may make any other payment of dividends only if the Director approves the payment before the payment.

"(B) STANDARD FOR APPROVAL.—If the Corporation is classified as within level III, the Director may approve a payment of dividends by the Corporation only if the Director determines that the payment (i) will enhance the ability of the Corporation to meet the risk-based capital level and the minimum capital level promptly, (ii) will contribute to the long-term safety and soundness of the Corporation, or (iii) is otherwise in the public interest.

"(3) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Corporation as within level IV if—

"(A) the Corporation is classified as within level III; and

"(B)(i) the Corporation does not submit a capital restoration plan that is approved by the Director; or

"(ii) the Director determines that the Corporation has failed to make, in good faith, reasonable efforts necessary to comply with such a capital restoration plan and fulfill the schedule for the plan approved by the Director.

"(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions if the Corporation is classified as within level III:

"(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Corporation, including off-balance sheet obligations.

"(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Corporation or require contraction of the assets of the Corporation.

"(3) PROHIBITION ON DIVIDENDS.—Prohibit the Corporation from making any payment of dividends.

"(4) ACQUISITION OF NEW CAPITAL.—Require the Corporation to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Corporation as within level II.

"(5) RESTRICTION OF ACTIVITIES.—Require the Corporation to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Corporation.

"(6) CONSERVATORSHIP.—Appoint a conservator for the Corporation consistent with this Act.

"(c) EFFFECTIVE DATE.—This section shall take effect on January 1, 1992.

(c) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa-3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(d) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa-6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i);

(B) by striking "such Act" in clause (i) and inserting "such section"; and

(C) by striking "sunflower seed" in clause (iv) and inserting "sunflowerseed".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(1)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926-1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa-1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa-1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary, in consultation with the Office of Rural Health Policy of the Department of Health and Human Services, may make grants to academic medical centers or land grant colleges and universities, or any combination thereof, for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or entities described in paragraph (1)(C)".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Argicultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the

development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 902. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 903. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "to the extent" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 904. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.".

SEC. 905. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 906. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 907. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 908. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 909. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 910. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 911. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 912. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

The Secretary of Agriculture shall solicit requests to participate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by May 1, 1992. The projects shall commence operations no later than January 1, 1993.

SEC. 913. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

(a) HUNGER PREVENTION ACT.—Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in paragraphs (1) and (2) of subsection (c), by inserting after "to needy persons" each place it appears the following: "and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons"; and

(2) by adding at the end the following new subsections:

"(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

"(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

"(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS.—

"(1) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under this section; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

"(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(b) EMERGENCY FOOD ASSISTANCE ACT.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end the following new section:

"SEC. 215. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

"(a) IN GENERAL.—The Secretary or a designee of the Secretary shall have the authority to—

"(1) determine the amount of, settle, and adjust any claim arising under this Act; and

"(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this Act.

"(b) LITIGATION.—Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

(c) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(k)(1) The Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

"(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Indian Subsistence Farming Demonstration Grant

SEC. 931. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) have income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

SEC. 932. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.); or

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(C) has income below 185 percent of the poverty line referred to in section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 933. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 934. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses,

training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 935. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 936. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 937. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 938. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 939. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle D—Technical Amendments

SEC. 941. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centun" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at";

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)"; and

(E) in subsection (d)(4)(I)(i)(II)—

(i) by striking "601 et seq.))" and inserting "601 et seq.)"; and

(ii) by striking ", but in" and inserting "), but in";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,
and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 942. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a-1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "**APPPLICATORS**" and inserting "**APPLICATORS**";

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 1361(a)(2))—

(A) by striking ": *Provided*, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w-1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2)), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1)), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100-532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1361-1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a-1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the";

(2) in section 16(a) (7 U.S.C. 87e(a)), by striking "Administrtor." in the second sentence and inserting "Administrator."; and

(3) in section 17B(a) (7 U.S.C. 87f-2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. CLARIFICATION OF FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

Notwithstanding any other provision of law, the Secretary of Agriculture is directed immediately to implement the establishment within the Department of Agriculture

of the Rural Development Administration established by subtitle A of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f et seq.) and the amendments made by such subtitle.

SEC. 1011. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) SHORT TITLE.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) DEFINITIONS.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1012. EGG PRODUCTS INSPECTION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) PURPOSES.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) INSPECTION OF EGG PRODUCTS.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) PROHIBITED ACTS.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) PENALTIES.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) REPORTING OF VIOLATION TO UNITED STATES ATTORNEY FOR INSTITUTION OF CRIMINAL PROCEEDINGS.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) IMPORTS.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) RELATION TO OTHER AUTHORITIES.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1013. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) IN GENERAL.—The Secretary of Agriculture shall, to the extent practicable, take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent, to the extent practicable, the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or

tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) CONTROL OF BROWN TREE SNAKES.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes," after "rabbits,".

(e) IMPORTATION OF BROWN TREE SNAKES.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1014. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1015. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) QUARANTINE AND INSPECTION.—The Secretary" and inserting the following:

"(1) QUARANTINE AND INSPECTION.—

"(A) IN GENERAL.—The Secretary";

(B) by indenting 2 ems the left margin of paragraph (1); and

(C) by adding at the end the following new subparagraphs:

"(B) AIRPORT INSPECTION SERVICES.—For airport inspection services, the Secretary shall collect no more than $69,000,000 in fiscal year 1992 and $75,000,000 in fiscal year 1993 from international airline passengers and commercial aircraft operators.

"(C) COMMERCIAL TRUCK AND RAILROAD CAR INSPECTION SERVICES.—For commercial truck and railroad car inspection services, the Secretary shall collect no more than $3,667,000 in fiscal year 1992 and $3,890,000 in fiscal year 1993 from commercial truck and railroad car operators.

"(D) COSTS.—Fees, including fees from international airline passengers and commercial aircraft operators, may only be collected to the extent that the Secretary reasonably estimates that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of such services with respect to passengers as a class includes the costs of related inspections of the aircraft.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws. Any such reimbursement shall be subject to appropriations under clause (v).";" and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1016. EXEMPTION AND STUDY OF CERTAIN FOOD PRODUCTS.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under section 24 that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a meat food product from the inspection requirements of this Act if—

"(A) the meat food product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) Under such terms and conditions as the Secretary shall prescribe through rules and regulations issued under this section that may be necessary to ensure food safety and protect public health such as special handling procedures, the Secretary shall exempt pizzas containing a poultry product from the inspection requirements of this Act if—

"(A) the poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and

"(B) the pizzas are to be served in public or private nonprofit institutions.

"(2) The Secretary may withdraw or modify any exemption under this subsection whenever the Secretary determines such action is necessary to ensure food safety and to protect public health. The Secretary may reinstate or further modify any exemption withdrawn or modified under this subsection.".

(c) REGULATIONS.—No later than August 1, 1992, the Secretary of Agriculture shall issue final rules, through prior notice and comment rulemaking procedures, to implement the exemption authorized by section 23(c) of the Federal Meat Inspection Act (as added by subsection (a)) and the exemption authorized by section 15(d) of the Poultry Products Inspection Act (as added by subsection (b)). Prior to the issuance of the final rules, the Secretary shall hold at least one public hearing examining the public health and food safety issues raised by the granting of each of the exemptions.

(d) STUDIES.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the National Academy of Sciences, shall conduct—

(A) a study to develop criteria for, and evaluate, present and future inspection exemptions for meat food products and poultry products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), respectively, which shall examine the potential effect on consumers, on the affected industries, on public health and food safety, on the role of the Department of Agriculture, and the scientific basis for the exemptions; and

(B) a study of the appropriateness of granting an exemption from the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act, as appropriate, for wholesale meat outlets selling to hotels, restaurants, or other similar institutional users provided that the processing of meat by the outlets is limited to cutting, slicing, grinding, or repackaging into smaller quantities.

(2) RESULTS.—On completion of each study required under paragraph (1), the Secretary shall provide the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1017. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e), shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accredi-

tation programs carried out under the statutory authorities set forth in subsection (a).

"(e) APPROPRIATIONS PREREQUISITE.—No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.".

SEC. 1018. STATE AND PRIVATE FORESTRY TECHNICAL AMENDMENTS.

(a) COOPERATIVE FORESTRY ASSISTANCE.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended—

(1) in section 5(d) (16 U.S.C. 2103a(d)), by striking "State Foresters" each place it appears and inserting "State foresters";

(2) in section 7 (16 U.S.C. 2103c)—

(A) in subsection (d)(2), by striking "Not later than 1 year after the date of enactment of this section," and inserting "Not later than November 28, 1991,";

(B) in subsection (e), by striking "Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b)" and inserting "Not later than November 28, 1991, and in consultation with State Forest Stewardship Coordinating Committees established under section 19(b)"; and

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)";

(3) in section 9 (16 U.S.C. 2105)—

(A) in subsection (g)(1)(C), by striking "subsection (e)" and inserting "subsection (f)";

(B) in subsection (g)(3)(E), by striking "subsection (e)" and inserting "subsection (f)";

(C) in subsection (h)(1), by striking "subsection (f)" and inserting "subsection (g)"; and

(D) in subsection (h)(2), by striking "subsection (f)(3)" and inserting "subsection (g)(3)"; and

(4) in section 10(g)(2) (16 U.S.C. 2106(g)(2)), by striking "fire fighting organization" and inserting "firefighting organization".

(b) COMMISSION ON STATE AND PRIVATE FORESTS.—Section 1245(g)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3549; 16 U.S.C. 1601 note) is amended by striking "the Director of the Office Technology Assessment may furnish".

(c) FOREST PRODUCTS INSTITUTE.—Section 1247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3551; 16 U.S.C. 2112 note) is amended by striking "in this section" the second place it appears.

(d) RENEWABLE RESOURCES EXTENSION.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of the first paragraph (9) (as added by section 1219(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3539) and inserting "; and"; and

(3) by redesignating the second paragraph (9) (as added by section 1251(b)(3) of such Act (104 Stat. 3552) as paragraph (10).

(e) AMERICA THE BEAUTIFUL.—Section 1264(n)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3556; 16 U.S.C. 2101 note) is amended by striking "this Act" and inserting "this subtitle".

(f) REFORESTATION ASSISTANCE.—Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3558; 16 U.S.C. 2106a) is amended—

(1) by inserting "(16 U.S.C. 2101 et seq.)" after "1978"; and

(2) by striking "(16 U.S.C. 590h, 590l, or 590p)" and inserting "(16 U.S.C. 590p(b))".

SEC. 1019. Repealed Public Law 76-543. Public Law 76-543 (54 Stat. 231) is hereby repealed.

TITLE XI—EFFECTIVE DATES

SEC. 1101. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) to which the amendment relates:

(1) Section 201 (other than section 201(h)).

(2) Section 307.

(3) Subsections (a) through (c), (e), (h), and (i) of section 501.

(4) Subsections (a), (b), (f) through (i), and (l) of section 502.

(5) Section 602(c).

(6) Section 701 (except as provided in subsection (c) of this section).

(7) Section 702.

(8) Section 703(c).

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall take effect and be implemented no later than February 1, 1992.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 903(3) of this Act shall take effect on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 941(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 903(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 903(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 908 of this Act shall take effect on September 30, 1991.

(4) RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.—The amendment made by section 911 of this Act shall take effect on the date of enactment of this Act.

(5) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 913 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

Mr. LEAHY. Mr. President, our amendments to the Farms for the Future Act of 1990, make absolutely clear the intent of the farm bill language—that Vermont must receive funding from the Secretary of Agriculture to implement its own version of the Farms for the Future program.

Current law, without these amendments, already required this result. The Secretary of Agriculture refused to carry out that law. The Comptroller General of the United States ruled that:

> The words, the structure and history of the Farms for the Future Act support the conclusion that Congress intended to provide the Secretary of Agriculture with direct spending authority to establish a pilot project in Vermont. Furthermore, Congress intended for the Secretary of Treasury to provide the funding. Comp. Gen. Op. B-244093 (July 19, 1991).

I would like to note that the Conference Report accompanying the Food Agriculture, Conservation, and Trade Act of 1990, dated October 22, 1990, makes the above point clearly. It states that the conferees intended that a "mandatory pilot project is also established in Vermont." It further concludes that the final version makes "the pilot project State (Vermont) eligible for direct spending assistance and the other eligible states eligible for assistance subject to appropriations." House Report 101-916, 957. These points simply confirm what that law already required—which is why this provision has no cost. The changes reflect the original intent to provide Vermont with funding to operate its own Farms for the Future Program. I am very disappointed that the Department did not implement the law.

But the new language does more that just restate prior law requiring that financial assistance be provided to Vermont as the pilot project State. The Department recently issued proposed regulations that would have made it virtually impossible for any State to fully take advantage of the benefits of the original legislation. This amendment prevents the Department from instituting those impediments, which I believe were inconsistent with the intent, spirit and wording of the law and which would have prevented Vermont from gaining the benefits of the program.

The amendment, as with the prior version, makes clear that Vermont shall receive financial assistance, in the form or guarantees and interest

subsidies, from USDA. The money is to be provided by the Treasury Department as clearly provided in the law. Further it is again clear that Vermont, and each of the trust funds in Vermont participating in the farmland protection program funds in Vermont participating in the farmland protection program, must be approved since Vermont is defined as an eligible State. Once Vermont is approved, and Vermont must be approved, each trust fund set up in Vermont to carry out the purposes of the act must be provided the appropriate assistance.

I appreciate the assistance of Jim Libby and Gus Seelig of the Vermont Housing and Conservation Board in working on this issue as well as the assistance of Ed Thompson of the American Farmland Trust.

Mr. WALLOP. Mr. President, as the primary cosponsor of S. 1935 which is now a part of H.R. 3029, technical corrections to the farm bill currently under consideration, I rise to reaffirm my support of provisions vital to the survival of a domestic sheep industry. This is one more step in ongoing efforts by myself and my friends and colleagues, Senators SIMPSON, BURNS, BAUCUS, HATCH, CRAIG, PRESSLER, GARN, DOMENICI, SEYMOUR, DASCHLE, GRASSLEY, and others in Congress, the American Sheep Industry Association, and the Wyoming Wool Growers to correct serious sheep market problems adversely affecting over 110,000 hard-working families nationwide.

Because Wyoming is the Nation's third largest sheep-producing State with 1,539 family operations, disparities in America's sheep market continue to deeply concern this Senator and my constituents who are directly and indirectly involved in the sheep industry. Between 1988 and 1991, approximately 3,000 family sheep operations nationwide, including over 200 in Wyoming, have been unfairly driven from their heritage and out of business. Most remaining operations are on the brink of unnecessary financial disaster. If the current situation is not resolved soon, at least half of Wyoming's 830,000 sheep and lambs will be gone in 2 to 3 years. For the sake of thousands of families and small communities in Wyoming and nationwide who depend on a fair sheep market for their livelihoods, this problem must be corrected soon. This legislation is essential to bringing back a fair and healthy domestic sheep industry.

It is deeply concerning and quite puzzling that while the retail price of lamb products has remained steady over the past few years, the wholesale price paid to our sheep producers has declined. There is something rotten in the marketplace—it is not working in a fair and equitable way. We must ensure that all players in the sheep industry have accurate and complete information about wholesale and retail prices and yield gradings. Gathering and distributing this information will ensure that market information will not remain the privilege of a few, and will perhaps help shrink the curious and unfair spread between wholesale and retail sheep prices. By opening the flow of information, the sheep industry will begin to operate like every other free agricultural market in this Nation. Congress and the Department of Agriculture must act at this critical time in this essential way to save America's sheep industry. I urge your affirmative vote. Thank you, Mr. President.

Mr. LUGAR. Mr. President, I strongly support enactment of the legislation before us, which makes technical changes to the 1990 farm bill. To call these provisions "technical" is not to minimize their importance, for they will benefit farmers, ranchers, and agribusinessmen throughout the country, as well as consumers and low-income Americans.

Despite the best of intentions, it is never possible to foresee every possible consequence of each individual provision in a bill as massive as the Food, Agriculture, Conservation, and Trade [FACT] Act of 1990. Moreover, legislation which saw final approval during the closing days of the last Congress was bound to contain clerical and other errors which must be corrected. Hence the need for the legislation before us: It answers questions left unresolved in the 1990 law, and corrects errors and omissions therein. It will have no material effect on budgetary outlays.

Among the many individual provisions of this legislation, I wish to single out a few that are especially significant. First, the authority to fund price support loans on high-moisture feed grains is restored, correcting an error in the farm bill. Second, farmers will once again have the same flexibility to substitute corn for grain sorghum, and vice versa, that they enjoyed under the 1985 farm bill. In addition, wheat producers will receive the final portion of their deficiency payments somewhat earlier, though still within the same fiscal year in order to avoid any budget problems. The Department of Agriculture will be required to improve price information and price discovery for lamb, addressing a growing concern in the sheep industry.

I am also most gratified, Mr. President, that a provision from my bill S. 1714 is included in this legislation. In that bill, I proposed to give the Secretary of Agriculture authority to pay the expenses of U.S. farmers and other agricultural experts who will live in the Soviet Union for extended periods of time in order to provide technical assistance, training, and advice to the Soviet food industry. The Secretary could expend up to $5 million a year for this purpose. Clearly, Mr. President, among the most pressing needs for the Soviet Union is an overhaul in its food production and distribution system: The development of sound production practices, infrastructure, marketing and distribution systems, and a radically increased emphasis on the profit motive and product quality. This provision will allow the United States to assist the Soviet people as they try to build democratic capitalism in their agricultural and food sector, which has great potential but has a very long way to go.

It needs to be said, Mr. President, that developing Soviet agriculture in this way is going to be good for America. I need not mention our manifest national interest in stability and peace within the Soviet Republics, to which end a healthy food sector is essential. But we must also understand that as economies mature and incomes increase, food consumption often outstrips production, creating markets for surplus food producers like ourselves. More specifically, rising per-capita meat consumption in the former Soviet Union will mean a greater demand for feed grains, oilseeds and protein meals, which we will be well-positioned to supply. Thus, it is my belief that although Soviet agriculture has great potential, this need not mean that U.S. exports to the Soviet Union will decline. Indeed, they can easily increase, particularly value-added exports.

The bill before us contains other important provisions, including necessary technical changes in USDA's food assistance programs and new authorities for the Federal Agricultural Mortgage Corporation [FAMC]. The administration supports passage and enactment of the bill, and has worked closely with me, with Chairman LEAHY and with our House counterparts to fashion bipartisan legislation that will both refine and improve the 1990 farm bill, whose basic parameters remain, quite properly, unchanged.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House of the amendment of the Senate.

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

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

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

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar numbers 324 and 334, en bloc; that committee substitute amendments and the committee amendments, where indicated, be agreed to, en bloc; that the several bills each be deemed read for the third time, passed, and the

motion to reconsider the passage of each bill be laid upon that table en bloc; that consideration of each bill be included separately in the RECORD; and that statements with respect to passage of each bill be included in the RECORD where appropriate.

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

MIMBRES CULTURE NATIONAL MONUMENT ESTABLISHMENT ACT

The Senate proceeded to consider the bill (S. 1528) to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, which had been reported from the Committee on Energy and Natural Resources: with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mimbres Culture National Monument Establishment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) The prehistoric Mimbres tradition was the most significant expression of the Mogollon culture, and represents one of three great prehistoric civilizations of the American Southwest;

(2) the Mimbres and Gila River valleys, including the Silver City, New Mexico area, contain many Mimbres sites;

(3) some of the Mimbres pueblos in those valleys were build during the classic phase of that culture in the 11th century and are among the largest in the southwestern United States;

(4) the Mimbres people developed sophisticated canal irrigation technology prior to the Anasazi Culture;

(5) the Mimbres material culture is epitomized by distinctive and strikingly pointed black-on-white pottery that is recognized as the consummation of several formal, pictorial, and iconographic traditions in the American Southwest;

(6) Mimbres pottery is internationally known and is probably the single most famous prehistoric American art style;

(7) many Mimbres sites have been vandalized or destroyed, and remaining sites are threatened by further vandalism and illegal pot-hunting; and

(8) in recognition of the national significance of the Mimbres sites and the urgent need to protect the valuable Mimbres cultural resources from vandalism and destruction, it is appropriate that a national monument and a system of archeological protection sites be established in New Mexico.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the nationally significant cultural resources associated with the prehistoric Mimbres tradition;

(2) to provide for the protection and interpretation of these resources for the benefit and enjoyment of present and future generations;

(3) to facilitate research activities; and

(4) to encourage government and private sector protection actions.

SEC. 3. ESTABLISHMENT OF THE MONUMENT.

(a) IN GENERAL.—There is hereby established the Mimbres Culture National Monument (hereinafter referred to as the "monument") in the State of New Mexico as a unit of the National Park System, consisting of approximately 959 acres, including the Cameron Creek, Mattocks, TJ Ruin, and Woodrow Units, as generally depicted on a map entitled "Mimbres Culture National Monument", numbered 80,008-A and dated July, 1991. Such map shall be kept on file and available for public inspection in the office of the Director of the National Park Service and in appropriate offices of the National Park Service in the State of New Mexico.

(b) ACQUISITION OF LANDS.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests in land within the boundaries of the monument by donation, purchase with donated or appropriated funds, or exchange: Provided, That no lands or interest therein owned by the State of New Mexico or a political subdivision thereof may be acquired except by donation or exchange.

(2) No lands or interests in land may be added to the monument after the date of enactment of this Act without specific authorization by Congress and the consent of the owner of such land or interest therein.

(3)(A) Subject to negotiated agreements to ensure cultural resource protection, an owner of improved residential property within the boundaries of the monument may, on the date of the acquisition of such property, retain for the owner and the owner's successors and assigns, a right of use and occupancy of the property for such residential purposes as existed before August 2, 1991, for a term, as the owner may elect—

(i) of not more than 25 years; or

(ii) ending at the death of the owner or the owner's spouse, whichever is later.

(B) The Secretary shall pay to the owner the difference between the fair market value of the property on the date of acquisition and the fair market value of the property on the date of the term retained by the owner.

(c) VISITOR CENTER.—The Secretary shall establish a visitor center and administrative headquarters for the monument in Silver City, New Mexico. The Secretary is authorized to acquire, in accordance with subsection (b)(1) of this section, up to 3 acres of land in Silver City for the purpose of establishing the visitor center and administrative headquarters.

SEC. 4. ADMINISTRATION OF THE MONUMENT.

(a) IN GENERAL.—The Secretary shall administer the monument in accordance with the provisions of this Act and laws generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) GENERAL MANAGEMENT PLAN.—Not later than 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with appropriate Federal and State agencies, public and private entities, affected landowners, and American Indian groups, including the Zuni Tribe, prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a general management plan (hereinafter referred to as the "plan") for the monument consistent with the purposes of this Act. The plan shall include—

(1) a statement of the number of vistors and types of public use within the monument which can be accommodated in accordance with the protection of the monument's resources;

(2) a resource protection program, including resource inventories;

(3) a general interpretive program, which shall include dissemination of information on the Masau Trail;

(4) a general development plan for the monument, including a description of facilities needed to accommodate for public use and for resource protection, and the estimated costs thereof;

(5) a research plan to evaluate broad aspects of the Mimbres culture, developed in cooperation with other Federal and State agencies, and public and private entities;

(6) a feasibility analysis of the WS Ranch archeological site, including management options and the potential for public use and interpretation;

(7) details of proposed cooperative agreements; and

(8) a joint management plan for the Mimbres Culture Archeological Sites Protection System established pursuant to section 5 of this Act. Such plan shall include—

(A) resource protection measures and associated costs;

(B) research needs and plans;

(C) a general interpretive program for the system; and

(D) guidelines for cooperative agreements, proposed cooperative agreements, and associated costs.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate local institutions of higher learning for the purpose of establishing a curatorial operation for the care and maintenance of Mimbres cultural artifacts. Such cooperative agreements may include an agreement to provide funding assistance, subject to appropriation, specifically for the curation of Mimbres cultural artifacts.

(2) The Secretary may enter into coperative agreements with other Federal agencies, and other public plan referred to in subsection (b)(5).

(d) RESEARCH SITE.—The Secretary shall administer the Woodrow Unit of the monument primarily as a research site. General public use facilities shall not be provided at the Woodrow Unit.

(e) IRRIGATION DITCH MANAGEMENT.—The Secretary shall not interfere with the continued use, maintenance, and operation of irrigation ditches located within the boundaries of the monument as of the date of enactment of this Act.

SEC. 5. MIMBRES CULTURE ARCHEOLOGICAL SITE PROTECTION SYSTEM.

(a) ESTABLISHMENT.—(1) In order to encourage the protection, interpretation, research, and integration of information about the Mimbres culture, there is hereby established the Mimbres Culture Archeological Site Protection System (hereinafter referred to as the "system") in the State of New Mexico, as generally depicted on a map entitled "Mimbres Culture Archeological Site Protection System", numbered 80,006—B and dated April, 1991.

(2) The system shall consist of the following eleven sites—Black Mountain; Cottonwood; Gatton Park; Lake Roberts; Old Town; Pony Hills; Pine Flat; Red Rock Cemetery; Red Rock Pithouse; WS Ranch; and Rio Vista.

(b) ADDITIONAL SITES.—(1) The Secretary shall undertake research to locate additional Mimbres sites on Federal lands in New Mexico.

(2) The owner of a non-Federal site may nominate such site for inclusion in the system. Upon nomination of such site, the Secretary shall review the site to determine

whether the addition of the site is consistent with the purposes of the system. The Secretary shall include any recommendation with respect to the site in the report referred to in subsection (c).

(3) Addition of new sites or deletion of existing sites from the system may only be made by an Act of Congress.

(c) REPORT.—Not later than 3 years after the completion of the general management plan referred to in section 4(b), the Secretary shall prepare and transmit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives providing recommendations for additions to or deletions from the list of archeological protection sites set forth in subsection (a)(2).

(d) ADMINISTRATION.—(1) The Secretary, in consultation and cooperation with affected Federal and State agencies and landowners, shall administer the system in a manner that will provide for the protection, preservation, and interpretation of Mimbres cultural resources and to facilitate research activities associated with such resources.

(2) Non-Federal lands or interests therein may not be acquired for addition to the system.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary or the Secretary of Agriculture, where appropriate, may enter into cooperative agreements with other Federal, State, and local agencies, public and private entities, private landowners, and other persons for the purposes of administration, management, protection, research, and interpretation of sites within the system.

(2) Federal funds may be expended, subject to appropriation, on non-Federal sites through cooperative agreements with, and the consent of, the owners of such sites.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Committee, composed of representatives of Federal and State government agencies, and other interested parties, to provide guidance in the preparation and implementation of the joint management plan required by section 4(b)(8).

SEC. 6 AUTHORIZATION OF APPROPRIATONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BINGAMAN. Mr. President, I am pleased that the Senate has passed S. 1528, which will establish a Mimbres Culture National Monument and will establish a protection system for these valuable and threatened archeological sites.

For decades the striking black-on-white pottery produced by the Mimbres Culture, an ancient Southwestern culture, has been a double-edged sword for the archeological sites which contain it. The bold and beautiful, abstract and animal designs touch something in us across the centuries and make us want to know more about the people who made it; but actions taken to acquire this same pottery have inadvertently caused the wanton destruction of the Mimbres sites in which it rests. In their quest for the valuable pottery, pothunters loot with no regard for the sites they destroy. And the market is worldwide; the cultural properties associated with the Mimbres culture are of international artistic significance. As a result, there are almost 7,000 pieces of this pottery on exhibit in museums around the world. We are in danger of losing an irretrievable part of our country's heritage.

Despite this, before this bill, there was no unit of the National Park Service or any other agency which was dedicated to the preservation and interpretation of this culture. This bill initiates positive actions to preserve and protect what is left of the Mimbres culture.

There were three great cultures—the Anasazi, the Hohokam, and the Mogollon—which flourished in the Southwest region of our country; the most significant expression of the Mogollon culture was left by those who are known today as the Mimbres people. Their origin and demise as a culture is not fully understood. We do know, however, that the Mimbrenos lived between A.D. 200 and 1150. Over time, their way of life shifted from hunting and gathering to farming, utilizing a sophisticated system of stream diversion, and canal irrigation. They developed these systems centuries before the Anasazi. Their understanding of their environment was so complete that, for a time and even in an arid environment, they were able to raise enough food to support levels of population density unknown in other prehistoric Southwestern societies. Some of the pueblos built during the later Mimbres period of occupation are among the largest in the Southwest.

Pottery styles changed also, culminating in intriguing and beautifully executed black-on-white representational designs of plants, animals, humans, and mythological beings. The designs depict scenes of pottery-making, swimming, planting, hunting, gambling, food-gathering, and many other day-to-day activities.

There are scenes of humans and animals with mythological beings. There are bold, geomatric abstract designs. Mimbres art is a unique visual resource that gives us a tantalizing glimpse into the physical as well as the intellectual and spiritual world of the Mimbres people. But, without the context of the sites in which this art was created, it would remain just that for us—only a mystifying glimpse.

S. 1528 will recognize, preserve, and interpret a good cross-section of known examples of archaeological sites associated with the Mimbres culture of New Mexico. Not only does it set up a system of site protection for these sites, but it will also provide for the inclusion of additional sites for protection and study as they are discovered or reevaluated in the future.

The bill's enactment will also provide for a visitor center in Silver City, and for an administrative center which will be involved in an educational program about the Mimbres culture. It will direct the National Park Service to move forward to answer questions of research, interpretation, and protection of Mimbres sites. The Mimbres Culture Archaeological Site Protection System called for in the bill will bring together, voluntarily and in a spirit of cooperation, interested landowners—private, Indian, and Federal—to take actions to protect the vestiges of Mimbres culture remaining on their properties. The bill also calls for an advisory committee to work with the National Park Service to promote the protection of these resources and to provide for their further protection and research.

Through protection, interpretation, and education, visitors to the monument established by this bill will better comprehend the architectural, artistic, social, and economic achievements of the Mimbres culture and its close ties to the land which gave its people nourishment. The creation of this monument will recognize the international significance of the material artifacts associated with this culture, and will protect and interpret these resources for the benefit of present and future generations. There are always lessons to be learned from the past. The passage of this bill assures that there will be increased public understanding and increased protection of a precious part of this Nation's rich heritage.

So the bill (S. 1528) was deemed read the third time and passed.

PROVISIONS FOR ENTRY INTO STOCK RAISING HOMESTEAD ACT LANDS

The Senate proceeded to consider the bill (S. 1187) to amend the Stock Raising Homestead Act to provide certain procedures for entry onto Stock Raising Homestead Act lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in black brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINERAL ENTRY UNDER STOCK RAISING HOMESTEAD ACT.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT.—Section 9 of the Act of December 29, 1916 entitled "An Act to provide for stock-raising homesteads, and for other purposes" (39 Stat. 862; 43 U.S.C. 299) is amended by adding the following at the end thereof:

"(b) PROSPECTING; NOTICE OF INTENTION TO LOCATE; EXPLORATION, DEVELOPMENT, AND PRODUCTION").—

"(1) PROSPECTING; LOCATION OF CLAIMS.—Notwithstanding subsection (a), no person other than the surface owner may enter lands subject to this Act to prospect for minerals or to locate a claim under the mining laws of the United States on such lands without:

"(A) filing a notice of intention to locate a claim pursuant to paragraph (2); and

"(B) providing notice to the surface owner pursuant to paragraph (3).

Any person who has complied with paragraphs (2) and (3) with respect to any such lands may, during the authorized prospecting period, enter such lands to prospect for minerals, with minimal surface disruption, and to locate a mining claim on such lands. During such period no such person may construct any road, use any explosives, or use any mechanical earth moving equipment on such lands. With respect to any lands for which a notice is filed under paragraph (2), the term 'authorized prospecting period' means the period beginning ten days after notice is provided under paragraph (3) with respect to such lands and ending with the expiration of the sixty-day period, or the extension of such period, pursuant to paragraph (2).

"(2) NOTICE OF INTENTION TO LOCATE A CLAIM.—

"(A) any person seeking to prospect for minerals or to locate a mining claim on lands subject to this Act shall file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary of the interior shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on the Secretary's land status records. Whenever any person has filed a notice under this paragraph with respect to any lands, during the sixty-day period following the date of such filing, or any extension thereof pursuant to this paragraph, no other person (including the surface owner) may—

"[(A)] *(i)* file such a notice with respect to any portion of such lands;

"[(B)] *(ii)* prospect for minerals or locate a mining claim on any portion of such lands; or

"[(C)] *(iii)* file an application to acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). If, within such sixty-day period, the person who filed a notice under this paragraph files a plan of operations with the Secretary pursuant to subsection (c) of this section, such sixty-day period shall be extended until the approval or disapproval of the plan of operations by the Secretary pursuant to subsection (c) of this section.

"(B) The Secretary may establish such fees as may be necessary to cover the administrative costs of processing notices filed under this paragraph.

"(3) NOTICE TO SURFACE OWNER.—Any person who has filed a notice of intention to locate a claim under paragraph (2) for any lands subject to this Act shall provide written notice by registered or certified mail to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). The notice shall be provided at least ten days before entering such lands and shall contain each of the following—

"(A) A brief description of the proposed prospecting activities.

"(B) A map and legal description of the lands to be subject to prospecting.

"(C) The name, address, and phone number of the person managing such activities.

"(D) A statement of the dates on which such activities shall take place.

"(4) ACREAGE LIMITATIONS.—The total acreage covered at any time by notices of intention to locate a claim under paragraph (2) filed by any person and by affiliates of such person may not exceed six thousand four hundred acres of lands subject to this Act in any one State and one thousand two hundred and eighty acres of such lands for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

"(5) MINERALS COVERED.—This subsection applies only to minerals not subject to disposition under the Mineral Leasing Act (30 U.S.C. 181 and following), the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), or the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

"(c) MINERAL EXPLORATION, DEVELOPMENT AND PRODUCTION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) of this section, except for prospecting in accordance with subsection (b) of this section, no person may conduct any mineral exploration, development, or production activities on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under paragraph (2).

"(2) AUTHORIZED MINING OPERATIONS.—The Secretary shall authorize, if the conditions of this paragraph are met, a person to conduct mineral exploration, development, and production activities on lands subject to this Act without the consent of the surface owner thereof. Such conditions for authorization are—

"[S] *(A)* BOND.—Before the Secretary may authorize any person to conduct mineral exploration, development, or production activities, the Secretary shall require such person to post a surety bond to be held by the United States, or to provide such other type of financial guarantee satisfactory to the Secretary to insure (i) reclamation of the surface *in accordance with the standards set forth in the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the regulations promulgated thereunder*, (ii) payment to the surface owner as compensation for any post-mining, permanent damages to crops and tangible improvements of the surface owner, and (iii) compensation for any postmining, permanent loss of income by the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner, to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the mineral exploration, development, and production activities. In determining the bond amount to cover permanent loss of income, the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land as expressed in Animal Unit Months.

"(B) PLAN OF OPERATIONS.—Before the Secretary may authorize any person to conduct mineral exploration, development, or production activities, the Secretary shall require such person to submit a plan of operations satisfactory to the Secretary and which complies with this subparagraph. The plan shall contain such terms and conditions as the Secretary determines necessary. The conditions shall include, at a minimum, procedures for (i) reclamation of the surface *in accordance with the standards set forth in the last sentence of Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the regulations promulgated thereunder*, (ii) minimization of damages to crops and tangible improvements of the surface owner, and (iii) minimization of disrupting to grazing or other uses of the land by the surface owner. The plan shall provide for payment of a fee for the use of the surface lands during exploration, development, production and reclamation activities. The fee shall be paid to the surface owner by the person submitting the plan of operations. The fee shall be paid in advance of any mineral exploration, development, or production activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities. The Secretary shall establish the surface use fee, taking into account the acreage involved and the degree of potential disruption to existing surface uses (including loss of income to the surface owner due to the loss or impairment of existing surface uses for the duration of the mineral exploration, development, and production activities), but the surface use fee shall not exceed the fair market value for the surface of the land. Upon receipt of the plan, the Secretary shall provide a copy of the plan to the surface owner. The surface owner may submit comments and recommend plan modifications to the Secretary within thirty days of the surface owner's receipt of the plan. The Secretary shall, within sixty days if receipt of the plan, determine if the plan complies with the requirements of this subsection and approve or disapprove the plan. The sixty-day period may be extended: an additional sixty days if the Secretary determines such time is necessary to make the determination. *The Secretary shall within sixty days of receipt of the plan, approve such plan, if it complies with the requirements of this subparagraph or notify the person submitting the plan of any changes required to bring such plan into compliance with the requirements of this subparagraph. If the person submitting the plan agrees to the changes or to modifications acceptable to the Secretary, the Secretary shall approve the plan as changed. If no agreement can be reached on changes which, in the opinion of the Secretary, will bring the plan into compliance with the requirements of this subparagraph, then the Secretary shall disapprove the plan and notify both the surface owner and the person submitting the plan of the decision. The sixty-day period shall be extended where additional time is required to comply with other requirements of law.* The Secretary shall suspend or revoke the authorization under this paragraph whenever the Secretary determines, on the Secretary's own motion or on a motion made by the surface owner, that the person conducting mineral exploration, development, or production activities is in substantial noncompliance with the terms and conditions of the plan and failed to remedy the violation after notice from the Secretary within the time required by the Secretary.

"(3) DAMAGES FOR FAILURE TO COMPLY.—Whenever the surface owner of any land subject to this Act has suffered any damages of loss referred to in paragraph (2)(A), if such damages or loss [results.] *results*—

"(A) from any mineral exploration, development, or production activities undertaken without the consent of the surface owner under paragraph (1) or an authorization by the Secretary under paragraph (2), or

"(B) from the failure of the person conducting mineral exploration, development,

or production activities to remedy to the satisfaction of the Secretary any substantial noncompliance with the terms and conditions of a plan under paragraph (2)(B) pursuant to a notice from the Secretary under the last sentence of paragraph (2), the surface owner may bring an action against the person conducting mineral exploration development, production or reclamation activities in the appropriate United States district court for, and the court may award, double damages plus costs for willful misconduct or gross negligence. Such damages shall be reduced by the amount of any compensation which the surface owner has received, or is eligible to receive, pursuant to the surety bond or other financial guarantee required under paragraph (2)(A). The surface owner of such lands may also bring an action in the appropriate United States district court for double damages plus costs for willful misconduct or gross negligence against any person undertaking any minerals prospecting activity on such lands in violation of any requirement of paragraph (1).

"(4) PAYMENT OF DAMAGES.—The surface owner of any land subject to this subsection may petition the Secretary for payment of all or any portion of a surety bond or other financial guarantee required under paragraph (2)(A) as compensation for damages and losses referred to in paragraph (2)(A). Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure reclamation as required by this subsection.

"(5) BOND RELEASE.—The Secretary shall release the surety bond or other financial guarantee required under paragraph (2)(A) upon the successful completion of all requirements pursuant to the plan approved under paragraph (2)(B) or at such earlier date as may be agreed to by the surface owner.

"(6) MINERALS COVERED.—This subsection applies only to minerals not subject to disposition under the Mineral Leasing Act (30 U.S.C. 181 and following), the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), or the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).".

(b) SIMPLIFICATION OF PROCEDURES.—Within 180 days after the enactment of this Act, the Secretary shall determine what actions may be necessary to simplify the procedures established pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719) for conveyance of the mineral interest in such land owned by the United States. If the Secretary determines that no action is necessary, the Secretary shall notify the Committee on Energy and Natural Resources of the United States House of Representatives of such determination, along with the reasons for such determination.

(c) TECHNICAL CONFORMING AMENDMENT.—Section 9 of the Act of December 29, 1916 entitled "An Act to provide for stock-raising homesteads, and for other purposes" (43 U.S.C. 299) is amended by inserting "(a) GENERAL PROVISIONS.—" before the words "That all entries made".

(d) REGULATIONS.—Within one year after the date of enactment of this Act, the Secretary of the Interior shall promulgate such regulations as may be necessary to implement this section.

So the bill (S. 1187) was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 315, 316; that the committee amendments where indicated be agreed to en bloc; that the two bills be deemed read a third time and passed and the motion to reconsider passage of these items be laid upon the table en bloc; that any statements related to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

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

FORT TOTTEN NATIONAL HISTORIC SITE ESTABLISHMENT ACT

The bill (S. 1707) to authorize the establishment of the Fort Totten National Historic Site, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fort Totten National Historic Site Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) Fort Totten is one of the bet preserved military posts surviving from the Indian wars in the trans-Mississippi west;

(2) Fort Totten has played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school; and

(3) Fort Totten is in immediate need of major repairs and restoration work which are beyond the capabilities of the State of North Dakota and which would be best undertaken by the National Park Service.

ACQUISITION OF HISTORICAL SITE

SEC. 3. In order to preserve Fort Totten, the Secretary of the Interior is authorized to acquire by donation from the State of North Dakota, the real property described in section 4 for the establishment and administration of a national historic site.

DESCRIPTION OF SITE

SEC. 4. The real property referred to in section 3 is that real property known as the Fort Totten State Historic Site located approximately twelve miles southwest of the town of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation.

ADMINISTRATION OF SITE

SEC. 5. The property acquired under this Act shall be known as the "Fort Totten National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2 4) and the Act entitled "An Act to provide for the preservation of historic American sites buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

GENERAL MANAGEMENT PLAN

SEC. 6. Within two years after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives as general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resources protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

AUTHORIZATION

SEC. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

ARKANSAS WILDERNESS ACT

The Senate proceeded to consider the bill (S. 1743) to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1743

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 "Arkansas Wild and Scenic Rivers Act of 1991".

SEC. 2. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraphs:

"(119) BIG PINEY CREEK, ARKANSAS.—**[**The 41.3 mile segment from its origin in section 24, township 11 north, range 20 west,**]** *The 45.2-mile segment from its origin in section 27, township 13 north, range 23 west,* to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(120) BUFFALO RIVER, ARKANSAS.—The 15.8-mile segment from its origin in section 22, township 14 north, range 24 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) the 6.4-mile segment from its origin in section 22, township 14 north, range 24 west, to the western boundary of the Upper Buffalo Wilderness, as a scenic river.

"(B) The 9.4-mile segment from the western boundary of the Upper Buffalo Wilder-

ness to the Ozark National Forest boundary, as a wild river.

"(121) COSSATOT RIVER, ARKANSAS.—Segments of the main stem and certain tributaries, totaling 20.1 miles, to be administered as follows:

"(A) The 4.2-mile segment of the main stem from its confluence with Mine Creek to the Caney Creek Wilderness Boundary [in] *on the north section line of* section 13, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 6.9-mile segment of the main stem from the Caney Creek Wilderness Boundary [in] *on the north section line of* section 13, township 4 south, range 30 west, to the Forest Proclamation Boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(C) The 4.4-mile segment of the Brushy Creek tributary from its origin [in] *in the southeast ¼ of* section 7, township 4 south, range 27 west, to the Forest Proclamation Boundary, to be administered by the Secretary of Agriculture as a scenic river.

"(D) The 4.6-mile segment of the main stem from the State Highway 4 bridge to Duchett's Ford, to be administered by the Secretary of the Army as a scenic river consistent with the operation of Gillham Dam (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85-500)).

"(122) HURRICANE CREEK, ARKANSAS.—The 15.5-mile segment from its origin in [section 21,] *section 1*, township 13 north, range 21 west, to its confluence with Big Piney Creek, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.8-mile segment from its origin in [section 21,] *section 1*, township 13 north, range 21 west, to the western boundary of the private land [inside] *bordering* Hurricane Creek Wilderness, as a scenic river.

"(B) The 2.4-mile segment from the western boundary of the private land [inside] *bordering* the Hurricane Creek Wilderness to the Hurricane Creek Wilderness boundary, as a wild river.

"(C) The 1.3-mile segment from the Hurricane Creek Wilderness boundary to its confluence with Big Piney Creek, as a scenic river.

"(123) LITTLE MISSOURI RIVER, ARKANSAS.—Segments totaling 15.7 miles, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.3-mile segment from its origin [in] *in the northwest ¼ of* section 32, township 3 south, range 28 west, to the west section line of section 22, township 4 south, range 27 west, as a scenic river.

"(B) The 4.4-mile segment from the southern property line between National Forest System lands and private lands [in] *in the southeast ¼ of* section 28, township 4 south, range 27 west, to the Forest Proclamation Boundary, as a wild river.

"(124) MULBERRY RIVER, ARKANSAS.—The 56.0-mile segment from its origin in section 32, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 36.6-mile segment from its origin in section 32, township 13 north, range 23 west, to Big Eddy Hollow in section 3, township 11 north, range 27 west, as a recreational river.

"(B) The 19.4-mile segment from Big Eddy Hollow in section 3, township 11 north, range 27 west, to the Ozark National Forest boundary, as a scenic river.

"(125) NORTH SYLAMORE CREEK, ARKANSAS.—The 14.5-mile segment from the Clifty Canyon Botanical Area boundary to its confluence with the White River, to be administered by the Secretary of Agriculture as a scenic river.

"(126) RICHLAND CREEK, ARKANSAS.—The 16.5-mile segment from its origin in [section 27, township 12] *section 36, township 13* north, range 20 west, to the northern boundary of section 32, township 14 north, range 18 west, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 7.8-mile segment from its origin in [section 27, township 12] *section 36, township 13* north, range 20 west, to the western boundary of the Richland Creek Wilderness, as a scenic river.

"(B) The 5.3-mile segment from the western boundary of the Richland Creek Wilderness to the eastern boundary of the Richland Creek Wilderness, as a wild river.

"(C) The 3.4-mile segment from the eastern boundary of the Richland Creek Wilderness to the northern boundary of section 32, township 14 north, range 18 west, as a scenic river.".

SEC. 3. FEDERAL PROTECTION FOR STATE DESIGNATED RIVERS.

(a) IN GENERAL.—The river segments described in subsection (b) are designated as components of the National Wild and Scenic Rivers System to be managed by the State of Arkansas in accordance with the requirements for rivers included in the National Wild and Scenic Rivers System pursuant to section 2(a)(ii) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)(ii)).

(b) RIVER SEGMENTS.—The river segments referred to in subsection (a) are—

(1) the 10.4-mile segment of the Cossatot River from the Forest Proclamation Boundary to the intersection with State Highway 4; and

(2) the 0.3-mile segment of the Brushy Creek tributary from the Forest Proclamation Boundary to its confluence with the Cossatot River.

SEC. 4. SAVINGS PROVISION.

Nothing in this Act is intended to prohibit the Secretary of the Army from—

(1) operating Gillham Lake, including lake levels and releases, in a manner consistent with the Gillham project (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85-500)); or

(2) establishing a public use area for float trip termination at the confluence of the Cossatot River with Gillham Lake.

So the bill (S. 1743) as amended was deemed read the third time and passed.

(The text of the measure as passed by the Senate today will be printed in a future edition of the RECORD.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Nos. 367 and 369 en bloc; that the several bills each be deemed read a third time, passed; that the motion to reconsider the passage of these items be laid upon the table en bloc; that the consideration of each bill be included separately in the RECORD and that statements with respect to the passage of each bill be included in the RECORD where appropriate.

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

LAMPREY RIVER STUDY ACT

The bill (H.R. 1099) to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

WHITE CLAY CREEK STUDY ACT

The bill (H.R. 3012) to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED—S. 461 AND S. 1552

Mr. REID. I ask unanimous consent that Calendar Nos. 354 and 357 be indefinitely postponed.

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

STONES RIVER NATIONAL BATTLEFIELD EXPANSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3881, relating to the Stones River Battlefield, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3881) to expand the boundaries of Stones River National Battlefield, TN, 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.

So, the bill (H.R. 3881) was deemed read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 356, 358, 359, 360, 361, 362, 363 en bloc; that the committee substitute amendments and the committee amendments where appropriate be agreed to en bloc; that the several bills and the joint resolution each be deemed read a third time, passed; and that the preamble where applicable be agreed to; that the motion to recon-

sider the passage of these items be laid upon the table en bloc; that the consideration of each bill be included separately in the RECORD; and that statements with respect to the passage of each bill be included in the RECORD where appropriate.

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

ALLEGHENY RIVER WILD AND SCENIC RIVERS ACT

The State proceeded to consider the bill (S. 606) to amend the Wild and Scenic Rivers Act by designing certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. DESIGNATION OF ALLEGHENY RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Allegheny River in the Commonwealth of Pennsylvania, and to assist in the protection, preservation, and enhancement of the fisheries resources associated with such river, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) ALLEGHENY PENNSYLVANIA.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania, downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river in accordance with section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river in accordance with section 10(e) of this Act.".

SEC. 2. ADVISORY COUNCILS FOR THE ALLEGHENY RIVER.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall establish within 120 days after the date of enactment of this Act two Advisory Councils to advise the Secretary on the establishment of final boundaries and the management of the river segments designated by section 1 of this Act (hereinafter referred to as the "Allegheny National Wild and Scenic River"), as follows:

(1) The Northern Advisory Council, to provide advice for the management of the segments of the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island.

(2) The Southern Advisory Council, to provide advice for the management of the segment of the Allegheny National Wild and Scenic River between Franklin and Emlenton.

(b) NORTHERN ADVISORY COUNCIL.—(1) The Northern Advisory Council shall be composed of 9 members appointed by the Secretary as follows:

(A) the Forest Supervisor of the Allegheny National Forest, or his or her designee, who shall serve as Chairman and who shall be a nonvoting member;

(B) the Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his or her designee;

(C) two members each from Warren, Forest, and Venango Counties, from recommendations submitted by the County Commissioners of such counties, of which no fewer than two such members shall be riparian property owners along the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island; and

(D) one member from a nonprofit conservation organization concerned with the protection of natural resources from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Northern Advisory Council shall serve without compensation and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out his or her responsibilities under this Act.

(4) The Northern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

(c) SOUTHERN ADVISORY COUNCIL.—(1) The Southern Advisory Council shall be composed of 7 members appointed by the Secretary as follows:

(A) the Forest Supervisor of the Allegheny National Forest, or his or her designee, who shall serve as a nonvoting member;

(B) the Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his or her designee, who shall serve as Chairman;

(C) four members from recommendations submitted by the County Commissioners of Venango County, of whom at least one shall be a riparian property owner along the Allegheny National Wild and Scenic River between Franklin and Emlenton; and

(D) one member from a nonprofit conservation organization concerned with the protection of natural resources, from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy of the county representatives on the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Southern Advisory Council shall serve without compensation and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out his or her responsibilities under this Act.

(4) The Southern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

SEC. 3. ADMINISTRATION OF ALLEGHENY NATIONAL WILD AND SCENIC RIVER.

(a) BOUNDARIES.—After consultation with the Commonwealth of Pennsylvania, the Northern and Southern Advisory Councils, local governments, and the public, and within 18 months after the date of enactment of this Act, the Secretary shall take such action with respect to the segments of the Allegheny River designated under section 1 of this Act as is required under section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)).

(b) INTERIM MEASURES.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue guidelines specifying standards for local zoning ordinances, pursuant to section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)), with the objective of protecting the outstandingly remarkable values of the Allegheny Wild and Scenic River, as defined by the Secretary.

(c) ADMINISTRATION OF CERTAIN SEGMENTS.—(1) Lands and interests therein acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segments located between Kinzua Dam and Alcorn Island shall be added to and become part of the Allegheny National Forest.

(2) Lands and interests therein acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segment located between Franklin and Emlenton may be managed under a cooperative agreement with the Commonwealth of Pennsylvania.

(d) LIMITATION ON LAND ACQUISITION AUTHORITY.—For the purposes of section 6(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(b)), the segments of the Allegheny River designated as components of the Wild and Scenic Rivers System by section 1 of this Act shall be deemed to be more than 50 per centum in public ownership.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

So the bill (S. 606) as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER

The Senate proceeded to consider the bill (S. 1770) to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment on page 1, line 9, strike "at a price to be mutually agreed on", and inserting in lieu thereof "at fair market value".

So as to make the bill read:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO BLACK HILLS WORKSHOP AND TRAINING CENTER.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Agriculture shall convey to the Black Hills Workshop and Training Center,

Inc., of Rapid City, South Dakota, at fair market value, certain surplus real property located in the Black Hills National Forest and described in subsection (b).

(b) DESCRIPTION.—The real property referred to in subsection (a) is located in Section 4, T.I.N., R.7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been declared surplus and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc. and approved by the Forest Service on October 2, 1990.

So the bill (S. 1770), as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

CONSENT TO CERTAIN AMENDMENTS OF THE LEGISLATURE OF THE STATE OF HAWAII TO THE HAWAIIAN HOMES COMMISSION ACT, 1920

The Senate proceeded to consider the joint resolution (S.J. Res. 23) to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the resolving clause and inserting in lieu thereof the following:

That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation:

Act 16 of Session Laws of Hawaii, 1986;
Act 85 of Session Laws of Hawaii, 1986;
Act 249 of Session Laws of Hawaii, 1986;
Act 36 of Session Laws of Hawaii, 1987;
Act 28 of Session Laws of Hawaii, 1989;
Act 265 of Session Laws of Hawaii, 1989;
Act 14 of Session Laws of Hawaii, 1990;
Act 24 of Session Laws of Hawaii, 1990;
Act 150 of Session Laws of Hawaii, 1990; and
Act 305 of Session Laws of Hawaii, 1990.

So the joint resolution (S.J. Res. 23), as amended, was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

MANZANAR NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (H.R. 543) to establish the Manzanar National Historic Site in the State of California, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[TITLE I—MANZANAR NATIONAL HISTORIC SITE

[SEC. 101. ESTABLISHMENT.

[(a) IN GENERAL.—In order to provide for the protection and interpretation of historical and cultural resources associated with the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site (hereinafter in this title referred to as the "site").

[(b) AREA INCLUDED.—The sites shall consist of the lands within the area generally depicted as Alternative 3 on map 3, as contained in the Study of Alternatives for Manzanar War Relocation Center, map number 80,002 and dated February 1989. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") may from time to time make minor revisions in the boundary of the site.

[SEC. 102. ADMINISTRATION.

[(a) IN GENERAL.—The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

[(b) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this title.

[(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the site, the Secretary is authorized to enter into cooperative agreements with public and private entities for management and interpretive programs within the site and with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

[(d) WATER.—The water rights of the city of Los Angeles shall not be affected by the conveyance of lands under section 103, except that the Secretary shall not acquire such lands until such time as the Secretary has entered into an agreement with the city of Los Angeles which includes provisions or provide water sufficient to fulfill the purposes of the site and to protect the cultural, visual, and natural resources of the site as these resources might be affected by the exercise of such rights.

[(e) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the city of Los Angeles, California, to graze livestock on city lands located contiguous with the site may move livestock across the Federal lands managed by the Bureau of Land Management located contiguous with the site for the purpose of transporting such livestock from one each parcel to the other.

[SEC. 103. ACQUISITION OF LAND.

[(a) IN GENERAL.—In order to carry out the purposes of this Act, the Secretary may acquire all lands referenced in section 101(b) through donation by or exchange with the city of Los Angeles.

[(b) AUTHORITY.—Notwithstanding any other provision of law, in event of exchange under this section, the Secretary shall utilize the Secretary's authority under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) to exchange public lands within Inyo County, California, identified as suitable for disposal by the Bureau of Land Management. Priority of such exchange shall be given to lands identified for disposal in the Bishop Resources Area Resource Management Plan and lands immediately adjacent to the site.

[(c) FACILITY.—The Secretary may contribute up to $1,100,000 in cash or services for the relocation and construction of a maintenance facility to replace the facility located on the land to be acquired under this section.

[SEC. 104. ADVISORY COMMISSION.

[(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission (hereinafter in this title referred to as the "Advisory Commission shall be composed of former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and the general public appointed by the Secretary to serve for terms of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairman.

[(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, acting through the Director of the National Park Service, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development, management, and interpretation of the site, including the preparation of the general management plan.

[(c) MEETINGS.—The Advisory Commission shall meet on a regular basis, Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the site. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

[(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this title on vouchers signed by the Chairman.

[(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to this Advisory Commission.

[(f) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Advisory Commission in carrying out the purposes of this Act.

[SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this title.**]**

TITLE I—MANZANAR NATIONAL HISTORIC SITE.

SECTION 101. ESTABLISHMENT.

(a) IN GENERAL.—In order to provide for the protection and interpretation of the historical, cultural, and natural resources associated with

the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site in the State of California.

(b) AREA INCLUDED.—The site shall consist of approximately 500 acres of land as generally depicted on a map entitled "Map 3—Alternative Plans—Manzanar Internment Camp" numbered 80,002 and dated February 1989. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the site boundaries.

SEC. 102. DEFINITIONS.

As used in this title, the term—

(1) "Advisory Commission" means the Manzanar National Historic Site Advisory Commission established pursuant to section 105 of this title;

(2) "city" means the City of Los Angeles;

(3) "Secretary" means the Secretary of the Interior; and

(4) "site" means the Manzanar National Historic Site established pursuant to section 101 of this title.

SEC. 103. ACQUISITION OF LAND.

(a) IN GENERAL.—(1) Subject to the limitations set forth in paragraphs (2) and (3) of this subsection, the Secretary is authorized to acquire lands or interests therein within the boundaries of the site by donation, purchase with donated or appropriated funds, or by exchange.

(2) Lands or interests therein located within the boundaries of the site which are owned by the State of California, or a political subdivision thereof, may be acquired only by donation or exchange.

(3) The Secretary shall not acquire lands or interests therein located within the boundaries of the site which are owned by the city of Los Angeles until such time as the Secretary has entered into an agreement with the city to provide water sufficient to fufill the purposes of the site.

(b) MAINTENANCE FACILITY.—The Secretary is authorized to contribute up to $1,100,000 in cash or services for the relocation or construction of a maintenance facility for Inyo County, California.

SEC. 104. ADMINISTRATION OF SITE.

(a) IN GENERAL.—(1) The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-67).

(2) Nothing in this title shall create, expand, or diminish any authority of the Secretary over lands or activities of the city of Los Angeles outside the boundaries of the site.

(b) DONATIONS.—The Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing such services and facilities as the Secretary deems consistent with the purposes of this title.

(c) GENERAL MANAGEMENT PLAN.—Within 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with the Advisory Commission, prepare a general management plan for the site. Such plan shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with—

(1) public and private entities for management and interpretive programs within the site; and

(2) the State of California, or a political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(e) WATER.—Except as provided in section 103(a)(3) of this title, nothing in this title shall affect the water rights of the city of Los Angeles.

(f) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the City of Los Angeles to graze livestock on city-owned lands contiguous with the site may move such livestock across those Federal lands administered by the Bureau of Land Management which are located contiguous with the site, for the purpose of transporting such livestock from one city-owned parcel to the other.

SEC. 105. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission. The members of the Advisory Commission shall be appointed by the Secretary, and shall include former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and members of the general public.

(b) TERMS.—Members of the Advisory Commission shall serve for a term of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his or her term, until such time as a successor is appointed.

(c) CHAIRMAN.—The members of the Advisory Commission shall designate one of the members as Chairman.

(d) CONSULTATION.—The Secretary, or the Secretary's designee, shall from time to time, but at least semi-annually, meet and consult with the Advisory Commission with respect to the development, management, and interpretation of the site, including the preparation of a general management plan as required by section 104(c) of this title.

(e) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings shall be published in local newspapers. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(f) EXPENSES.—Members of the Advisory Commission shall serve without compensation, but while engaged in official business shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (86 Stat. 776) are hereby waived with respect to the Advisory Commission.

(h) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—JAPANESE AMERICAN NATIONAL HISTORIC LANDMARK THEME STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the "Japanese American National Historic Landmark Theme Study Act".

SEC. 202. THEME STUDY.

(a) STUDY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to prepare and transmit to the Congress no later than 2 years after the date [of enactment] *funds are made available for* of this title a National Historic Landmark Theme Study on Japanese American history (hereinafter in this title referred to as the "Theme Study"). The purpose of the Theme Study shall be to identify the key sites in Japanese American history that illustrate the period in American history when personal justice was denied Japanese Americans. The Theme Study shall identify, evaluate, and nominate as national historic landmarks those sites, buildings, and structures that best illustrate or commemorate the period in American history from 1941 to 1946 when Japanese Americans were ordered to be detained, relocated, or excluded pursuant to Executive Order Number 9066, and other actions. The study shall include (but not be limited to) the following sites:

[(1) Internment or concentration and temporary] *(1) Internment and temporary* detention camps where Japanese Americans were relocated, detained, and excluded pursuant to Executive Order Number 9066, issued on February 19, 1942. The internment camps include: Tule Lake, California; Rohwer, Arkansas; Gila River, Arizona; Poston, Arizona; Granada, Colorado; Jerome, Arkansas; Heart Mountain, Wyoming; Minidoka, Idaho; and Topaz, Utah. The temporary detention camps include: Pomona, California; Santa Anita, California; Fresno, California; Pinedale, California; Tanforan in San Bruno, California; Sacramento, California; Marysville, California; Mayer, Arizona; Salinas, California; Turlock, California; Merced, California; Stockton, California; Tulare, California; Puyallup, Washington; and Portland, Oregon.

(2) Angel Island, California, the port of entry for many Japanese Issei.

(3) Camp Shelby, Mississippi, the training ground for the 442nd Infantry Regimental Combat Team.

(4) Camp Savage and Fort Snelling, Minnesota, locations for the Military Intelligence Service Language School where Japanese Americans received Japanese language instruction, enabling the Japanese Americans to translate Japanese war plans into English.

(5) Camp McCoy, Wisconsin, where the 100th Infantry Battalion was trained.

(6) Terminal Island, California, the first location where Japanese Americans were forced to evacuate.

(7) Bainbridge Island, Washington, where Japanese Americans were evacuated pursuant to Exclusion Order Number 1.

(8) Immigration and Naturalization Service internment camps at Crystal City, Kennedy, and Seagoville, Texas; Missoula, Montana; and Bismarck, North Dakota.

(b) IDENTIFICATION AND LIST.—On the basis of the Theme Study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

SEC. 203. CONSULTATION.

In carrying out the study, the Secretary shall consult with Japanese American citizens groups, scholars of Japanese American history, and history preservationists. [The Secretary shall receive permission from Indian tribes to obtain access to Indian lands.] *In preparing the study, if the Secretary determines that it is necessary to have access to Indian lands, the Secretary shall request permission from the appropriate tribe.*

SEC. 204. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with one or more Japanese

American citizens organizations knowledgeable of Japanese American history, especially the relocation and internment period during World War II, to prepare the Theme Study and ensure that the Theme Study meets current scholarly standards.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as are necessary to carry out this title.

So the bill (H.R. 543) as amended, was deemed read the third time and passed.

ACQUISITION OF MONOCACY NATIONAL BATTLEFIELD, MD

The bill (H.R 990) to authorize additional appropriations for land acquisition of Monocacy National Battlefield, MD, was considered, ordered to a third reading, read the third time, and passed.

Mr. SARBANES. Mr. President, I rise in strong support of this legislation to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD. I commend the distinguished chairman of the Public Lands, National Parks, and Forests Subcommittee, Senator BUMPERS, and the chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, for moving this bill to the floor so expeditiously. I also commend my colleague, Representative BEVERLY BYRON, who has been a tireless advocate for preserving this battlefield and who steered this bill through the House.

As a nation which looks to the future, we sometimes fail to remember our past. The enactment of this legislation will help to ensure that an important part of our Nation's heritage is preserved and remembered.

Monocacy National Battlefield Park in Frederick County, MD, is the site of a little-known but important Civil War battle referred to as the "battle that saved Washington." It was here on July 9, 1864, that Union soldiers blunted a bold Confederate thrust at the Nation's Capital. Although outnumbered by some 14,000 Confederates under Lt. Gen. Jubal Early, 6,000 Union troops under the command of Maj. Gen. Lew Wallace held off the advancing Confederate Forces for a day, enabling Gen. Ulysses S. Grant to strengthen Washington's defenses and warding off the Confederacy's last attempt to bring the war to the north.

Congress first recognized the importance of the Battle of Monocacy by establishing Monocacy National Military Park in 1934. But it wasn't until this year—57 years after the battlefield was first established—that the park was officially opened for public visitation. One of the principal reasons for this is that the Park Service is still in the process of completing the acquisition of property within the boundaries of the park. While some headway was made in the late 1970's under the leadership of the late Representative Goodloe Byron is preserving this site, the total amount authorized for acquisition has only been $3.5 million. Consequently, most of the battlefield is still in private ownership. Today, the Park Service owns in fee or has obtained scenic easements for approximately 1,000 acres, with an additional 600 acres within the authorized boundaries of the battlefield yet to be acquired.

Unfortunately, this remaining unacquired acreage is seriously threatened by encroaching development. The battlefield's superb location along an interstate highway corridor and within easy reach of major population concentrations in Washington, DC, Baltimore, and Frederick also provides the basis for the serious and growing threat to the park land. This is one of the fastest-growing areas in the State of Maryland. Secretary of the Interior Manuel Lujan has listed Monocacy as one of 25 most endangered American battlefields and the battlefield was the top land acquisition priority of the Park Service's National Capital Region.

Two major parcels of land in private ownership remain within the battlefield's authorized boundaries. These farms were the site of much of the fighting at the Battle of Monocacy and, despite the encroachments of recent years, remain much as they were in 1864. The owners of one of the parcels, the Trail Farm which encompasses approximately 300 acres and is zoned for industrial development, have indicated that family circumstances may force the sale of the property this year. Private developers have expressed an interest in acquiring the property, but the family would prefer to sell to the Park Service. However, the Park Service's authorized ceiling for acquisition of battlefield property is inadequate to purchase the tract.

The legislation before the Senate does not expand the boundaries of the battlefield; it simply provides the National Park Service with additional authority for this land acquisition by authorizing an additional $20 million to permit the acquisition of the remaining 600 acres within the battlefield boundary. This is the estimated cost of completing all authorized land acquisition.

Mr. President, this beautiful area—so important to the history of this country—must be protected before the opportunity to preserve and interpret this battlefield is lost forever. I urge my colleagues to join me in supporting this legislation.

STONES RIVER NATIONAL BATTLEFIELD

The Senate proceeded to consider the bill (H.R. 2370) to expand the boundaries of Stones River National Battlefield, TN, and or other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD BOUNDARY CHANGE.

The Act entitled "An Act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes", approved December 23, 1987 (101 Stat. 1433), is amended as follows:

(1) In the first sentence of section 1(a) strike "numbered 327/80,001, and dated March 1987" and insert [**"numbered 327/80,004A, and dated September 1991"**] *numbered 327/80,004B, and dated November 1991.*

(2) In section 1(b), insert "(1)" after "LANDS.—", and add at the end thereof the following:

[**"(2) Before acquiring any lands under this Act whose surface has been substantially disturbed or which are believed by the Secretary to contain hazardous wastes, the Secretary shall (A) prepare a report on the potential hazardous wastes or similar problems associated with such lands and the costs of restoring such lands, together with a plan of the remedial steps that must be taken to correct the situation in order to proceed with the acquisition in a timely manner, and (B) submit the report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.**]

"(2)(A) Before acquiring any lands under this Act where the surface of such lands has been substantially disturbed or which are believed by the Secretary to contain hazardous substances, the Secretary shall prepare a report on the potential hazardous substances associated with such lands and the estimated cost of restoring such lands, together with a plan of the remedial measures necessary to allow acquisition of such lands to proceed in a timely manner, consistent with the requirements of subparagraph (B). The Secretary shall submit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).

"(3)(A) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquistion by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever is later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisiton, less the fair market value of the term retained by the owner.

"(B) Any right of use and occupancy retained pursuant to this section may, during its existence, by conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this Act. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

"(C) This paragraph applies only to owners who have reached the age of majority.

"(D) As used in this paragraph, the term 'improved property' means a detached, year-round noncommercial residential dwelling, the construction of which was begun before the date of enactment of this paragraph, together with so much of the land on which the dwelling is stituated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.".

(3) Section 2 is amended to read as follows:

"SEC. 2. AGREEMENT.

"The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, containing each of the following provisions—

"(1) If the city agrees to acquire sufficient interest in land to construct a trail linking the battlefield with Fortress Rosecrans, to construct such trail, and to operate and maintain the trail in accordance with standards approved by the Secretary, the Secretary shall (A) transfer to the city the funds available to the Secretary for the acquisition of such lands and for the construction of the trail, and (B) provide technical assistance to the city and to Rutherford County for the purpose of development and planning of the trail.

"(2) The Secretary shall agree to accept the transfer by donation from the city of the remnants of Fortress Rosecrans at Old Fort Park, and following such transfer, to preserve and interpret the fortress as part of the battlefield.

"(3) In administering the Fortress Rosecrans, the Secretary is authorized to enter a cooperative agreement with the city of Murfreesboro, Tennessee for the rendering, on a nonreimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

(4) Redesignate section 3 as section 4, and insert the following new section after section 2:

"SEC. 3. PLANNING.

"(a) PREPARATION OF PLAN FOR REDOUBT BRANNAN.—The Secretary shall, on or before February 1, 1992, prepare a plan for the preservation and interpretation of Redoubt Brannan.

"(b) UPDATE OF GENERAL MANAGEMENT PLAN.—The Secretary shall, on or before March 13, 1993, update the General Management Plan for the Stones River National Battlefield.

"(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to the city and to Rutherford County in the development of zoning ordinances and other land use controls that would help preserve historically significant areas adjacent to the battlefield.

"(d) MINOR BOUNDARY REVISIONS.—If the planning activities conducted under subsections (a) and (b) of this section show a need for minor revisions of the boundaries indicated on the map referred to in section 1 of this Act, the Secretary may, following timely notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so and providing an opportunity for public comment, make such minor revisions by publication of a revised boundary map or other description in the Federal Register.".

So the bill (H.R. 2370), as amended, was deemed read the third time and passed.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION AUTHORIZATION ACT

The bill (H.R. 3387) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 327, S. 452, authorizing jurisdiction transfer; that the committee amendments be adopted; that the bill be read a third time and passed; and the motion to reconsider be laid on the table.

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

TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN LAND

The Senate proceeded to consider the bill (S. 452) to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown italic.)

S. 452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. ADMINISTRATIVE TRANSFER TO THE SECRETARY OF THE INTERIOR.

[(a) AUTHORIZATION OF TRANSFER.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, the approximately 840 acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch portion to BLM", as generally depicted on the map entitled "Ekberg Copper Spur Ranch Land Exchange Proposed" dated September 1989, which lands shall be administered by the Bureau of Land Management in accordance with the law generally applicable to the public lands.

[(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a map and a legal description of the land transferred to the administrative jurisdiction of the Secretary of the Interior pursuant to subsection (a), and the map and description shall have the same force and effect as if they were included in this Act.

[(2) The Secretary of the Interior may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

[(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

[(c) RESERVATION OF EASEMENT.—The land transferred to the administrative jurisdiction of the Secretary of the Interior pursuant to subsection (a) shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741–43), on October 6, 1988.]

[SEC. 2.] *SECTION 1.* EKBERG-COPPER SPUR LAND EXCHANGE.

(a) AUTHORIZATION OF EXCHANGE.—(1) As soon as practicable after receipt of an offer from the owner, the Secretary of Agriculture shall accept title to the approximately 427 acres of land located in Pennington County, South Dakota, described as "Tract A" and "Tract B", as generally depicted on a [map described in section 1(a),] *map entitled "Ekberg-Copper Spur Ranch Land Exchange—Proposed", dated September 1989,* which lands shall thereupon become part of the Black Hills National Forest and shall be administered by the Secretary of Agriculture in accordance with the [law] *laws* applicable to the National Forest System.

(2) Upon receipt of title to the land described in paragraph (1), the Secretary of Agriculture shall convey to the owner of that land all right, title, and interest of the United States in the approximately [720] *560* acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch—portion to Ekberg", as generally depicted on the map described in section 1(a).

(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file with [the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee of Agriculture of the House of Representatives] *the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives* a map and a legal description of the land conveyed to the Secretary of Agriculture pursuant to subsection (a)(1), and the map and description shall have the same force and effect as if they were included in this Act.

(2) The Secretary of Agriculture may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) RESERVATION OF EASEMENTS.—(1) The land conveyed into private ownership pursuant to subsection (a)(2) land shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741-43), on October 6, 1988.

(2)(A) The land conveyed into private ownership pursuant to subsection (a)(2) shall be subject to easements for ingress and egress through such lands for the benefit of the United States and the public granted between agencies of the United States on May 10, 1989, and recorded in Routt County, Colorado (Reception Numbered 380443, Book 643, pages 0051-0055) and all other easements of record.

(B)(i) The Bureau of Land Management and the owner of the Copper Spur Ranch shall enter into a cooperative agreement to study the feasibility of constructing access routes as alternatives to those provided by the easements described in subparagraph (A).

(ii) Upon agreement by the Bureau of Land Management on alternative access routes, the construction of such access routes at the expenses of the owner of the Copper Spur Ranch, and the conveyance to the United States of easements for use of such access routes by the United States and the public, the Secretary shall execute and deliver to the owner of the Copper Spur Ranch a release or other appropriate form of instrument extinguishing the easements described in subparagraph (A).

(d) EQUALIZATION OF PAYMENT.—If the values of the lands exchanged pursuant to subsection (a) are not equal, they shall be equalized by the payment of cash as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) without regard to the 25 percent limitation contained in that section.

(e) DATE OF EXCHANGE.—The exchange of lands authorized by subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

So the bill (S. 452) as amended was deemed read the third time and passed.

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

MARY MCLEOD BETHUNE COUNCIL HOUSE NATIONAL HISTORIC SITE

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 690.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 690) entitled "An Act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.".

Mr. REID. I move the Senate recede from its amendment to H.R. 690.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion is agreed to.

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

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

The motion to lay on the table was agreed to.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3604, the Greer Spring Acquisition and Protection Act of 1991, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3604) to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, 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.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 3604) was ordered to a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 191, designating "National Law Enforcement Training Week," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed and the motion to reconsider laid upon the table, and the preamble agreed to; further, that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 100, the Senate companion, and the measure then be indefinitely postponed.

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

So the joint resolution (H.J. Res. 191) was deemed read the third time and passed.

The preamble was agreed to.

HEALTH EDUCATION ASSISTANCE LOANS

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2050.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 2050) entitled "An Act to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause, and insert:

SECTION 1. HEALTH EDUCATION ASSISTANCE LOANS.

Notwithstanding section 728(a) of the Public Health Service Act (42 U.S.C. 294a(a)), or any other provision of law, Federal loan insurance may be provided under subpart I of part C of title VII of the Public Health Service Act for loans to new and previous borrowers under such subpart in fiscal year 1992. With respect to fiscal year 1992, the ceiling referred to in such section 728(a) shall be $290,000,000, as provided for in the Act entitled "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.".

SEC. 2. PILOT PROGRAM IN CLINICAL PHARMACOLOGY.

(a) ESTABLISHMENT.—The Commissioner of Food and Drugs is authorized to award through a competitive bid process a grant for a pilot program for the training of individuals in clinical pharmacology at an appropriate medical school without such a program. Such grant shall be for the purpose of evaluating the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1992 through 1996 $750,000 for each fiscal year to carry out this section.

Mr. REID. Mr. President, I move that the Senate concur in the amendment of the House.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

CORRECTING ENROLLMENT OF H.R. 1724

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 249, a concurrent resolution correcting a technical error in the enrollment of H.R. 1724, the MFN unemployment assistance bill; that it be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 249) was agreed to.

RETIRED ENLISTED ASSOCIATION, INCORPROATED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 338, S. 447, regarding recognition of the Retired Enlisted Association, Incorporated; that the bill be deemed read three times and passed, and the motion to reconsider be laid upon the table.

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

So the bill (S. 447) was deemed read the third time and passed, as follows:

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER

The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Retired Enlisted Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the law of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for retired enlisted service members, veterans and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 9. RESTRICTIONS.

(a) INCOME AND ASSETS.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) SHARES OF STOCK.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 11. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspect by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"The Retired Enlisted Association, Incorporated.".

SEC. 13. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

SEC. 14. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 15. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 16. TAX EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 17. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

SEC. 18. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

EXPRESSIONS OF GRATITUDE

Mr. BYRD. Mr. President, I have listened to a number of my colleagues this evening as they have extolled the talents and the virtues and the excellent work of the able senior Senator from New York [Mr. MOYNIHAN], and so I rise at this time to add my modest expressions of gratitude and praise concerning this great Senator for the work that he has done in fashioning the highway bill.

Cato said that he would prefer that men ask why there was no statue built in his memory than for men to ask why a statue had been built for him. If I had my way about it, this bill would be named the Moynihan bill, in his memory. I would embellish the title a bit, for he is certainly deserving of such a eulogy as a deserved tribute to his skill and craftsmanship, his fairness and his patriotism.

I have had occasion to seek the work of others in the forming of this great body. Its roots came from our mother country, as we recall that the blood of Englishmen was shed for many of the rights that we have seen included in our own Constitution. And its roots likewise sprang from the Continental Congresses, the Congress under the Federation, and the Constitutional Convention. And as I have witnessed in my mind's eye those men who helped to shape this country, who helped to shape its governmental system, and as I have watched those illustrious Senators in the first Congress and in other Congresses down through the more than 20 decades of this institution's existence and this Republican form of Government, I have looked at PAT MOYNIHAN many times and thought that he is such a man as those great men who graced those early Congresses. He could well have served in

any era and any age and any period of this Nation's history.

I count it a privilege to be his colleague. He is a man of extraordinary talents, extraordinary experience, and extraordinary vision, and he applies those talents, that experience and that vision in his work as a legislative craftsman. In short, he has class.

I saw them tearing a building down,
A group of men in a busy town;
With a ho-heave-ho, and a lusty yell,
They swung a beam and the sidewall fell.
I said to the foreman, "Are these men skilled,
The type you'd hire if you had to build?"
He laughed and then he said, "No, indeed;
Just common labor is all I need.
I can easily wreck in a day or two
That which takes builders years to do."
I said to myself as I walked away,
Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square,
Am I shaping my deeds by a well-laid plan,
Patiently building the best I can?
Or am I a fellow who walks the town
Content with the labor of tearing down?

The Senator of whom I speak is a builder. We have witnessed his product as we have seen it shaped and molded to his will and to the will of those who have worked with him and beside him. He has produced a piece of legislation that is a milestone in this institution's legislative history. The bill has been crafted by the conference through round-the-clock meetings over a great many days and, without his ceaseless efforts, we would not be praising this work tonight, nor would we be poised to adopt the conference report thereof.

As recently as two days ago, some members of the conference and the administration questioned whether a bill could be produced in the time remaining in this session. They said the differences were too great, both between the House and the Senate, and between the Congress and the administration. Some advocated a simple extension of the current program. Some said that we should return in the second session and address the problem and try at that time to bring forth a transportation bill.

But the Senator from New York would have none of that. He moved with dispatch this past spring in bringing a bill to the Senate. My colleagues will recall that during that debate, the Senate adopted my amendment providing for a level of effort program which recognized the needs of those States that were already taxing their citizens at a higher-than-average rate for road improvements while having a less-than-average tax base to meet those needs.

While the final conference report does not retain that format in its exactitude, the Senator from New York has kept me apprised during the deliberations of the progress, of the problems, of the delays.

He saw to it that the final product protected States like mine and many others that will now have their unique status recognized. His State, like mine, is one of those States that are a part of Appalachia. Mine is the only State that is wholly within that unique region.

The bill takes tremendous strides toward meeting the infrastructure needs of all regions of the country. As many Members know, I spent a great many hours at the budget summit last year, at which I advocated the need to invest in our country's infrastructure, both human and physical. In the give and take of those summit negotiations, I believe that we were successful in obtaining some of the necessary spending authority to move forward in meeting our Nation's infrastructure needs. The legislation that Senator MOYNIHAN and his colleagues on his subcommittee and full committee have put together in concert with the Members of the other body goes a long way toward implementing the views that were expressed at that summit.

The legislation will contribute to the infrastructure of the country, and in so doing will contribute greatly to the country's strength. It will put men and women to work. It will stimulate the economy. And those men and women who work will be taxpayers rather than tax consumers.

The bill is an expression of faith in our country's future. We are living at a time when there are long unemployment lines of men and women who want to work but who cannot find work. We are living at a time when the infrastructure of the Nation is deteriorating—our bridges are falling down, our roads are caving in, our waterways need repairing, and other segments and elements of the infrastructure are also in serious need of repair.

This legislation promises over the next 6 years to do something about the needs of this great country in that respect.

DeTocqueville, who visited this country in 1840, referred to the "incredible American." He said that "the incredible American believes that if something has not yet been accomplished, it is because he", the incredible American, "has not yet attempted it." And since deTocqueville made that statement, this country fought the Mexican War, the Civil War, the Spanish American War, the First World War, the Second World War, the war in Korea, the war in Vietnam, the Persian Gulf war.

It has survived many recessions and panics—the Great Depression of the thirties—and has emerged in these recent years, of course, the greatest and strongest Nation on the face of the globe because the incredible American believes that he can accomplish whatever he attempts. Now the Nation will have another tool with which to build, to attempt and to accomplish.

I am reminded of the biblical parable of the sower. A sower went out to sow his seed, and some of it fell by the wayside. It was trodden down and the fowls of the air devoured it. Some of it fell upon a rock, and as soon as it sprang up, it withered away because it lacked moisture. Some fell among thorns, and the thorns sprang up with it and choked it. And others fell on good ground, and sprang up, and it brought forth fruit a hundredfold.

Senator MOYNIHAN has sown seed upon good ground, and it will bear fruit a hundredfold.

As a Senator from West Virginia, I thank Senator MOYNIHAN for the attention that he has given to States like mine. It is not easy. It takes a master craftsman to put together a bill like this. And one must not only put together the legislation itself, but he must also put together the votes with which to carry the legislation. In doing so, he has thought of the Nation. I daresay that he has thought on many occasions more about other States and their needs, perhaps, than his own, because he has put the Nation first. That is the only way to think and act when one writes legislation such as the highway bill.

I think of the words of Thomas Babington Macaulay. They are very appropriate here:

> Of all inventions, the alphabet and the printing press alone excepted, those inventions which abridge distance have done most for the civilization of our species. Every improvement of the means of locomotion benefits mankind morally and intellectually, as well as materially, and not only facilitates the interchange of the various productions of nature and art but tends to remove national and provincial antipathies and to bind together all the branches of the great human family.

I could say nothing that would more nearly express my own feelings than to say that Senator MOYNIHAN's work comports with the vision and thought expressed in the words of Macaulay.

Mr. President, a nation is made great not by its acres, but by the men who cultivate them; not by its minerals, but by the men and the women who mine them. America was a great country before Columbus discovered it. Men and women have made it a great nation.

Senator MOYNIHAN and his colleagues have worked to give to the men and women of this country something for their hands to do, something to challenge their spirits, and something that will result in a greater Nation and a happier people. Future generations will rise up to call him blessed.

Not gold, but only men can make a nation great and strong;
Men who for truth and honor's sake stand fast and labor long;
Real men who work while others sleep.
Who dare while others fly.
They build a nation's pillars deep
And lift them to the sky.

Such a man is Senator PAT MOYNIHAN.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have no words at this moment that would be adequate to my sense of gratitude to our revered, our revered, President pro tempore. As he spoke about the Senator from New York, as he spoke he made very clear about all of my colleagues in this enterprise. It has been a bipartisan, bicameral effort.

But, oh, what nation on Earth is graced by the President of the Senate who can stand ex tempore and cite Cato, and quote de Tocqueville, and summon from all that vast ocean of writings what must be the only remark Thomas Babington Macaulay ever made about roads. Only he. And that is why we treasure him, and that is why he graces this Nation and our body. My deepest and heartfelt gratitude.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 5 minutes as in morning business.

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

EXTENSION OF TAX CREDITS

Mr. DOMENICI. Mr. President, I understand we have a tax-extender measure. I have a statement that explains my position in support of them and why, and recommends in strong terms that we stop doing the tax extenders on such a short timeframe when, indeed, they are expected to be long timeframe oriented. Nonetheless, it is better that we do it now than next year when we would have to make them retroactive. We have done that on occasion, also.

Mr. President, in 1913, the U.S. Congress was given the power to tax according to the 16th amendment. Since that time the Congress has utilized this power not only to pay for the vital needs of our Nation, but to encourage and reward productive forms of behavior. Using the Tax Code as our tool, the Congress has established a history of tax policy initiatives that stimulate growth and create jobs and opportunity for Americans.

For instance, in 1978, the Congress created the employer education assistance tax credit. In 1980, the Congress created the mortgage revenue bond tax credit. In 1986, the Congress enacted the low-income housing tax credit. All of these, as well as nine other provisions before the Senate for extension today, were created out of a belief that an investment in capital and human resources should be rewarded.

I support the extension of these 12 tax credits, and I am especially pleased that a revenue source has been earmarked such that the extensions comply with the Budget Reconciliation Act of 1990.

It is unfortunate, however, that these measures have not had the opportunity to come before the Senate prior to the 11th hour, so that their merits might be debated freely, and lengthier extensions might be considered based on the merits and effectiveness of the tax credits individually.

In order for any tax policy to be an effective tool of democracy, individuals must have confidence that the credit is real. The action we are taking today to extend these credits for an additional 6 months is commendable in light of the alternative, to postpone and enact them retroactively. Yet, how can the Congress possibly expect these credits to be effective if their fate is questioned annually, or biannually?

The common bond among all of these 12 credits is that they reward long-term investment and planning. However, these credits will do little to encourage a long-term perspective if their availability poses a greater risk to investors than a return on the investment itself.

I have been a longtime supporter of many of the components of this legislation. In New Mexico, tax-exempt mortgage revenue bonds have enabled over 20,000 families to purchase a first home. Without the availability of these low-interest loans, backed by tax-exempt mortgage revenue bonds, 80 percent of those New Mexicans would not have been able to achieve the dream of home ownership.

Likewise each year in New Mexico, the low-income housing credit leverages approximately 25 million dollars' worth of low-income housing construction and creates over 800 jobs. Yet, many prudent investors that would undoubtedly take advantage of credit do not because each year the availability of the credit is again in doubt.

Research and development in our Nation's industries is vital to our international competitiveness and prosperity in years to come. In this regard, I am most hopeful that the research and tax credit along with the others will be considered for permanent extension before the close of the 102d Congress.

In conclusion, I urge my colleagues to view tax policy as a method for rewarding individual effort, constructive investment, and healthy risk. The most important thing we can do to help Americans is to help them help themselves. A capitalistic society requires the formation of capital, and employment requires the presence of employers. Thank you for your consideration of these thoughts.

IN SUPPORT LEGISLATION TO EXTEND CERTAIN EXPIRING TAX PROVISIONS

Mr. LIEBERMAN. Mr. President, I rise to strongly support this legislation to extend certain expiring tax credits which are so important to our economy and to jobs for our people. These tax credits include: First, exclusion for employer-provided educational assistance; second, exclusion for employer-provided group level services; tax exemption for qualified group legal services organizations; third, deduction for health insurance costs of self-employed individuals; fourth, qualified mortgage bonds and mortgage credit certificates; fifth, qualified small-issue manufacturing bonds; sixth, allocation and apportionment of research expenses; seventh, tax credit for qualified research expenditures; eighth, tax credit for low-income rental housing; ninth, targeted jobs tax credit; tenth, business energy tax credits for solar and geothermal property; eleventh, tax credit for orphan drug clinical testing expenses; and twelfth, minimum tax exception for gifts of appreciated tangible property.

Everyone gains with the extension of these soon to expire tax credits. Failing to enact this legislation would have dire effects on our already suffering economy.

For example, the mortgage revenue bonds are absolutely crucial for both low-income homebuyers and for the real estate industry. Connecticut homebuyers, realtors, and builders are all suffering as a result of our present recession. Extending the mortgage revenue bond tax exemption is the least we can do to assist them and their counterparts throughout the nation.

The R&D tax credit is the cornerstone of building a competitive manufacturing base in this country. R&D spending by American companies is slipping and, without this tax credit, will go into a freefall.

Yesterday, I introduced a bill that would extend an enhanced R&D tax credit for consortia. We need to do as much as we can to aid companies in the development of new products so they can compete in the international marketplace. While I realize that we cannot act on this legislation today, I believe the least we should do to help American firms develop new products and technologies is extend the existing R&D tax credit.

The targeted jobs tax credit is one of the most important and popular provisions in the package. The business community, particularly small businesses, rely on this to help them remain profitable. Not to renew it would place another burden at a time when they can least afford it.

Mr. President, we must act favorably on this bill. It is important to workers and businesses across the Nation.

Mr. BENTSEN. Mr. President, one dozen tax provisions are due to expire at the end of this year. These provisions, among other things, encourage research and development, promote the construction of low-income housing, improve the availability of mortgages, and help the employment prospects of

those with special employment needs. It was to prevent the imminent expiration of these provisions that the Finance Committee yesterday unanimously reported a bill on an emergency basis. That bill, S. 2042, was filed yesterday.

These important provisions can provide a sorely needed economic stimulus, and assist in the economy's long-term growth through the encouragement of R&D, education, housing construction, and job creation. Moreover, extension of these provisions at this time avoids the disruption and uncertainty in the affairs of taxpayers that can occur if the provisions are allowed to expire only to be later extended retroactively.

Under the bill, the expiring provisions would be extended for 6 months, through June 30, 1992. The revenue loss from this action would be entirely financed by one provision, a provision that would require large corporations to pay their tax liabilities more currently during the course of the year. Specifically, the proposal would require large corporations—those with over $1 million in taxable income—to pay estimated taxes based on 95 percent of the current year's tax liability, instead of 90 percent as current law allows. This provision would be phased in gradually over 5 years and sunsetted after 1996.

Earlier today, the House passed a bill—H.R. 3909—identical to this bill, S. 2042. I am delighted that we were able to obtain unanimous consent in the Senate for adoption of this bill. The House action and the Senate's unanimous consent completes an agreement to have identical bills without amendments, dispensing with the need for a conference. At the Finance Committee's markup, the Treasury representative indicated that the President would sign this bill.

Adoption of this bill without amendments reflects an extraordinary cooperative effort on the part of both bodies, on both sides of the aisle, and of the administration. I would like to thank Chairman ROSTENKOWSKI and Senator PACKWOOD for their efforts on this bill. I would particularly like to thank Senators DANFORTH, CHAFEE, and DODD, whose efforts to get the agreement of 79 Senators to oppose amendments to this bill paved the way for its passage.

TAX CREDIT EXTENDERS

Mr. DODD. Mr. President, I understand either later today or at some other point, the majority leader, I think in conjunction with the minority leader, Senator DOLE, will propound a unanimous-consent request to be able to bring up some 12 extenders of tax credits, including the research and development tax credit, the low-income housing tax credit, an educational tax credit, targeted jobs tax credit. There are a number of others. I do not have the list in front of me.

As one who worked with the senior Senator from Missouri, Senator DANFORTH, in soliciting the signatures I think of some 75 or so of our colleagues on a letter to the leadership suggesting that if these tax extenders, credit extenders were brought up on the floor of the Senate, none of the undersigned would support or offer any additional amendments to such a proposal.

I thank Senator BENTSEN and other members of the Finance Committee, along with the leadership, for their willingness to at least make such a request if, in fact, it is made and strongly urge that our colleagues would agree to that unanimous-consent request and allow for that package to come forward.

I know there are a number of provisions that other Members would like to raise, including this Member, on such a tax proposal—one including the tax on boats which has been a devastating blow to the marine industry in my State and throughout the New England area and I realize in other parts of the country.

As tempting as it would be to offer some tax relief for that industry that has been hard hit, I, for one, will forbear and agree and support this package of tax credit extenders because all of those extenders will expire on the 31st of December. That could be a major blow to a State like mine that has effectively used those tax credits to educate people—employers have—who would otherwise not have received the higher education; there are some 100,000 jobs, not to mention the incubator businesses that use the R&D tax credits to either expand or start new businesses.

So I hope when that proposal is raised, there will be unanimous support for that matter coming forward without any amendments, that we will be able to support the extension despite the temptation that every single one of us would have to utilize that tax vehicle to bring up other proposals that would be of some significance to our States and our constituencies.

This is one proposal I believe can make a significant difference before our adjournment, in trying to help jump start an economy that is on its back.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

JIM SASSER TAX EXTENDER LEGISLATOR

Mr. SASSER. Mr. President I rise to urge my colleagues to vote for H.R. 3909, legislation which provides for a 6-month extension of a variety of tax laws which would otherwise expire in 1991.

This legislation, reported out unanimously by the Senate Finance Committee, must be passed before the Congress adjourns.

Some 12 tax provisions are extended, but I would like to devote my remarks to two of these expiring tax provisions.

The first is the Mortgage Revenue Bond Program. This tax provision permits qualified governmental units to issue mortgage revenue bonds, the proceeds of which are used to provide affordable housing to many citizens who otherwise could not own their own home.

In 1990, State housing finance agencies issued some $8.6 billion in mortgage revenue bonds which permitted the issuance of some 131,000 loans for affordable housing. In my State of Tennessee, the State Housing Development Agency issued loans which permitted some 4,700 families and individuals to own their own homes. The average income of the Tennessee home purchaser was about $27,000 and the average home purchase price was about $44,000 under the State's Mortgage Revenue Bond Program.

The mortgage revenue bond tax provision which has been in effect since 1981 has helped qualified State and local agencies create and finance affordable housing throughout the country. At a time when the income squeeze is putting more and more families out of the housing market, the Mortgage Revenue Bond Program helps bring back the dream of homeownership to thousands of American workers and their families.

Another provision which deserves mention is the low-income housing tax credit which was enacted as part of the Tax Reform Act of 1986.

This tax credit promotes the construction or substantial rehabilitation of low-income housing units. Again this tax credit is of key importance to our housing industry.

In 1989 and 1990 some $517 million in low-income tax credits were used to finance the construction and rehabilitation of nearly 200,000 low-income housing units. In Tennessee, this tax credit helped provide some 4,000 units of low-income housing.

During a time when we need to construct, and rehabilitate as many housing units as possible and make housing more affordable to our citizens, these two tax provisions deserve our support.

By passing H.R. 3909, these tax credits can help bolster an anemic housing market in Tennessee and the Nation.

EXTENSION OF EXPIRING TAX PROVISIONS, S. 1950

Mr. DURENBERGER. Mr. President I rise to express my support for the extension of a group of tax provisions which are due to expire at the end of 1991. While this legislation by no means represents all that could or should be done in the tax arena, I am pleased that the Senate is acting to ensure that there will not be undue disruption in the lives of the many Americans who rely on these expiring programs.

The mere fact that the Senate is considering this tax measure is due in large part to the efforts of the senior Senator from Missouri. Senator DANFORTH worked to ensure that the extension of these items did not get bogged down by unlimited amendments. I commend and thank my friend for his efforts.

This legislation is more than just another bill which the Congress is rushing to complete before adjournment. Consideration and, ultimately, extension of these expiring provisions represents a renewed commitment to the individuals who benefit, both directly and indirectly, from these important programs and to the problems which they seek to address.

I am particularly pleased that this legislative package calls for renewal of the 25-percent deduction for the health insurance costs of the self-employed. I would, of course, prefer that this modest benefit to America's farmers and small-business people be increased to a 100-percent deduction. I also believe that it should be made permanent to avoid this annual uncertainty. However, any extension or relief, particularly during a recession, is critical to ensure that self-employed individuals are not forced to cancel what insurance they do have.

Despite what I expect will be a partial victory today, I will continue to work for the permanent extension of the 25-percent deduction, as well as a 100-percent deduction, for these health insurance costs through passage of legislation which I introduced at the beginning of the 102d Congress.

This deduction provision is not perfect, but it is an essential element in enabling individuals to provide health insurance for themselves and their families. Because all corporations in America enjoy a complete deduction for their health insurance expenses, this is not only an issue of sound policy for the self-employed, it is one of basic fairness.

Mortgage revenue bonds are another program which has been of great value to families of modest incomes. It has permitted many Americans to achieve the dream of home ownership and has also been effective in creating jobs for many tens of thousands of Americans. As the country continues to work its way out of recession, the value of this program cannot be underestimated for stimulating the economy and for assuring continued access to home ownership.

More directly, the targeted jobs tax credit has been responsible for the employment of many Americans who are likely to have difficulty obtaining steady employment. This program aids targeted groups of people by making it competitive for businesses to hire them for steady employment. The workers benefit through their acquisition of valuable work experience at the same time that they make valuable contributions to businesses and to the Nation's work force.

Our work force is also enhanced by the program in this bill which excludes from an employee's income the value of employer-provided educational assistance. What this means is that workers are not discouraged from seeking further education because they will be taxed on its value. Anything less than what this provision tries to accomplish sends the wrong message to workers and to business about the value of education.

It is in the best interest of the Nation to help workers to improve themselves by offering them a chance to build on existing skills and to acquire new ones. This program is the embodiment of the long-term view, which is too often left out of the planning of both businesses and government.

Likewise, the research and development tax credit in this legislation is essential for helping U.S. businesses develop new technologies. Because the cost of research can be enormous, this program enables businesses to look beyond the financial pressures of short-term and purely commercial applications by providing a tax credit to offset new research spending. The result is that American businesses will continue to be leaders in industry and will not lose the battle of competitiveness with our foreign competitors.

While I am very pleased to see these programs go forward, my enthusiasm is not unqualified. Like many of my colleagues, this legislation is not all that I would like it to be. However, because of the importance of a few provisions in this bill, I have joined 78 of my colleagues in signing a letter pledging our commitment to opposing any amendments to this bill, no matter how attractive or important they might be. Like most legislation which passes through this body, this bill is not perfect. But I will support it.

I am disappointed that the Senate will not consider the repeal of the excise tax on boats, which I believe has been responsible for a dramatic downturn in the boat manufacturing industry in my State and throughout the Nation. My disappointment is tempered only by the commitment of the Finance Committee to address this issue, as well as all of the other so-called luxury excise taxes, at the earliest possible opportunity when the Senate reconvenes in 1992.

I likewise regret that the Senate has not made needed modifications within this list of expiring provisions itself. Since this extension is for just a 6-month period, however, I am confident that the tax-writing committees in the Congress will make necessary refinements in existing programs, as well as a new evaluation of all of these provisions in the first part of 1992.

Mr. President, I hope that the full Senate will join me in voting to extend the 12 expiring tax provisions so that great disruption can be avoided for the millions of people who rely on these expiring tax provisions.

REAL ESTATE TASK FORCE

Mr. DOMENICI. Mr. President, in late October, not too long ago, the Republican leader created a small task force, a Senate Republican task force on real estate, and asked seven of us—I was the chairman—to look into what had happened to real estate in the United States; why was it in some kind of a freefall: more important, what was that doing to the economy today, how much was it contributing?

Interestingly, enough, everyone should know that while we regularly look at the economy as if something as static as real estate was not really a part of the GNP or a significant part of our wealth, let me suggest that it is quite the opposite. The evidence is quite extensive that about 25 percent of our GNP annually is the result of transactions involving some kind of real estate or improved real estate, that 75 percent of the wealth or asset value of the Nation is as the sum total of real estate and real-estate-related transaction.

So it is obvious, when you have a huge portion of your real estate in a freefall, for whatever reason—we think some of it is from the Tax Code, we think some of it is for other reasons—clearly, it has a very, very big negative effect on the economy and a drag on growth and prosperity.

We are still going to continue to look at that and will not report it in depth until later on in the early part of the year, because Congress is in the midst of passing a banking bill, RTC bill, and a few other items that clearly can have a dramatic impact on whether the value of real estate stabilizes or continues to fall. We did report that to the leader in a letter dated November 25. I ask unanimous consent to make that a part of the RECORD.

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

COMMITTEE ON THE BUDGET,
Washington, DC.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR LEADER: The Republican Task Force on Real Estate has been meeting regularly since you created it in October. We have solicited and received analyses and recommendations from over 40 real estate and financial organizations. We have also met with the Chairmen of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Director of the Office of Thrift Supervision.

The one word that seems to dominate these discussions has been confidence. There is a current and dire need to restore confidence in the real estate market. We believe the real estate market is clearly undergoing significant economic stress, brought on in

large part by a combination of inflation in the 1970's and selected tax policies of the 1980's. In part, because of this past history, the industry is also undergoing structural changes that will fundamentally change its future and the way we, as legislators, should think about policies that affect this industry.

The Task Force intends to continue during the recess and to provide you with a final report in December. That report will address both regulatory and legislative reforms that we believe could help restore confidence in the short term and stimulate longer term industry growth.

In these last days of this first session, however, we believe action can be taken both by the Congress and the Administration to restore some degree of confidence in the market. We would propose that the legislative items identified be included in any conference agreement on the banking bill or as amendments to the Resolution Trust Corporation (RTC) funding legislation or other relevant legislation. Some items can be done administratively and we encourage the President to act quickly on such items through existing regulatory authorities.

The Task Force's short term recommendations follow (details appear on the attachment to this letter):

1. Credit Availability Amendment. The House RTC funding bill includes language that would effectively prevent lenders from having to dump real estate assets onto an already depressed market. It accomplishes this by allowing the Director of the OTS to grant temporary and limited relief in meeting capital requirements against real estate held by thrifts. No such language exists in the Senate banking bill. We strongly endorse the House language.

2. Open Bank Assistance Amendment. Both the House and Senate Banking bills include language that as drafted would restrict beyond current law the ability of regulators to work out problem loans for weak banks. We believe the language must be modified or dropped completely to prevent additional bank failures so as to allow regulators the flexibility to deal with weak banks in the current real estate market.

3. Early Resolution Amendment. Troubled banks need to be assisted as early as possible through alternative work-out arrangements and mergers. We believe this would be the most cost effective approach for the American taxpayer.

The Senate banking bill included sense of the Senate language that regulators should facilitate the early resolution of troubled institutions. We believe this language should be retained in any conference agreement. House language for early resolution of failing banks requires that the directors be removed and shareholders' claims be repudiated. Such language should be removed from any conference agreement and the Administration should pursue the intent outlined in the Senate bill.

4. Real Estate Appraisal Amendment. This amendment was recently adopted on the Senate Banking bill and has been included in the House reported RTC funding bill. The Senate bill language should be adopted in any conference agreement or absent legislation the President should move to implement the intent of the Senate bill through existing authorities. Certified appraisals must be used on loans made after January 1. This provision should be relaxed given the current state of the real estate market.

5. Regulators have existing authority to reduce the capital weighting requirements for loans of nonspeculative residential properties to 50 percent. Current practice is to place this at 100 percent. The Administration should move rapidly to reduce this capital requirement through regulatory means without the need for legislation as included in the House banking bill. Such legislative action could jeopardize the carefully negotiated Basel Accord.

6. Extension of certain expiring housing tax provisions. Finally, the amendment should include an extension of two expiring housing tax provisions, one for low-income housing and a second for mortgage backed revenue bonds. If this creates a constitutional problem as it relates to the origination clause, a separate revenue measure should be identified.

We believe these Task Force recommendations are small but doable steps in providing some assurances to the real estate market now before Congress adjourns. We have identified these problems and are prepared to act quickly. Longer term recommendations will be sent to you later.

We look forward to assisting you in the adoption of your Task Force on Real Estate's recommendations.

Sincerely,

Pete V. Domenici, Chairman; Senator John Danforth, Senator John McCain, Senator John Seymour, Senator John Chafee, Senator Connie Mack, Senator Warren Rudman.

BACKGROUND TO REAL ESTATE TASK FORCE PROPOSALS

CREDIT AVAILABILITY

Current law requires thrifts to set aside an increasing amount of capital against their investments in and loans to subsidiaries that engage in certain real estate related activities. By 1994, thrifts will be required to hold dollar for dollar capital against these investments and loans. This has already resulted in thrifts being forced to sell these assets in deteriorating markets where there are no buyers.

This amendment gives regulators flexibility to grant temporary relief to thrifts by allowing them to restructure their real estate lending portfolio to better reflect sluggish real estate markets. This will stop the flooding of real estate related assets at firesale prices which further erodes the market. It also allows banks to use capital towards other lending which can ease the credit crunch and help stimulate the economy.

OPEN BANK ASSISTANCE AMENDMENT (EARLY RESOLUTION/ASSISTED MERGERS)

Early resolution/assisted mergers is a cost-effective alternative to closing institutions and adding to the government's liquidation burden. Given the current severe dislocation in commercial real estate markets, it is important to provide regulators with flexibility to arrange such assisted mergers to both lessen the cost of resolution and keep affected real estate in private sector management and ownership.

Early resolution/assisted mergers is a program for banks and thrifts which should substantially reduce the cost to potential failures. Experience has taught us that institutions, which are solvent but have severe asset problems, tend to deteriorate very rapidly. Thus, the costs of eventual resolution can sky rocket.

Early resolution/assisted mergers would involve open assistance for a troubled institution as part of a merger with a well-managed, well-capitalized institution. As a condition for receiving assistance, the troubled institution's existing shareholders and bondholders would make substantial concessions.

The objective of this program would be to effect the resolution of the troubled institution as early as possible to lessen the deterioration of the institution's deposit franchise and thus reduce the cost to the taxpayer. Additionally, a majority of the troubled institution's assets—in particular its commercial real estate—would remain in the private sector, under the control of the acquiring institution's management, who would have incentives to work out this real estate in the most efficient manner.

21The Task Force commends the inclusion of the Early resolution Provision in the Banking Bill that will encourage the Federal Banking agencies to facilitate early resolution of trouble depository institutions.

Accelerated Resolution Program

The Early Resolution/Assisted Mergers proposal has grown out of the OTS/RTC success with the Accelerated Resolution Program (ARP). In ARP, OTS markets failing thrift with RTC assistance prior to closing. At the point of sale the institution is in place into a pass-through receivership, wiping out existing shareholders and bondholders.

By selling failing thrifts while they are still open the government is able to keep the institution's deposit franchises intact and usually results in a better premium than that obtained through a conservatorship sale.

The OTS and RTC have used their authority in the ARP toresolve 26 institutions. Three resolutions were arranged at no cost to the taxpayer.

ARP has the added benefit of selling the bulk of the institution's assets, at the time of resolution. This keeps these assets out of the RTC and outside the already substantial government liquidation process.

The Task Force recommends using this approach as a model for resolving banks as well as thrifts.

EARLY INTERVENTION

Early intervention is part of "prompt corrective action" for banks or thrifts that are dommed to fail. Early intervention takes place before an institution's capital reaches zero and mandates government intervention once an institution's capital falls below 2 percent. While well intended, early intervention could prove to be a cost ineffective resolution mechanism for damage control.

Early intervention could force regulators to unnecessarily close several substantial institutions which have significant core earnings and are likely over the near term to recapitalize without any government assistance. With the current weak real estate markets the regulators Ned the flexibility to determine if a bank is doomed to fail.

The Task Force recommends that the Federal regulators be given sufficient administave flexiblity to determine if a bank is dommed to fail.

The Task Force recommends that the Federal regulators be given suficient adminstrative flexibility to better address declining real estate markets.

REAL ESTATE APPRAISAL AMENDMENT

Currently in many states thatre is a real estate appraiser shortage which has distorted real estate markets, added delays to closing real restage transactins, and added unnecessary costs to borrowers.

This amendment will increase the supply of real estate appraisers by extending the effective date to only use state licensed/certified appraisers and increases the loan

amounts needed to be appraised. This will provide immediate economic relief to bans, help stimulate real estate markets, and send the right message to the markets the we are serious about banking reform.

CAPITAL FOR RESIDENTIAL PROPERTIES

Regulators have the authority to reduce the risk based capital for residential construction loans for per-sold homes from 100 percent to 50 percent., This will make credit mopre easily available for homebuilders and increase the support of home for first the time homebuyers.

The Task Force recommends expedition the implementation of the policy.

Mr. DOMENICI. Mr. President, there are about six or seven items that are recommended that can be done, none of them gigantic, but a number of them have to do with areas like not letting the RTC have only one approach to a banking or savings and loan institution that is insolvent. Because, if the only approach is close them down, liquidate, pay the depositors, we add spontaneously much more real estate in the market and we add it in a nonmarket-oriented manner.

We ought to provide options so that is not the only approach to the S&L or bank that is in trouble, but rather that they can be held alive for a while until they are merged and we never dump the real estate on the market. I think everyone understands that.

There is an appraisal request in here that says why not appraise things quicker rather than slowly? Some of the appraisal techniques and mandates, certification, of certified appraisers are causing the market to go slow rather than quickly as it relates to houses and commercial real estate.

We recommend that if we do not get this done in the law, as the President suggests to the three major organizations that handle banking-related institutions, that they change their regulations so that we will not have to use registered and certified appraisers in every instance, raise the threshold on residences to $100,000 and on real estate to $250,000 is thought by a group that I worked with to be a rather reasonable and plausible approach.

There were a number of others that had to do with getting more housing financing out there quicker.

Mr. President, in late October the Senate Republican leader created the Senate Republican Task Force on Real Estate.

Leader DOLE asked me to chair the group, which included myself, Senators CHAFEE, DANFORTH, MACK, MCCAIN, SEYMOUR, and RUDMAN.

Leader DOLE charged the task force to review the current state of our real estate industry, its impact on the banking industry, credit, and our national economy.

The task force solicited and received over 40 current reviews, analyses, studies, and recommendations from financial and real estate experts.

Further, the task force has met with and had in-depth discussions with Federal Reserve Chairman Greenspan, the FDIC Chairman, Bill Taylor, and the former FDIC Chairman, Bill Seidman, along with the current Office of Thrift Supervision Director, Tim Ryan.

During the month of December the task force will continue its work and meet directly with those in the States who work daily in this area.

Yesterday, the task force transmitted a series of short-term recommendations to the Republican leader. The group will complete its longer term recommendations in December.

I want to take just a moment to highlight our initial findings.

First and foremost we conclude that there is a dire and urgent need to restore some confidence in the real estate market.

We believe that the real estate market today is clearly undergoing economic stress. But the real estate market is not homogeneous. Clearly, the commercial real estate market is under more stress than is the residential market.

And recent new housing starts suggest that maybe declining interest rates are starting to strengthen that segment of the market.

Nonetheless, the stress being experienced today is in large part the result of a combination of factors, beginning with the high real estate inflation of the 1970's and early 1980's and selected tax policies of the 1980's.

The key then to long term growth in the real estate market is long term economic growth in the general economy. But as this first session of Congress comes to a conclusion the task force identified a number of items in both the banking bill and RTC funding bill that could help or in some cases distract from the goal of strengthening this market.

Those short-term recommendations are included in a letter sent yesterday to the Republican leader and which I ask unanimous consent to be printed in the RECORD at this point.

Let me say at this moment no one knows for sure what the final disposition of the banking bill or the RTC funding bill will be this evening.

Hopefully, some of our recommendations will be included in the final conference agreement on the banking bill. This would include such items as providing the Director of the OTC with some temporary and limited authority to grant relief to lenders so as not to result in these lenders having to dump additional real estate properties on an already depressed market.

We also have concluded that the pendulum may have swung too far in the direction of limiting regulators in their authority to resolve weak banks without forcing their liquidation right now. We are afraid, however, that some provisions in the House-passed banking bill may further restrict this needed flexibility to the regulators at this critical time in the industry's future.

The task force has also concluded that certain capital standards for residential construction loans for presold homes and appraisal regulations can be modified through existing authorities. We encourage the President to expedite a review of his authorities in this area and modify current regulations for the goal of stimulating the market at this time.

The task force also recommended the extension of two expiring housing tax provisions, which the Senate adopted earlier today.

The task force knows that these recommendations are not the entire answer. In fact, an honest assessment of the outlook of the real estate market is one of continued stress as it goes through some fundamental structural changes.

Nonetheless, these initial recommendations, we believe, would go a long way toward establishing some needed confidence in the market at this critical time.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE COMMITTEE ON APPROPRIATIONS

Mr. BYRD. Mr. President, now that the Senate has completed action on 12 of the 13 regular appropriations bills, in addition to four supplementals, and a continuing resolution which funds the foreign operations appropriations bill through March 31, 1992, I wanted to take this opportunity to thank all members of the Appropriations Committee for their splendid support throughout this difficult year. I also wanted to take this opportunity to express my concerns regarding the allocations for fiscal years 1993 through 1995.

Earlier this year, when the defense appropriations bill was being considered by the Senate, I supported an amendment by the distinguished chairman of the Budget Committee, Mr. SASSER, which would have cut spending on the B-2 stealth bomber by $15 billion for fiscal years 1992 through 1995 and would have cut SDI by $9.1 billion and the MX rail mobile missile by $370 million over the same period.

Had that amendment been agreed to, it would have resulted in reductions totaling over $24 billion from defense spending for fiscal years 1992 through 1995.

Senator SASSER and I pointed out that we need to start cutting defense now because if we wait until 1994 and 1995, it will be too late. At that point, we will be forced to make massive cuts in personnel in order to achieve the level of savings that will be necessary if we are to avoid deep cuts in domestic discretionary spending.

In order to understand the severity of the problem we are facing, let me go

back and revisit the budget summit. At that summit, we succeeded in securing increases for domestic discretionary totaling $40 billion above the June 1990 baseline for fiscal years 1991-93. We wanted much more than that in order to reverse the drastic cuts that had been made to these critical domestic programs in the previous 10 years. The administration proposed further cuts of $40 billion below the June 1990 baseline. So, we moved the figure upward by $80 billion over the 1991-93 period—from the $40 billion below the June 1990 baseline proposed by the administration to the $40 billion above the June 1990 baseline contained in the Budget Enforcement Act.

I fought as hard as I know how to get these increases at the summit. I pointed out to the participants at the summit that we should take off our green eyeshades and recognize that we were, in fact, laying out a blueprint for the future of this Nation; and that a nation that does not adequately invest in its infrastructure—both physical and human—will decay from within and will become second-rate to other nations in the decades ahead.

In addition, there were other pluses for domestic discretionary spending contained in the summit agreement:

First, domestic discretionary is "held harmless" for economic and technical misestimates.

Prior to the summit agreement, discretionary spending—defense, international, and domestic—suffered sequesters because of these factors.

OMB's latest 1991-96 revenue forecast is down by $176.3 billion due to economic and technical misestimates.

Second, under the summit agreement, legislated growth in entitlement programs must be paid for by committees of jurisdiction; otherwise, entitlements will be sequestered. In the past, discretionary spending was sequestered for entitlement growth.

Third, for fiscal years 1991-93, we have three discretionary caps—one for domestic, one for defense, and one for international. If any one cap is exceeded, a sequester occurs on spending within that category only.

In the past, if international spending was above its allocation, a sequester was applied against domestic and defense programs, as well as international. Now, only the category that breaks its cap suffers the sequester.

Fourth, the agreement allows for "emergency" spending outside the caps, where the President and Congress agree. Emergencies should be (a) sudden, (b) unexpected, (c) temporary, and (d) for truly necessary spending. Examples are: Desert Shield/Storm, hurricanes, earthquakes, floods, droughts, tornadoes, and so forth.

So far, so good. But, also at the summit, we had major disagreements over the levels of funding that should be provided for domestic discretionary versus defense for fiscal years 1994 and 1995. When it became clear that we could not agree on separate caps for 1994 and 1995, we settled on one cap for all discretionary spending for 1994 and for 1995. Within that one cap, the Appropriations Committees, in their 602(b) allocations, will be able to set the level of funding for defense and for domestic and for international spending for 1994 and 1995. Everyone at that summit knew that there would be great difficulty in funding continued growth for domestic discretionary in 1994 and 1995 without making substantial cuts in defense.

Since the summit, as we all know, there have been dramatic changes throughout the world which have given us the opportunity as well as the responsibility to reexamine very carefully our defense needs in the years ahead.

It is clear that defense spending should be cut much deeper than we imagined that it could be at the time of the summit. In the coming months, we will be carefully examining the levels of defense spending that will be necessary in order to adequately provide for our own national security, as well as that of other nations upon whose security we depend.

There is little question that defense spending will be reduced. The questions are: "By how much?" and "What will be done with the savings?" I intend to make the case that these cuts are going to be needed for domestic discretionary programs. The Congressional Budget Office, in its August 1991 report entitled, "The Economic and Budget Outlook: An Update," makes it very clear that we cannot sustain the President's defense requests for 1994 and 1995 without major cuts in domestic discretionary spending in those years. On page 60 of the report, there is a table which sets out two scenarios. Scenario 1 assumes the President's budget request for defense for 1994 and for 1995. For 1994, the total assumed budget authority for all discretionary spending—that is, for defense, international, and domestic—is $518.1 billion. Of that amount, $295.5 billion would be provided for defense. That would be a reduction of $8.4 billion, or 2.7 percent, below baseline. In other words, defense would take a real cut below inflation of $8.4 billion in fiscal year 1994.

Under that scenario, however, both international and domestic discretionary would suffer greater cuts than defense. International would be cut $1.6 billion below baseline and domestic discretionary would have to be cut $14.9 billion below baseline—that is a 6.9-percent cut below inflation. Members are surely aware of the damage such cuts would do to our critical domestic discretionary needs. It would necessitate 6.9-percent reductions, across-the-board, for all domestic discretionary programs, such as law enforcement, education, water projects, research and development, highways, transit, VA medical care, and so forth. These cuts would come from the very same programs for which we have been able to provide increases in the past three fiscal years. We would be turning our backs on our commitment to invest in ourselves—in our people, in our highways and bridges, in our education programs, in research and development, in environmental cleanup, in health programs.

But, if 1994 looks bad, 1995 looks worse. For 1995, if the President's defense budget request of $298.5 billion is appropriated, that would equal a cut of $18.4 billion, or 5.8 percent, below baseline for defense. For domestic discretionary, the cut would be $21.9 billion, or 9.7 percent, below inflation. Real cuts of 9.7 percent would be required in 1995 for domestic discretionary if we wanted to provide the President's request for defense.

If we want to avoid these drastic cuts in domestic discretionary spending in 1994 and 1995, we will have to cut defense more than the President has proposed and apply the defense savings to domestic discretionary.

Under scenario 2, CBO shows what it will take in defense cuts in both 1994 and 1995 if we are to provide baseline levels for domestic discretionary for those years. In other words, if we want to just keep pace with inflation for domestic discretionary programs in 1994 and 1995, we will have to cut defense by $24.9 billion, or 8.2 percent, below inflation in 1994 and by $42.8 billion, or 13.5 percent, in 1995. That is a total cut of $67.7 billion below inflation for defense for the 2 years—1994 and 1995. Under this scenario, as CBO points out, "real defense spending would sink to 28 percent below 1990's level. Very large cuts in military operations—including personnel—and investments would be inevitable. A CBO analysis, in fact, concludes that there would be no orderly way to achieve the defense outlay targets under scenario 2 without starting before 1994—that is, appropriating less than the cap permits in 1993."

CBO goes on to state that "nondefense discretionary programs bore the brunt of budgetary cuts in the early 1980's, but have generally been boosted in recent years' appropriations. The caps in 1992 and 1993 permit these programs to keep pace with inflation." But, just keeping pace with inflation does not allow room for any real growth in 1993, 1994, or 1995, for infrastructure, for education, for environmental cleanup, or for other investments that should be increased.

It is not just ROBERT BYRD who believes this. There is a growing understanding by the American people that if we are to remain an economic superpower, we are going to have to substantially increase our investment in our own human and physical infrastruc-

ture. Otherwise, we will continue to lose ground to other nations of the world who are making such investments.

A recent article in the National Journal states that:

At a recent conference hosted by the Washington-based Economic Policy Institute, the estimated annual cost of closing "the investment gap" was put at anywhere from $63 billion-$126 billion. Robert Heilbroner, professor emeritus at the New School for Social Research in New York City, said the nation eventually needed to invest an additional half-trillion dollars to put the United States on a par with its chief foreign competitors.

An article in the October 26 issue of Congressional Quarterly states that Robert Eisner, a Northwestern University economist:

* * * thinks that government spending can be better targeted, especially on big-ticket items that private citizens wouldn't dream of financing. He favors spending on roads, bridges, airports, education, job training and health care. All would generate long-term benefits, he argues, and ought to be financed with borrowed money. In other words, the deficit can be a positive tool for investment: Individuals borrow to buy houses, local governments borrow to build schools or fire stations, and the federal government can and should borrow for its investments.

The Center on Budget and Policy Priorities, on October 25, issued an analysis of several tax reduction plans. Page 2 states:

In short, under the budget agreement, large defense reductions are needed in FY 1994 and FY 1995 just to avoid major domestic and international cuts. If defense reductions in these years are used to finance tax cuts instead, it will be nearly impossible to stay within the caps without significant reductions in domestic and international discretionary programs.

An article by Jeff Faux in the Washington Post on October 27 entitled "A Tax Cut Could Really Wreck Things" contains the following quote:

The problem lies in the deteriorating competitiveness of the economy itself, which has not been generating the level of income needed to maintain the living standards of the majority of working people. Unless we substantially raise investments in our people and our technological development, real wages and incomes for most American workers will continue to decline, regardless of what we do with the tax system.

A recent New York Times editorial entitled "The Law That Ate the Future" makes a very compelling case that last year's budget agreement must be changed. The concluding paragraph of which states:

Preserving desperately needed public spending will require the entire peace dividend, and then some. To give it away in tax cuts borders on the unconscionable. Still deeper cuts in defense are needed; every cent of tax revenue is needed; the budget agreement is not.

A recent article in the Washington Post by Hobart Rowan states, in part:

Here's what needs to be done to bust the budget: First, a meaningful extension of unemployment benefits. Bush ignores the human dimension: There are more than 8 million unemployed persons out there unimpressed by the categorization of this recession as "shallow." For them—and millions of others who have jobs but worry about the future—this downturn is plenty deep.

Second, ignore those who say there is no peace dividend, or that it's already spent. Not true. Senate Budget Committee Chairman Jim Sasser. (D-Tenn.) shows that a modest 6 percent cut from Bush military spending requests would save $70 billion a year in outlays. (It could be cut even more.)

Third, spend this money—and more—not on tax cuts but on public-sector projects such as roads and schools, and to finance genuine investment in carefully selected industrial projects aimed at increasing productivity. Provide a stimulus greater than the contraction resulting from lower defense spending.

Finally, an editorial in the November 11th issue of U.S. News and World Report, written by David Gergen, entitled "Let's Get Real" contains this statement:

Over the short run, there are a few things Washington can and should do to alleviate public pain. It would help, for example, to take an additional chunk out of the defense budget and put people to work rebuilding our crumbling roads, bridges and airports. Public works programs may seem old-fashioned but they are effective—every $1 billion in spending is thought to create 41,000 jobs. And besides, America badly needs to modernize: Our investments in infrastructure have dwindled to less than 1 percent a year of gross national product, compared with 3 percent in Germany and 5 percent in Japan.

The point is, Mr. President, that the only way to avoid devastating cuts in domestic discretionary in fiscal year 1994 and fiscal year 1995 will be to cut defense and use those savings to prevent cuts in domestic discretionary. I repeat what I said earlier—everyone at the summit knew that in fiscal year 1994 and fiscal year 1995, we would have to cut defense in order to avoid cuts in domestic discretionary. What is new is that the level of cuts that are needed can be made in defense without harming our national security. So, to the extent there is a so-called peace dividend, it is already spoken for. The Budget Enforcement Act sets no level for defense spending for 1994 and 1995. Instead, the act allows Congress, through its budget resolutions and the Appropriations Committees, through their 602(b) allocations, to set the levels of defense spending for 1994 and 1995. It also allows the committees to use any savings from either defense or international spending to be applied to domestic discretionary programs. There are no separate caps on defense and international spending in those years. We will be free to use defense savings on domestic priorities. And, Mr. President, as I have pointed out here today, defense cuts should be made—in fact, must be made and applied to domestic discretionary programs—if we are to avoid devastating cuts in our investments in this country's pressing domestic needs.

We need to start this process of cutting defense in 1993 if it is to be accomplished without drastic personnel cuts. I am hopeful that the administration will work with the bipartisan leadership of Congess in connection with the 1993 budget resolution. I wanted to take this time today to make Senators aware of the problems we will face in funding our domestic programs in 1994 and 1995, and to point out that we will need to utilize defense savings, as is contemplated in the Budget Enforcement Act, to avoid cuts in domestic discretionary programs.

Mr. President, I ask unanimous consent to print in the Record a table titled meeting the discretionary budget authority caps in fiscal years 1994 and 1995.

MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995

[In billions of dollars]

Spending category	1993 cap	Scenario 1: Assume President's Defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Defense:					
Assumed budget authority	291.5	295.5	298.5	279.0	274.1
Baseline		303.9	316.9	303.9	316.9
Cuts required:					
In dollars		−8.4	−18.4	−24.9	−42.8
As a percentage		−2.7	−5.8	−8.2	−13.5
International:					
Assumed budget authority	22.9	22.2	22.3	23.8	24.7
Baseline		23.8	24.7	23.8	24.7
Cuts required:					
In dollars		−1.6	−2.4		
As a percentage		−6.9	−9.7		
Domestic:					
Assumed budget authority	207.4	200.4	204.3	215.3	226.2
Baseline		215.3	226.2	215.3	226.2

MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995—Continued

[In billions of dollars]

Spending category	1993 cap	Scenario 1: Assume President's Defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Cuts required:					
In dollars		−14.9	−21.9		
As a percentage		−6.9	−9.7		
Total discretionary:					
Assumed budget authority	521.7	518.1	525.0	518.1	525.0
Baseline		543.0	567.8	543.0	567.8
Cuts required:					
In dollars		−24.9	−42.8	−24.9	−42.8
As a percentage		−4.6	−7.5	−4.6	−7.5

Source: Congressional Budget Office, August 1991.

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

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I make the inquiry of the Chair as to what period of the Senate agenda are we in now.

The PRESIDING OFFICER. The Senate is currently conducting morning business.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I am going to talk for a few minutes about the economy, but I would first, before the distinguished President pro tempore leaves the Senate floor, to extend my appreciation for the leadership that he so frequently provides and the eloquence with which he expresses himself. Very often on this floor, Senator ROBERT C. BYRD will make a statement that has many of us saying I wish I had said that. And tonight when he was so gracious in his acknowledgement of Senator MOYNIHAN's contribution and associating the unique qualities that Senator MOYNIHAN brings to this body with those of the early founders of the country, I thought was exceptional and deserved commentary.

Also, the President pro tempore never ceases, at least to me—and I am sure I could say "us" without challenge—with his depth of knowledge, and further and I said this on the floor of this Senate before, that if ever a person ought to be studied to find out how it is that not only how much detail he has acquired, how much information, but now how he can recall it.

I was in the computer business before I got here, one of the things we always prided ourselves in the computer business was how instantly we could access information, randomly, which means you do not have to go in sequence, you can touch any part of the data bank and pull up whatever it is you need. The only time I have seen some of the equipment dwarfed by a human being is on this floor when the distinguished chairman of the Senate Appropriations Committee ROBERT C. BYRD gets up and reciting either poetry, or prose, or chronology, or history, or the culture of the Senate, or the history of the country and that little poem that he recited tonight was so appropriate to the occasion in which he commended the good Senator from New York for his ability to build up.

I thought that it was an appropriate message for all of us in this late hour to be thinking about. Because that transportation bill, which we so arduously labored with, has come kind of aborning; we are still waiting for its first cry. It is reputed to be incubating over on the House side. But any moment now I hope that we will hear the beeps and be able to move ahead with that.

Mr. LEVIN. Will the Senator yield for just one minute?

Mr. LAUTENBERG. Yes.

Mr. LEVIN. I would like to add a thought about ROBERT C. BYRD to yours.

I listened to part of the remarks of the Senator from West Virginia in my office tonight. I must say that I am hoping that the country, the administration, and the Congress is listening to what the President pro tempore is saying about the Nation's priorities. Because what he is now saying and what he has been saying year after year after year is that we must tend to the infrastructure of this country, to our educational needs, to our health needs, to our other domestic needs. What he has been predicting for so long is coming true in spades. And I just hope the administration, who may not be up this late tonight, takes the opportunity to read what the Senator from West Virginia said again.

This has been a very pervasive theme of his career here in the Senate, at least as long as I have been here. And I know it is coming true. They should listen and heed the words of the Senator from West Virginia about the priorities of this budget next year, because they will come true.

We are going to have to make deeper cuts in defense and we are going to have to invest more in the infrastructure of our people. I think it is just certain that will happen. I just again hope the budget people and the administration and the President himself will listen and read what the Senator from West Virginia had to say tonight.

As to the Senator's poetry, I must say I have dazzled my three daughters with the fact that I can recite from memory about four poems. It is a bit embasrrassing when the Senator from West Virginia can recite from memory probably 100, and it may be more than that. I am afraid to ask. But I just hope that my daughters never find out just what kind of memory for poetry and other things, as my friend from New Jersey says, the Senator from West Virginia has, because he is truly amazing in his recall of history, poetry, and language and so many other things.

It has been a real pleasure to serve for now 12 years with our friend from West Virginia and I look forward to many, many more years of his service.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. LAUTENBERG. I am pleased to yield.

Mr. BYRD. Mr. President I thank the Senator from New Jersey, Mr. LAUTENBERG, and I thank the Senator from Michigan, Mr. LEVIN, for their very flattering words. I shall long treasure today's RECORD because in it I will be able to point to my grandchildren what some of my colleagues had so flatteringly said. I indeed appreciate it.

Mr. LAUTENBERG. Mr. President, I am reminded by the Senator from Michigan, when we start talking about recall and poetry, the only thing I could get through my mind was "Mary Had a Little Lamb," and I knew we had to go further than that to catch up with the vivid recollections that our distinguished colleague from West Virginia has. His words we have all heard and we have all marveled at. But if one looks at his history of the Senate, it borders on literature, with its history, its prose, its memory, and its analysis. It is quite a remarkable work and I treasure it.

THE ECONOMY

Mr. LAUTENBERG. Mr. President, I want to talk about the economy. The hour is late. We do not often have enough time to do these things. But I fear that we may get to see the Sun come up and so, while waiting, we will take this opportunity to deliver a message.

Mr. President, I am worried about the direction in which America is head-

ing today. It is made worse by the lack of Presidential leadership on the economy. I fear that we are rapidly making the American dream of a better life more and more difficult to achieve for a large portion of working Americans. That means that the America we know and love—the America where opportunity abounds—is in serious danger.

I am the son of immigrants and I have lived the American dream. That is why I sought to serve in the U.S. Senate. I wanted to give something back to this country which has been so good to me, and to make sure it remained a beacon of opportunity for generations to come.

My father and mother were brought to this country by their parents from Russia and Poland in the early 1900's searching for a better life. Drawn by the stories of opportunity America promised, they believed that with hard work and determination, their children could have a better life than they did.

My father worked long, hard, hours in the silk mills of Paterson, NJ, and though he wanted it and though he had the ability and though he tried, he was never able to get to college. He died as a young man when I was 18 years of age. My mother never went to college. She worked behind the counter of a sandwich shop to put food on the table after my father died. They did whatever they could for my sister and me.

And, here I stand today, a former chief executive officer of one of America's most successful corporations that I helped build from a standing start. It pioneered an industry called the computing industry—one of America's most dynamic technology sectors. Here I stand now as a Member of the U.S. Senate. Only in America could the son of working class parents achieve such positions.

Our country's strength lies in the power of the American dream and the promise that the dream can be realized, if not in one's own life, then certainly for the next generation. Hard work, ability, and determination should be the only factors that count. The American dream must remain as a possibility for every citizen or else the promise of America is gone!.

Tragically, as our economy worsens, the American dream has become a nightmare for too many middle-income and poor Americans. As our economy slowed during the 1980's, the rich got richer, the poor got poorer, and the middle class got squeezed altogether. Today, middle-income American families are working harder—often requiring a second wage earner—for salaries that buy less and less.

Since 1980, the incomes of the richest 1 percent of households have grown by more than 100 percent—100 percent—while middle-class incomes have remained stagnant. Incomes of the poorest fifth of households have dropped 6 percent. Real hourly wages for nonsupervisory workers were lower in 1990 than in any year since 1964, and have fallen almost 4 percent since 1980, when President Reagan took office. Real disposable income is lower today than when President Bush took office in 1989.

The middle class is losing ground as the economy worsens, yet the President has repeatedly asserted that the economy is sound and there is no need for action. His only problem, he says, is convincing the public of that fact.

Mr. President, the American people are not satisfied that the economy is in good shape, or that the country is on track, because it's just not true. They are smarter than that. They just don't buy the public relations campaign. They know the average American's income and purchasing power has plummeted. They see it every day in supermarkets. They see it every month when they write out their checks for bills, and when they see what they have, if anything, left over at the end of the month.

They see that their tax burden has increased relative to the richest Americans. Since 1977, tax rates on the richest among us have gone down by 18 percent, while tax rates for the middle 20 percent of American families have increased.

It's a vicious cycle. Higher taxes and lower real wages reduce consumption. As the middle-class contracts, consumer demand goes down, inventories build up, people are laid off and the cycle continues.

To add to our economic woes, people are paying a larger share of their income for basic commodities like housing. In 1950, the average middle-aged, middle-class homeowner spent 14 percent of his gross income on mortgage payments. By 1983, that number had reached 44 percent. Is it any wonder that homeownership rates, which rose for six decades, has declined?

But numbers do not tell the whole story. They do not tell us how angry and disappointed people are with their inability to get ahead despite years of hard work and sacrifice. Middle-income Americans cannot afford college for their children and cannot afford to buy a home after saving for years. They cannot afford to buy a new car. They cannot afford to take a vacation. They cannot plan for an economically secure retirement. They cannot even afford health coverage for themselves and their families.

Public relations will not do it, Mr. President. It is all too real.

I hear the anguish of my constituents in New Jersey. I hear the fear and the anxiety, the disappointment, and disbelief that this could be happening in America. Why is not the President listening?

Does he not know that middle-income Americans have given up the hope of doing better than their parents and are fighting just to hold the line? Does he not know that they fear for their own and their children's future?

That is not the America in which I grew up. And it is not the America in which we all believe.

America was not always this way. We started the Reagan era with the highest wages in the world. Today we are 10th. We started the Reagan era as the world's largest creditor. Now we are the world's largest debtor.

While President Bush refuses to put forward a plan to get the economy going, he tells us everything is fine. But one economic indicator after another tells us the economic distress Americans feel is real and painful. Under the Bush administration, economic growth has slipped into reverse and Americans across the country are searching for answers.

While the average GNP per person, a measure of the average standard of living, has grown during the tenure of every other living, post-World War II President, GNP per person has fallen 0.6 percent a year since President Bush took office. During the Bush administration, nonfarm payroll employment has grown at a 0.55-percent rate—the worst rate of any administration since World War II.

During the Bush administration, housing starts have been the lowest for an administration since World War II. Real residential construction has fallen at an annual rate of 8.59 percent—the worst for any administration since World War II. And the Federal debt as a percent of GNP is 8.7 percent—the higest since World War II.

New claims for unemployment insurance have jumped to the highest level since last May. Hopes that the manufacturing sector would lead the recovery have now faded. Production is flat and new orders have fallen sharply for 2 consecutive months.

While our economy falters, President Bush blames the Democrats; he blames the budget agreement he engineered, which many believe has been disastrous; he blames everything but his own policies.

The average American family has been crying out for help while the American dream has been withering. The only forceful action we have seen by the administration is the wielding of the veto pen on economic rescue plans like the bill to extend jobless benefits.

To make the road to recovery easier for the average working American, we need to invest more in our own people and less to fight an enemy that no longer exists. The end of the cold war has given America one last chance to get its economic act together. The defense budget should be cut, and that money should be invested in education, research, infrastructure, and health care to revitalize our economy and recreate opportunity for the average American.

We must invest much more in education, because education has always been the way for Americans to climb the ladder of economic success and compete successfully in the world. A well educated, technologically literate work force is the key to America's economic success in the future.

And we must make sure that college loans and grants are there for those who need them. The President wants to tell middle-class Americans that they do not need help to send their children to college. Home ownership in New Jersey should not disqualify middle-class families from getting college loans, but they do. They need those loans. And they need tax incentives to save for college costs, tax incentives like new, expanded IRAs that can be used for tuition bills.

We need to invest in training and retraining for American workers throughout their careers. As we reduce defense spending, and we must, we will need programs to help move workers from defense industries to civilian industries. The President is the commander in chief. He led us ably in war in the Persian Gulf. I ask him now, where is the leadership for our economic stability here at home?

We should continue existing tax incentives for worker training and education. Because while American industry searches for skilled workers in Japan or Germany, we have legions of displaced, unemployed, dispirited workers right here at home, desperate for jobs.

In the years ahead, America's factory worker will need more than just a strong back and a will to work to succeed. In our ever changing and increasingly technological world, he or she will need training and retraining to remain competitive.

We need to find new ways to train and educate displaced workers and those who are the most disadvantaged—who threaten to become a burden instead of a productive force. We must experiment with new programs—like comprehensive education and employment centers that merge traditional education with on-the-job training. At the same time, we need to make sure that our tax dollars for schools and colleges are well spent.

We must invest more in infrastructure. There are few things more critical to a sound economy, to job creation, to a solid and growing middle class, and ultimately to our economic standing in the world, than investment in infrastructure and transportation.

Thus, we see the interest tonight that we have in getting this transportation, surface transportation bill done and out of here, and on the President's desk, because people recognize that it is such an essential part of a regrowth in our economy.

Investing in infrastructure goes beyond just building new roads and highways. It means higher output, higher productivity, fuel savings and greater economic growth throughout the country. It means building for our future

We are going to start the process by passing the surface transportation bill. That will be an economic shot in the arm of over $150 billion over the next 6 years. That will pump money into the economy to create jobs and get the economy back to work.

We must also work for a trading system that allows American business as much access to foreign markets as other countries have to ours. Otherwise, we could end up exporting our best jobs instead of our best products.

We must assure that while we trade, we provide strong and vigorous protection against theft or exploitation of American ideas. In the past, America has been the world's idea factory. Our ideas and inventions have been our competitive edge. But, too often, American ideas are exploited or stolen by others. I wrote legislation some time ago to toughen up our intellectual property laws and make it harder for foreigners to steal America's genius and we have to followup with rigorous enforcement.

And if we hope to compete successfully in today's world, we must set policies that not only protect but that stoke the fires of invention. We can do that by making permanent the tax credit for research and development, to spur industry to more and better discoveries. We can do it with continued support of our national laboratories and health science institutes.

And we can do it with an effective partnership between Government and business. Because the high costs of R&D often mean that private industry will not be able to bear the costs and risks alone. America leads in biotechnology, it leads in aerospace, it leads in communications satellites, in part because Government was a partner with industry.

We could make the road upward easier by enacting a tax cut targeted to the average American taxpayer. Since 1980, the wealthiest 1 percent among us saw their tax rates go down by 8 percent while the taxes of middle-income working Americans remained even. It has been a redistribution of wealth all right: Wealth to the rich.

Now the President, by advocating a cut in the capital gains tax, is saying that the problems of our country can be solved by giving another tax cut to a family whose income is $300,000 a year or more.

I do not agree. I favor a tax cut for the middle class to put more money into the hands of the average, hard-pressed, hardworking American.

And no American can climb the ladder of success if he lives with the constant fear that he cannot meet his families' medical needs.

Today, approximately 34 million Americans lack health insurance and about 60 million Americans are underinsured. Fully one-quarter of the uninsured are children, a majority of them are poor, and most have a job. Yet millions of Americans live in fear that a slight illness or a pink slip could mean financial ruin for themselves or their families. Many people are locked into jobs, afraid to leave because they do not want to take risks or pursue alternative careers for fear of losing their health coverage.

We need to make certain that in our America, every American can get health care. The President of the United States and the Vice President of the United States and their families enjoy the services of a private medical staff, courtesy of the American taxpayer. I do not think any American would begrudge that care for the President. But, what about the rest of the Nation? They are not asking for a doctor all their own, like the President. They are just asking for access to a doctor when they need it.

We must make the road to success easier by assuring that when people lose their job, they do not lose everything else also. We have 8.5 million Americans out of work, and more who have simply quit looking. Three million Americans will lose every source of income this year because they have exhausted their unemployment insurance and have been unable to find work. Their homes, their cars, and their futures will be at risk through no fault of their own.

Mr. President, virtually the moment the law extending unemployment benefits went into effect, the phones in unemployment offices in my State of New Jersey began ringing off the hook—120,000 New Jerseyans will apply for these benefits.

I have proposed legislation to allow those who are involuntarily unemployed to withdraw funds from IRA's and other retirement plans without the tax penalty that would otherwise apply. That is the least we can do for Americans hard hit by the recession, who cannot find jobs but have substantial savings.

Congress wanted to do more and do it sooner. But Congress had to force an extension of unemployment benefits down the President's throat. Although he had recognized emergencies for the Kurds, and the people of Turkey, he refused to recognize an emergency right here in America. And he blocked two bills that would have provided unemployment benefits months ago from funds collected for just that purpose.

We need to make it easier for the average American to buy a home if he or she saves for it.

The President the other day made an off-the-cuff suggestion to the American public, and that is they ought to go out and buy homes and buy cars to stimulate the economy. Mr. President, all you have to do is ask the question:

With what? Where are they going to get the money to buy those homes and to buy those case? Perhaps credit cards will suffice with the debate we had here about interest rates.

Between 1970 and 1990, the national price for a typical starter home rose 21 percent in real terms. Over the same time period, real income of potential first-time buyers decreased by 7 percent. Is it any wonder that the America dream of owning one's own home is farther out of reach for middle class Americans then ever before?

Mr. President, it is long past time to stop tend in going to foreign emergencies. We need to address our own very real needs at home. Americans have always been a generous people, who respond to catastrophes abroad. But, now they feel they are being left out in the cold. And they are right. The President has traveled all over the world, but ignored the growing economic disaster in his own back yard. It is time to take care of our people and invest in our future.

It is time to get our allies carrying their fair share of the defense burden. While we are paying the lion's share for the defense of Europe and Japan, they are beating our pants off in the marketplace. Saudi Arabia and Kuwait, whose lands we saved from marauding armies still owe us $3.5 billion that they pledged to pay during the Persian Gulf war.

I guess the promise made when danger was imminent was one that was easier to make when the pressure was on. Neither one of the controlling governments in these countries has any financial problems, and they still owe America $3.5 billion that they pledged to help allay the cost of the war.

The America of today can no longer afford to carry the burden of defense for the rest of the world.

Mr. President, we must rededicate ourselves to creating an America of opportunity. Where the average American can hope for a good education, a steady job, good wages, proper health care, and a home of his own if he saves.

A stable middle class, with a belief that opportunity and a secure and better future is still there for them and their children is the basis of a stable and healthy democracy. A belief that our Government cares about its citizens, and that officeholders know we are here to serve the public; to nurture a healthy economy and hope for the future. Because if the American dream dies, then the promise of America—America as our parents knew it, as many of us have known it—will eventually die with it.

Mr. President, in the last couple of days, we have seen polls that reflect the attitudes of the American people. What they are saying is, "Help us." What they are saying is, "Remember us." What they are saying is reflected in the polls that attest to the popularity of President Bush.

He was riding high for a long time. He deserved a lot of credit for his conduct of the Persian Gulf war. But when you look at the drop in the polls, those are messages that the American public is sending. They are saying, "Mr. President, if you don't start paying attention to us and our needs and the national economy, we are going to send you out of office." That is what the message says. I hope the President listens carefully because it is more important for America's economy to be on the right foot than it is to replace the person in the White House.

I yield the floor.

THE ECONOMY

Mr. KERRY. Mr. President, I listened carefully to the words of the distinguished Senator from New Jersey, Mr. LAUTENBERG, and I congratulate him on his assessment of where we find ourselves at this moment. There is not one of the observations of the Senator from New Jersey that is not important for us to consider.

As we are here late at night, on a night when the Congress is pressing to complete its business, I must comment on the amount of unfinished business that faces us, not just as a Congress but as a country.

Yesterday, I heard the distinguished Senator from South Carolina, Mr. HOLLINGS, open the morning business of the Senate with the discussion about the state of this country with respect to our national debt. I must say that as I listened to him, I was struck. I have mouthed the words. I, too, have talked about it. I think we all have. But what the Senator from South Carolina ably pointed out is the degree to which we are currently stealing, literally stealing, from the future.

As the Senator from Texas, Senator GRAMM, pointed out the other day in making an argument against legislating additional unemployment insurance benefits, the trust fund from which we were trying to pay those benefits does not have the money. While charts might be held up on the Senate floor and Senators might address the notion that the trust fund is there and American citizens have paid into the trust fund with an expectation that it will provide the benefits it is intended to provide, the fact is the money is not there. The Federal Government has borrowed it to cover part of the national debt.

The same thing, sadly, is true with respect to Social Security. People are currently paying into the Social Security trust fund with an expectation that when they retire they and this generation will have paid enough into the trust fund to cover their retirement benefits. But the reality, Mr. President, is that this administration and this Congress, this administration by proposal and this Congress by commission or assent, are permitting those trust funds to be depleted in order to pay for current expenses.

So 10, 15, 20 years from now when a new generation retires with the expectancy of receiving Social Security, we are going to discover we have borrowed billions of dollars from the trust fund. As a result of permitting the President of the United States to carry on the extraordinary charade of pretending to the American people that you can have everything but it does not cost anything, that you can continue to spend and pursue the most extraordinary period of Keynesian stimulus in the history of this Nation while denying it is spending because it is borrowed, we are going to have a head-on collision with reality, Mr. President. It is going to stun everybody in this Nation.

In fact, that is precisely what we are witnessing in our economy today. People are scared. There is a crisis of consumer confidence that grows out of the feeling that the job will not be there, the paycheck will not be there, the house might not be there, the education may not be there for my kids—a sense that what we have always called the American dream is about to collide with reality.

In the next few hours, Mr. President, we are going to be asked to OK the assumption of extraordinary amounts of additional debt. At some point we must confront reality.

Mr. President, as the father of 2 children and as someone who tries hard to measure what we do here against the standard of what will be helpful to future generations, as I think most of my colleagues do, I believe honesty with ourselves requires us to admit there really is a gap between the rhetoric and the reality. In the final analysis, there are two Americas. There is the American ideal that politicians talk about and pay tribute to, and then there is the America that we really are and are becoming. It is that latter America that is very troubling to me.

The reality is that on almost every level at which there is substantive confrontation, there is a gap between what is said and done in Washington and what people see and feel out in the rest of the country, whether it is in crime fighting or in housing, or whether it is in AIDS research or education.

All of this looms menacingly in these final moments, as the Congress is departing. The fact is, Mr. President, that the voodoo economics that we heard about in the early 1980's has been augmented in recent days by voodoo arithmetic. We have seen $4 billion of loans that suddenly became $10 billion of bailouts, that became $30 billion of deficits and debt through inflation and interest payments and systematic incompetence.

Mr. President, for the first time in the history of the United States of America we are about to pay more in

interest on the national debt than we have paid in recent years for the entire defense budget of this Nation. We are about to enter an era when debt service for this country is the next-to-largest and perhaps even the largest single component of the entire United States budget.

I do not know if others are as concerned about that as I am. I suspect they are. But if they are, then the question is: What are we going to do about it? What are we not doing about it? Because this debt is crowding out every other choice that we ought to be making and, frankly, it has come to drive all the business of the U.S. Senate and the Congress itself.

We have now created a situation in the U.S. Senate which requires a supermajority to act on matters that require new expenditures, and on other controversial matters. If you want to transfer money from one part of the budget to another, it takes 60 votes. If you want to waive the budget in order to make expenditures that you deem to be emergencies, it takes 60 votes. As we all know, if you want to end debate in the U.S. Senate, it takes 60 votes.

So effectively no longer do we govern in the U.S. Senate by majority; we govern by supermajority. That has changed the equation of government in ways that I think are extraordinarily significant and, in fact, detrimental.

Just over the past several months we have witnessed a truly remarkable and troubling situation. The administration said it is irresponsible to borrow $5 billion in order to provide unemployment insurance benefits that would put money into the pockets of working people who have been thrown out of work and could not find new work.

But that same administration that says it is irresponsible to borrow $5 billion to pay for those people to have the ability to put food on the table, pay the rent, pay for the heat, pay a mortgage, and maybe send a child to the doctor or to receive the medicine that they need, does not think twice about suggesting that we borrow $80 billion for the bailout of the commercial banks in order to replenish the bank insurance fund. Just yesterday the distinguished chairman of the Senate Banking Committee circulated a letter suggesting much if not all of this amount will not be returned to the Treasury and, therefore, will constitute a "bailout." And now we hear it also is not irresponsible to borrow another $80 billion for the RTC to use to bail out the savings and loans.

It simply amazes me, Mr. President, how it is possible for us to lose touch with the reality that our constituents are in touch with on a daily, hourly, minute-by-minute basis.

The pain out there is something that I have never previously seen in my public life—never. Never have I seen as many people across as many strata of American society affected by the fear that they feel today and by the sense of pessimism that they feel about the American economy, but most of all by the sense of frustration and confusion that they feel about the unwillingness or inability of this institution to respond with real help.

Does the administration require the same accountability of itself or of the process as it does for payment of money to kids who are needy, to the WIC program, to AIDS research, to crime fighting, to all the other priorities of the country? No. No.

When it comes to the savings and loans and the bailout, it is gold card all the way. Except that we do not qualify for the gold card anymore. We should not qualify for any card. The only reason we still have a card is that we conveniently are the issuer of the card. It is as if there is an automatic override to the delinquency process on our national credit card.

I believe that accompanying that reliance on the gold card is the piece-by-piece dismantling of the entire social contract of this Nation. Everything that we have built up over the years between citizen and Government is being shunted aside and dismantled by irresponsibly moving it onto somebody else's watch.

The operative philosophy seems to be that, "As long as the confrontation with reality does not happen on my watch, then I suppose it is all right." We appear to have some mystical faith that somehow everything will work out satisfactorily. But every one of us knows that is not true. That is simply not true.

When Ronald Reagan was running for President of the United States in 1980 against President Carter, he was warning how the Federal budget deficit, accumulated over the previous 190 years, since the term of George Washington, was threatening the future of this Nation. Back then the Federal debt had risen to the awesome sum of $909 billion—$909 billion, Mr. President. Ronald Reagan said we have to balance the budget or face calamity. What followed? We had eight successive years in which that President never once sent to the Congress a balanced budget; not once.

On the contrary, we had the exact opposite. We had the famous tax cut of 1981 which frankly brought on some of the most important parts of the crisis that we face today, the overbuilding of real estate among others, the extraordinary assumption of debt, the incredible trading in existing assets, and the cannibalizing of existing companies in order to sell those companies off and make the quick buck. We abandoned the tried and true formula that build this country in the first place, which was the creation of new wealth, the creation of new jobs.

At its current rate of growth, Mr. President, we are going to increase the Federal debt to $5 trillion by 1995, according to the Congressional Budget Office—$5 trillion. That is where we are headed in 3 short years. That is nearly $20,000 for every man, woman, and child in the United States of America, which is up from the figure of $6,000 per person we thought was so dramatic when we were quoting it about a year or so ago.

To put that into perspective, it means that the per capita share of our national debt equals 25 percent of the assets held by every American citizen, corporation, and interest in the entire United States.

Mr. President, that is an extraordinary amount of money—an extraordinary amount of indebtedness. And it seems to me that we are now on a course that is exponentially compounding our inability to decide and act to alter it. The fact is that we are, today, paying more to service the debt than for any program of the U.S. Government other than defense and Social Security, and debt service soon will surpass defense spending.

Let that reality sink in. Within a few years, the amount we pay for debt service will be larger than the $300 billion defense budget.

What is the Federal program for which we pay more than education, environmental protection, criminal justice, the war on drugs, transportation, science, aid to the cities and towns, medical research, agriculture, energy, and every other nondefense and non-Social-Security program of the U.S. Government? It is very simple. It is paying interest to ourselves. That is what we are doing with our precious Federal resources.

It is a fact unknown to an awful lot of Americans, because President Bush and this administration do not have the spine and the moral strength to stand up to the Nation and tell the American people the unpleasant truth. Instead, they promise services for which no one is willing to pay, and then watch those services degrade because we do not invest, as the Senator from West Virginia suggested we ought to.

Paying interest on the national debt, which is the No. 1 occupation of the United States of America, is crowding out every other choice we ought to be making.

I keep hearing people say: Well, what is your program? Here is the picture of disaster which some are fond of drawing. What is the alternative? Well, Mr. President, throughout the 1950's, 1960's, and 1970's, we were investing in ourselves. We were investing in our future. And we proved in most of this country that that pays off.

In Massachusetts, where money was significantly invested in the fifties in defense, MIT, Boston University, the medical industry, and others, people were told to go out and take risks, and

they invested their money and themselves. Some started out in their garage, like Ed Land of Polaroid, or Ann Wang of the Wang Corp. They had an idea, and they could go out, find the capital, invest in their idea, and create jobs.

We had a population that was sufficiently educated to be able to perform those jobs. The fact is that over the last 6 years, the capital pool of this country, some $80 billion or so, has been reduced on an annual basis. And on that annual basis, as the capital pool has been reduced, so has the amount of money that has gone into seed startups.

So if you are today's Ann Wang or today's Ed Land, it is a lot harder to find the money. If you look at New England as it is today, it is particularly hard to find the money, where you have cuts in the defense industry, where you have an overhang in the real estate industry, where you have a slowdown in the computer industry, not because of government, but because of bad management decisions that were made; where you have a reduction in your State outlays because of a fiscal crisis, and where you have a national recession—five huge negatives all mounting at the same time, all of them confronting the normal lender with an extraordinarily bleak outlook, which suggests the lender may not get its money back.

The result is this downward cycle building on itself. Eroding consumer confidence follows.

Somehow, you have to break that psychology. Somehow, when people are increasingly without money in their pockets, somebody has to come along, like Franklin Roosevelt did, and suggest that there is a way to break the psychology of fear, to turn around that consumer crisis of confidence, to begin to create the kind of risk-taking that is necessary to create the next generation of products and economic advancement.

Mr. President, there is a next generation of products out there. It is in microelectronics, artificial intelligence, robotics, advanced environmental engineering. Some of the operations are likely to be described by terms I am sure we have not even heard of today.

The point is that, as a nation, we ought to be putting our investment energy not into more and massive long-term borrowing, but into the stirring of that economic energy and machine, into stimulating the kind of risk-taking and venture capital investment effort that will create the next generation of high value-added products that will allow the employees of the United States to earn the kind of income that they need to earn in order to raise the standard of living, not lower it, and at the same time be competitive with other countries in the world.

Well, Mr. President, that is not today's reality, not even close. So we must act to change the reality. Mr. President, I would like to see us have a targeted capital gains tax reduction, and I have advocated that for the years that I have been in the U.S. Senate. I would like to see us have the R&D tax credit made permanent and larger. I would like to see us create the capacity for people to go to school, rather than to jail, and to college, which is about one-third the cost of sending them to jail for 1 year, and begin to invest in this country through a teacher corps that would draw kids out of higher education and put them into the education system of this country.

There are many ways in which, on a daily basis, we could be involved in improving our public schools. One of the most fundamental problems in this Nation is that, in the inner cities of America, we have a total degradation of hope, a lack of opportunity, a lack of capacity for a huge number of Americans to enter into the work force or mainstream.

Our colleague, PATRICK MOYNIHAN, 25 years ago, wrote about the impact in America of minority communities that were then producing a 25-percent rate of illegitimacy of birth. He predicted chaos 25 years ago, and the consequence of his prediction was that he and his views were villified and the debate on what was happening in the inner city was set back for years.

Now 25 years later, my colleagues, the illegitimacy rate in the inner cities of the United States of America is 63 percent. If you thought you were going to have chaos 25 years ago, then look today at cities like New York where one kid will kill another in order to wear his clothing or jewelry. Those are kids without a role model, they are kids without family, they are kids without hope. And unless we begin to deal with that reality, we are kidding ourselves about working to achieve international competitiveness, we are kidding ourselves about improving the quality of life in the communities of this country, and we are kidding ourselves about investing in the future. That is as much a part of economic growth and development as anything else. When only 28 percent of the kids of this country who are eligible are able to participate in Head Start, which is considered to be perhaps the single most successful government human service program in history, then something is wrong. Something is wrong.

Head Start has demonstrated that its participants will be 50 percent more likely to hold a job, 50 percent more likely to go on to higher education, 40 percent less likely to have a teenage pregnancy, something like 50 percent less likely to go to jail. Those are extraordinary figures, figures worth drawing on and responding to in the U.S. Senate and in the Congress. But do we? No, Mr. President, it is much easier to engage in the charade, the shell game. So we move a little here, we move a little there, and we play the extraordinary game that the American people are fast catching onto and growing sick of.

Mr. President, there are a host of other things we could do for economic growth in this country. What happened to the dream of enterprise zones? What happened to the whole effort to say that we would attract business into those areas where they are least likely to go unless they have the capacity to get a bottom line that allows them to go there?

I think it is time for Democrats to shed the fear that we seem to have had about talking about economics in a practical and pragmatic way. The fact is, if capital does not get a sufficient return on investment, people will not invest. In 1981, it was demonstrated that capital can be drawn to build buildings, even if they are going to be empty after they are built because no one will rent them. We did that. That is the problem in America today. That is why a lot of the RTC holdings are sitting there with buildings that have no lessees? Why? Because the Tax Code made it attractive. So we know it works.

There is an artificiality in all of it, in a sense. What is not artificial is the consequent impact on the economy of those actions. Because the cycle downward builds off diminished appraisals and diminished values that have gone with it.

Mr. President, I have digressed, but I do not think I have strayed far from the essence of what will confront us tonight or tomorrow. We have to ask ourselves if it is responsible in this context to assume billions of dollars of increased debt rather than to confront the question of whether we are going to pay for the bank and S&L bailouts, and how we are going to pay for the bailouts, or whether we are simply going to shift the burden onto the next generations?

The cost of the S&L bailout has been something like $325 billion so far. Ultimately, $133 billion of the S&L cost will be interest payments, just interest. That is $133 billion that could go to deficit reduction, investments in infrastructure and education, and a host of other worthy purposes. Regretfully, Mr. President, it appears as though we are simply going to try to press that onto the next generation and to suggest that it can somehow be paid in the future.

Mr. President, I would call this no-fault banking bailed out by no-guts legislating.

It seems to me, Mr. President, that we have a responsibility to ask whether or not we are going to pay for it now, and whether or not we require the President of the United States to find the means of paying for it now.

You know it is very interesting. I was reading a magazine just the other day which had an article in it. It contained a very interesting paragraph:

The Federal bank deposit insurance scheme has worked up to now simply and solely because there have been very few bank failures. The next time we have pestilence of them, it will come to grief quickly enough, and if the good banks escape ruin with the bad ones, it will only be because the taxpayer foots the bill.

H.L. Mencken wrote that in 1936, and, boy, has it come home to roost, Mr. President.

So the question is how are we going to pay for the bailout? Do we pay for it by increasing the debt, by speeding up the exponential increase of the impact of total debt service? Or do we act responsibly and say we ought to pay for it as we go. We have assumed the responsibility of bailing out the failed banks and S&L's, and no one would suggest that we should not fulfill that obligation. But the question is whether we ought to pay for that as we go along. There are ways, Mr. President, to do it.

A few days ago in the Washington Post there was a cartoon by Mark Alan Stamaty, in his "Washingtoon" series, and it addressed precisely this problem. There was a character in the cartoon, and the first question he asked to another character was, "How do you think we pay for the S&L bailout"? The second character turned to the first and said, "I do not know." The first replied, "We borrow." And then he explains the alternatives as follows. He says, "Some Congress offers a pay-as-we-go amendment saying we should fund the bailout with spending cuts or a tax hike because it will save us huge costs in future interests."

"Sounds responsible," says the second character. "But it isn't," says the first, "because according to proponents of the amendment, it is completely unrealistic because reaching a consensus in Congress right now in any specific combination of tax hikes and/or spending cuts is politically impossible."

So, the first one concludes, "The pay-as-we-go amendment would have the effect, they say, of halting the bailout altogether, thus costing us more money than the interest in borrowing."

"So the responsible thing to do is actually the irresponsible thing until we are able to reach a consensus?" the second character asks.

"That is right," says the first.

"So when will we do that?" asks the second.

"Maybe never," says the first.

"Where does that leave us?" the second character wants to know.

Responds the first, "All our answers lie in never-never land."

Never-never land. That is the trouble right now, Mr. President. That we have been living in never-never land, and we have allowed people the belief that you can continue to live in this never-never land where you do the irresponsible thing and somehow convince people it is the responsible thing to do. And yet the reality all along is that every American knows, because they face this issue on a daily basis, that you cannot keep borrowing more and more and more. You simply cannot do it. Eventually you have to pay for it one way or another.

I do not see how we can just continue the kind of shell game that this administration has been too willing to play. President Bush said, "Right now the Federal budget process is like a huge Rube Goldberg machine, out of control, producing noise, smoke, heat, and no light, sucking up more and more tax dollars on one end and turning them into spending programs without end."

President Bush last year rightly noted that we are facing government by gridlock in Washington, with spending skyrocketing out of control and a budget deficit looming over our children's children. Americans are fed up. But the President neglected to point out that he is a central part of that game. In fact, he bears a large portion of the responsibility because he has offered no real alternative for the people of this country, only veto threats and opposition to congressional initiatives.

Mr. President, it seems to me that we are running out of alternatives and options. A Congress that is about to go home, and a Congress that has the will to go home—and no one wants to go home more than I do—is a Congress that finds it very hard to confront these choices at the last moment.

But what I am frightened of is that even if we were not about to go home, or even when we return, there may continue to exist the extraordinary unwillingness to confront this reality. For the last few years, I voted against the budget agreement because I believe each was fraudulent the day it was made. And I believe my fears have been borne out, Mr. President.

I think, Mr. President, on the question on the S&L's and the RTC, we need to consider whether the confrontation we all know must come ought to come now. It may not come in these next few hours, but in my judgment it is a confrontation that must occur here in the U.S. Senate within the next few months because nothing less than our Nation's future depends on it.

Mr. President, I see that the leadership has returned to the Senate floor, so I will yield the floor at this time for whatever purposes they have returned for.

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

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

SALUTE TO THE GOVERNMENT PRINTING OFFICE

Mr. FORD. Mr. President, hundreds of men and women support the Congress. The closing hours of a session test the skills and endurance of many of them. My appreciation of their support goes without saying, but let me tell each of you who may be listening now, or who may read these words later. I know of no Member of this institution who has not benefited by your efforts.

I would like particularly to salute the men and women at the Government Printing Office who have done yeomen duty in this past week. They have been working 12-hour shifts. Reporting to work at 4 in the morning. Some with hardly a break between shifts. As a result Congress has received much of the printed materials it needed—the CONGRESSIONAL RECORD, bills and committee reports—in time to complete the work that it had before it. The craftsmen at the Government Printing Office make up a remarkable collection of complimenting skills and in the closing hours of this session they have proven once again that when called on they go the extra mile.

AMBASSADOR JOSEPH VERNER REED

Mr. MOYNIHAN. Mr. President, as many here well know, Ambassador Joseph Verner Reed has enjoyed a long and distinguished record of foreign service. For some 30 years he has employed his singular talents in promoting the best interests of the United States abroad. Testament to Ambassador Reed's success are the countless decorations presented him for his diplomatic work. Among those he is no doubt most proud of is the Order of Pius IX, bestowed upon him by His Holiness Pope John Paul II during the Ambassador's tenure as Chief of Protocol of the United States. A splendid honor, and one I would like to make special note of. Mr. President, I ask that the exchange between Ambassador Reed and Pro-Nuncio Archbishop Agostino Cacciavillan on the occasion of this tribute be printed in the RECORD.

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

REMARKS BY AMBASSADOR JOSEPH VERNER REED UPON THE CONFERRAL OF THE PAPAL HONOR KNIGHT COMMANDER WITH STAR OF THE ORDER OF PIUS IX ON AMBASSADOR JOSEPH VERNER REED,

(Presented by His Excellency Agostino Cacciavillan) Apostolic Pro-Nuncio to the United States of America, Washington, D.C.

Apostolic Pro-Nuncio Cacciavillan, Archbishop Martino, the Holy See's Permanent

Observer to the United Nations, Dean of the Diplomatic Corps, Excellencies, Family and Friends, what a gathering!

As the solstice has passed us into the summer of 1991, I salute you, Archbishop Cacciavillan, for assembling this August group and I thank you for organizing this event on a milestone of a day in my life * * * a milestone in my diplomatic life and my life as a member of mankind. I wish only that my parents could have been with me today to witness this signal honor that His Holiness John Paul II has bestowed upon me with the Order of Pius IX.

Thank you Your Grace for this gesture and recognition of mutual cooperation during my tenure as an international civil servant at the United Nations. I would ask that this heartfelt expression of appreciation be extended to the Holy Father. You have made me proud!

This signal event also gives me an opportunity to salute you, Your Excellency, on your success on diplomatic row since your arrival in federal city. You are a star! Your predecessor Archbishop Pio Laghi was a colleague, confidant and friend; he was also and is a star!

I thrill in the Archbishop's elevation to Prince of the Roman Catholic Church. I will be with the Archbishop in heart and spirit at the consistory to be held tomorrow (Friday, June 28) in St. Peter's Square in Rome when His Holiness will bestow the Red Beretta on Archbishop Pio Laghi making him Cardinal of the Holy See. (Currently the head of the Vatican congregation for Catholic education.)

I also congratulate Archbishop Angelo Sodano, the Vatican's Secretary of State on his elevation to the church's highest rank. I share with you, friends, a thought expressed by the Secretary of State that has set, in my opinion, the tone for his tenure as "the prime minister" of the Holy See * * *" We all know that the Church of Christ is not European, nor African, nor Asian, nor American." The Cardinal-to-be stated a fortnight ago * * * the Bishops "should speak in a way most comprehensible to the modern mentality, without, however betraying anything of the integrity and originality of the christian message."

This message from the Secretary of State of the Vatican recalls to mind the immortal words of Jesus Christ in His sermon on the Mount as it appears in the Gospel of Matthew. "Blessed are the peace makers for they shall be called the children of God."

The Secretary of State's predecessor Augustino Cardinal Casaroli was and is my friend. He served 11 years in this position. We worked together at the Parliament of Man along with my friend and colleague Archbishop Renato Martino. The Holy See is an observer state at the United Nations and the Holy See involves itself in "active diplomacy of great scope and variety".

During one of the general assemblies of the mid-eighties I dined with Cardinal Casaroli at the great residence of the Holy See on 72nd Street. I recall how he talked about the United Nations and the work of House of Peace * * * the importance of meeting and working together towards "a just peace" that would enable the millions on our planet to achieve a better life.

The Cardinal told me that the semetic language in which Jesus Christ spoke the word for peace was a variant of the Hebrew "Shalom" or the Arabic version "Salaam". Indeed, peace is a universal aspiration in the soul of man.

While in recent years there was a vain attempt by the so-called socialist movement to appropriate the world peace, its older, more universal application is the one we see embodied today by the efforts of the United Nations to see that peace—with justice—is achieved by all peoples in all nations. And, this has been the extraordinary witness by His Holiness Pope John Paul II as he has crisscrossed our globe to 95 nations to deliver over and over that message—peace with justice.

It is for this reason that I am honored to bear the professional designation of "diplomat". For we have been given the unique privilege of being the front line warriors for peace.

Thus I am doubly honored to have received this Order of Pius IX from those, considered by many and rightly so the world's greatest diplomats: diplomats, moreover, in the service of a father and brother who want for all: "That peace which surpasses all understanding".

CONFERRAL OF THE PAPAL HONOR KNIGHT COMMANDER WITH STAR OF THE ORDER OF PIUS IX ON AMBASSADOR JOSEPH VERNER REED

(Commentary and remarks by Archbishop Agostino Cacciavillan) Apostolic Pro-Nuncio of the Holy See to the United States of America, Washington, DC.

The Apostolic Pro-Nuncio, Archbishop Agostino Cacciavillan, warmly welcomed government officials, especially the Secretary of the Treasury, and his wife, the Honorable and Mrs. Nicholas F. Brady, as well as the Dean of the Diplomatic Corps, Members of the Diplomatic Corps, other distinguished guests, and family and friends of Ambassador Reed.

Archbishop Cacciavillan noted that it was a Vatican meeting on Massachusetts Avenue, on the eve of a Consistory at Vatican City, for the creation by his Holiness, Pope John Paul II, of new Cardinals, among them, two Americans, Archbishop Anthony Bevilacqua of Philadelphia, and Archbishop Roger Mahony of Los Angeles, and also Archbishop Angelo Sodano and Archbishop Pio Laghi, both well-known to Ambassador Reed. So, there was an atmosphere of great joy in gathering to present Ambassador Reed with the Pontifical Honor, Knight Commander with Star of the Order of Pope Pius IX.

"This distinction," continued the Apostolic Pro-Nuncio, "is a sign of the appreciation the Holy Father has for Ambassador Reed, for the thoughtful and effective collaboration he has always extended the Holy See, especially when he served at the United Nations, as Under-Secretary-General for political and general assembly affairs. Cardinal Casaroli, former Secretary of State, and his successor, Archbishop Sodano, themselves experienced such consideration on various occasions, as has Archbishop Renato Martino, the representative of the Holy See to the United Nations, present at the nunciature to join in the presentation of the award to Ambassador Reed."

"We appreciate also," Archbishop Cacciavillan said, "what our friend Joseph, after his academic achievements as a student and then successful activities in the domain of economics, has accomplished in the international field, first as American Ambassador to Morocco. He demonstrated great professional interest in and genuine love for the peoples of Africa, which was certainly obvious again when, as United States representative to the Economic and Social Council at the United Nations, he performed an important role regarding a special session of the General Assembly on Africa in May, 1986."

"We think of him," the Apostolic Pro-Nuncio went on, "as one who contributes to promoting justice, human solidarity, peace, and a sense of universal fraternity, all values particularly dear to the Holy See and the Church because of her mission in and for the world."

Referring then to the work of Ambassador Reed as the Chief of Protocol, Archbishop Cacciavillan expresses "Deep appreciation and personal gratitude for the many attentions he has received from the honoree since his arrival in the United States in August 1990. No doubt these are common sentiments in the Diplomatic Corps of Washington, DC toward Ambassador Reed. To this important job Joseph brings indeed competence and experience regarding the substance of the matters dealt within diplomacy and, at the same time, special talents for human relationship, tact, openness, friendliness, and elegance." "I used to say," confessed the Apostolic Pro-Nuncio, "that Ambassador Reed is 'an artist of protocol'."

Archbishop Cacciavillan concluded by reading a message from Archbishop Pio Laghi, his immediate predecessor and Apostolic Pro-Nuncio to Washington, addressed to Ambassador Reed, congratulating him and extending to him "best wishes for continued good work on behalf of God and country".

COMMISSIONER FRANKLIN E. WHITE

Mr. MOYNIHAN. Mr. President, I would like to share with my colleagues news that a distinguished new Fellow has been named to the prestigious National Academy of Public Administration. He is New York's able State Transportation Commissioner, Franklin E. White.

The Academy, a private, nonprofit corporation chartered by the Congress, was established with the intent to improve the effectiveness of government at all levels, Federal, State and local. To this end, it makes available the collected experience and sage counsel of its 400 elected Fellows, all practitioners and students of government. They are chosen by their peers who include Cabinet Members, governors, members of Congress, and other prominent citizens who have served in the public life.

To be sure, the Academy has done well to include Commissioner White among its ranks. He has done a splendid job as head of one of the largest State transportation and public works organizations in the Nation. He enjoys a long and successful record of public service, and will no doubt greatly enhance the Academy's resources. Mr. President, at this point I ask that a brief biography of Commissioner White be printed in the RECORD.

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

FRANKLIN E. WHITE—NEW YORK STATE TRANSPORTATION COMMISSIONER

On May 1, 1985, Governor Mario M. Cuomo appointed Franklin E. White, New York State Transportation Commissioner. After receiving a unanimous confirmation by the New York State Senate, Commissioner White assumed office on July 15, 1985.

Commissioner White, 49, was raised in and attended parochial schools in New York City. He is a graduate of Cardinal Hayes High School in the Bronx. In 1961, he received his bachelors degree, *cum laude*—in Accounting and Economics—from the City College of New York. He received his law degree, *cum laude*, from the Columbia University School of Law in 1965. Mr. White is married and has three children.

Before joining the Cuomo Administration, Commissioner White served as Virginia Secretary of Transportation and Public Safety during the Administration of Governor Charles S. Robb. Prior to that, Commissioner White was Associate Director for Justice, Domestic Policy Staff at the White House during the Administration of President Jimmy Carter. Mr. White served as Deputy Director of the New York State Division of the Budget from 1975–1978.

Since becoming New York State's Commissioner of Transportation, Mr. White has been an increasingly active advocate in national transportation forums for New York's "multi-modal" transportation policies and improved agency management initiatives. He is a member of the Executive and Policy Committees of the American Association of State Highway and Transportation Officials. He serves on the Executive Committee of the National Transportation Research Board and recently completed a one year term as President of the 11-state Northeast Association of State Highway and Transportation Officials.

Previously, Mr. White worked as an attorney with the Civil Rights Division of the U.S. Department of Justice and with the NAACP Legal Defense and Educational Fund. He was General Counsel to the New York City Commission on Human Rights and to the New York City Human Resources Administration. He was consultant to the Manpower Demonstration Research Corporation, a Ford Foundation affiliate.

Commissioner White serves as chief executive officer of the New York State Department of Transportation (DOT), one of the largest state transportation and public works organizations in the nation, employing 12,000 people with a budget of $4 billion. It is the oldest line agency in New York State government and has responsibility for or under its jurisdiction: highways, bridges, mass transit, rail, ports and aviation facilities.

THE CONDUCT OF PROCEEDINGS FOR THE SELECTION OF OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE

Mr. NUNN. Mr. President, the fair and impartial conduct of the selection process for promotion of officers in the armed forces has been a matter of great concern to the Armed Services Committee. In 1987, we conducted a detailed review of problems associated with the 1987 Marine Corps Major General Selection Board, and received assurances from Secretary Weinberger that regulatory guidance had been issued to preclude a recurrence of the actions that undermined the fairness of that board.

During the Committee's review of certain Air Force nominations during the 101st Congress, the Committee received information which indicated that the Air Force has not implemented the regulatory guidance directed by Secretary Weiberger. Detailed reviews of these matters during 1990 and 1991 by the Department of Defense and the Committee have revealed systemic deficiencies in the Air Force selection process. These deficiencies are described in a joint statement, issued by myself and Senator Warner, and in an analysis prepared by the staff of the Armed Services Committee.

The Conference Report on the National Defense Authorization Act for fiscal years 1992 and 1993, which we approved last week, establishes new statutory procedures that address the problems identified in the review of Air Force promotion practices. The Armed Services Committee will conduct oversight hearings early in the next session to review the implementation of this legislation and to examine the issue of accountability and responsibility for the deficiencies in the Air Force promotion selection process.

I ask unanimous consent that the joint statement and staff analysis be included in the RECORD at this point.

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

[JOINT STATEMENT]

SENATOR SAM NUNN, CHAIRMAN, SENATE ARMED SERVICES COMMITTEE AND SENATOR JOHN WARNER, RANKING MINORITY MEMBER CONCERNING THE CONDUCT OF PROCEEDINGS FOR THE SELECTION OF OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE

The selection of officers for promotion in the armed forces through the grade of major general and rear admiral is governed by statutory procedures. The central feature of these procedures is the use of impartial boards of officers, known as selection boards, to recommend officers for promotion. The composition and conduct of these boards is carefully guided by laws and regulations designed to ensure the fairness and impartiality of board proceedings. The range of actions that may be taken by the senior leadership before, during, and after the board proceedings is likewise circumscribed to preclude improper interference with the integrity of the selection process.

The fair and impartial conduct of the selection process is a matter of great concern to the Committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to established laws and regulations is necessary to ensure that the best qualified officers are selected for promotion, and that the officer corps has confidence in the integrity of the selection process.

During the Committee's review of certain Air Force nominations during the 101st Congress, the Committee received information which indicated the possibility of serious and systemic deficiencies in the procedures used by the Air Force to recommend officers for selection to general officer positions. The Committee brought these matters to the attention of the Department of Defense. The Deputy Secretary of Defense ordered an examination of officer selection procedures throughout the Department of Defense. The results of that review were provided to the Committee. The Committee also directed the Committee staff to review these matters. The results of these reviews are described in the attached staff analysis.

These reviews identified the following systemic deficiencies in the Air Force officer selection process:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense Directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded ninety percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority lists" prepared by senior officers.

(4) Improper communications between the Air Force leadership and selection board members.

In addition, these reviews identified deficiencies in specific cases that are described in the attached staff analysis.

As a result of the DoD review initiated by the Committee, the Air Force has taken corrective action by issuing a regulation governing general officer selection boards, eliminating the preselection process, eliminating the use of priority lists, and issuing regulatory restrictions on communications between the leadership and selection board members.

Section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 establishes new statutory procedures for the conduct of selection boards. These procedures address the problems identified in the review of Air Force selection board practices. Section 504 requires prompt implementation by the Secretary of Defense. The Committee will conduct appropriate oversight hearings early in the Second Session of the 102d Congress to review the manner in which the legislation has been implemented. In addition, these hearings will examine the very important issue of accountability and responsibility for the deficiencies in the Air Force promotion selection process.

STAFF REPORT TO THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE

During 1990 and 1991, the Committee on Armed Services reviewed officer promotion selection processes in the U.S. Air Force. In July 1991, Senator Sam Nunn and Senator John Warner, Chairman and Ranking Minority Member, directed the staff to prepare a staff analysis of the results of the review. The staff presented the analysis to the Committee on November 19, 1991. The Committee determined that the analysis should be issued as a Committee document. The following is the staff report that was prepared at the direction of the Committee.

Part I of this report sets forth the statutory and regulatory background of the current promotion selection process. Part II describes the events resulting in the Committee's inquiries and a review by the Department of Defense. Part III analyzes the deficiencies in Air Force procedures disclosed as a result of the Committee's inquiries and the Department's review.

I. STATUTORY AND REGULATORY BACKGROUND

The promotion selection process

The promotion of military officers through the grade of major general and rear admiral relies on a merit-based system, the centerpiece of which is the selection board process. The sole exception involves officers nominated under the President's power under Article II of the Constitution to make nonstatutory nominations, an authority that is rarely invoked.

Under current law, 10 U.S.C. 612, each selection board must consist of at least five officers, all of whom must be serving in a

grade higher than the officers under consideration by the board. To ensure that the selection process is not dominated by a small group of officers, the law provides that "[n]o officer may be a member of two successive selection boards . . . for the consideration of officers of the same competitive category and grade." 10 U.S.C. 612(b). To emphasize the solemnity of the board's responsibilities, a statute requires that each member "swear that he will perform his duties as a member of the board without prejudice or partiality and having in view both the special fitness of officers and the efficiency of his armed force." 10 U.S.C. 613.

To encourage candid discussions free from outside interference, the law prohibits disclosure of a board's deliberations "to any person not a member of the board," subject only to very limited exceptions. 10 U.S.C. 618(f).

The board must submit a written report, signed by each member, certifying that the board has "carefully considered the record of each officer" under consideration, and that those recommended by the board "are best qualified for promotion." 10 U.S.C. 617.

Prior to submission of the board's report to the President, it is reviewed by the Secretary of the Military Department concerned, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense. These individuals are not authorized to interfere with the legitimate exercise of discretion by the selection board or to make any changes in the recommendations of the board. The Service Secretary may return the report to the board for further consideration only if there has been a violation of law, regulations, or guidelines. Neither the Service Secretary, nor any other official who reviews the board's report, may add a name to, or delete a name from, the list recommended by the board. Only the President may remove a name from a list recommended by the board. 10 U.S.C. 618.

1987 investigation into improper communications with selection boards

In 1987, the Armed Services Committee conducted an inquiry into irregularities associated with the 1987 Marine Corps major general promotion list. One of the key problems arising out of the 1987 inquiry involved verbal communications by the Secretary of the Navy and the Commandant of the Marine Corps to the President of the selection board. The verbal communications resulted in two additional names being added to the board's original eight selections.

The Committee's report on the Marine Corps major general board (S. Exec. Rept. No. 3, 100th Cong., 1st Sess. (1987)) commented specifically on the relationship between oral communications and fairness of the selection process:

The Committee observes that if an officer's selection is influenced by actions or oral communications of senior officials occurring outside the authorized selection board process, then other officers under consideration, who must rely on the authorized board process, may be denied a fair and equitable opportunity to be selected.

The report outlined the proper procedure for communicating information to a selection board:

Opinions, in writing, by a Service Secretary or a Service Chief, with respect to personnel under their authority, can be made part of an officer's military records jacket at any time prior to a board covening and then can be given such consideration and accorded such weight as individual board members desire. That procedure maintains the spirit of fairness and objectivity which is so essential to the promotion selection process.

The Committee emphasized the importance of following such established procedures when dealing with the views of senior officials:

The exceptional weight that can be attributed to a Secretary's (or Chief's) view requires equally exceptional care in the manner those views are conveyed to board members.

Corrective action directed by the Secretary of Defense in response to the 1987 investigation

In a letter to the Committee dated July 7, 1987, Secretary of Defense Weinberger assured the Committee that he had taken vigorous action to prevent recurrence of the problems associated with the Marine Corps major general board:

As regards the Service Secretaries and other senior officials, we have . . . acted to prevent the problems in this case recurring in the future. After receiving the General Counsel's report of inquiry, I directed prompt issuance of guidance for the military departments to prevent a recurrence of the unfortunate confluence of events which necessitated review of the board proceedings in this case. . . .

This guidance . . . fully and systematically addresses the confusion which complicated these board proceedings, by providing that, in the future:

Service Secretaries may not add authorizations to a promotion board after it convenes without my approval;

Service Secretaries and other persons must communicate their views regarding individual officers to a promotion board, if at all, in writing through means which will assure that their views are neither misrepresented nor misunderstood; and

Each board member has a right to relief from board service if he or she believes that any person has acted to limit the board's discretion, and a duty to report that matter to appropriate Service or DoD officials.

These provisions provide clear guidance for the future to prevent any circumstance in which the independence or integrity of a board proceeding could be questioned. . . .

As a result of the Secretary's action, an amendment to DoD Directive 1320.12 was issued on June 3, 1987 to ensure the integrity of the promotion process by regulating the flow of information to a selection board. A key feature of the amended directive was the requirement that: "[a]ll communications intended to express the views of the Service Secretary, the senior uniformed member of the Service concerned, or other superior authority to the members of a selection board shall be put *in writing, furnished to each member, and made a part of the board record.*" (emphasis added).

The Committee's report on the Marine Corps major general board took special note of the Secretary's action:

[T]he Secretary of Defense [has] directed that guidance, uniformly applicable to all three military departments, be promulgated by the Department of Defense to ensure that in the future all communications between a Service Secretary or senior uniformed officers and a selection board be *in writing, be furnished to all members of the board, and be made a part of the official record.* . . . (emphasis added).

On June 3, 1987, the Deputy Secretary of Defense issued revised guidance to the military departments concerning the officer selection process, which embodied the directions of the Secretary of Defense and incorporated additional safeguards against attempts to manipulate or interfere with promotion selection board procedures. . . .

The June 3, 1987 amendments to DoD Directive 1320.12 included the following changes to ensure the integrity of the promotion process by regulating the flow of information to a selection board.

A requirement that the Service Secretary provide "written instructions to promotion selection boards."

A limitation requiring that "[a]ll communications intended to express the views of the Service Secretary, the senior uniformed member of the Service concerned, or other superior authority to the members of a selection board shall be put in writing, furnished to each member, and made a part of the board record."

A prohibition against providing favorable information or opinion regarding officers to be considered by the board except by means of a letter filed in the officer's official military records or a written communication provided to each member and made a part of the board record.

A prohibition against furnishing unfavorable information "except as expressly authorized under regulations prescribed by the Secretary concerned."

The Directive was further amended on November 29, 1989 to include:

Rules governing modification or withdrawal of instructions to a board.

A restriction providing that "[c]ommunications regarding particular officers are expressly forbidden, unless unusual circumstances exist that would preclude an officer's performance from being documented in the official record (i.e., sensitive classified mission, etc.)".

Procedures for receiving unsolicited favorable opinions.

A requirement for guidelines relating to the needs of the service for particular skills.

These amendments did not relax any of the restrictions imposed in June 1987.

Both the 1987 and 1989 amendments to DoD Directive 1320.12 required the Military Departments to provide the Office of the Secretary of Defense with implementing instructions within 120 days.

II. BACKGROUND TO COMMITTEE'S REVIEW OF AIR FORCE PROMOTION SELECTION PRACTICES

Development of information indicating irregularities in Air Force selection board procedures

In 1990, during the Committee's review of certain Air Force nominations for promotion to brigadier general, the Committee received indications that adverse information concerning certain nominees, which was not part of the nominees' military records, had been provided to one member of the selection board. However, this adverse information had not been communicated in writing to all members of the selection board as required by the amendments to DoD Directive 1320.12 that had been directed by the Secretary of Defense in response to the 1987 investigation of the Marine Corps major general board.

On June 28, 1990, the Committee asked the Department of Defense to determine the manner in which the information was handled with respect to the 1990 Air Force brigadier general selection board in light of the requirements of DoD Directive 1320.12.

The Secretary of the Air Force responded for the Department of Defense on August 3 1990. In response to the Committee's questions, the Secretary noted that certain adverse information relating to two nominees was provided to the President of the board but not to the other members of the board.

The Air Force response, and the Committee's review of applicable Air Force regula-

tions, indicated that the Air Force had failed to implement both the 1987 and 1989 amendments to DoD Directive 1320.12. On September 28, 1990, the Committee asked the Secretary of Defense to review pending Air Force nominations to determine whether the nominees were selected in accordance with applicable DoD Directives, and to advise the Committee of the actions taken by the Air Force to implement DoD Directive 1320.12.

While the Committee's request was under consideration by the Department of Defense, the Committee discussed the Air Force promotion system with General Merrill P. McPeak during review of his nomination to be Air Force Chief of Staff. In testimony before the Committee on October 24, 1990, General McPeak provided a candid, forthright assessment of deficiencies in the system. In addition to describing the failure to implement applicable rules restricting provision of information to selection boards, General McPeak noted the following additional deficiencies in Air Force procedures:

(1) A preselection process not authorized by Air Force regulations which reduced the number of candidates that would be considered by a general officer selection board through the elimination of about 90 percent of the eligible officers prior to convening of the centralized selection board.

(2) Improper briefings of the Secretary and the Chief of Staff of the preliminary decisions of selection boards prior to final action by the boards.

On October 25, 1990, the Committee brought these matters to the attention of the Secretary of Defense.

Review of the officer promotion process by the Assistant Secretary of Defense (Force Management and Personnel)

Deputy Secretary of Defense Atwood, by memorandum dated November 7, 1990, directed Christopher Jehn, the Assistant Secretary of Defense (Force Management and Personnel), "to review the officer promotion programs and promotion board procedures in each of the Military Departments." The Atwood memorandum stated that the purpose of the review was to determine whether existing regulations and procedures—

1) are in compliance with statutory requirements,

2) foster a climate of fair and equitable consideration of officers eligible for promotion, and

3) ensure the independence and integrity of promotion boards.

The OSD review covered the 1987-90 time period, and focused on the fiscal year 1990 cycle of promotion boards. The review consisted of an examination of regulations and related documents, formal presentations by the Services, and interviews with randomly selected board members and support personnel. The review of the Air Force process, for example, included interviews of 10 officers. The purpose of the review was to identify systemic problems, and it was not designed to specifically address the validity of each board conducted within that period. Therefore, the deficiencies in Air Force procedures described in Part III of this report should be regarded as examples, and not as a comprehensive listing of all irregularities that may have occured during that period.

On March 15, 1991, Deputy Secretary Atwood forwarded the results of the OSD review to the Committee. Additional material was provided to the Committee on April 9 by Secretary of the Air Force Donald B. Rice and on April 25 by Assistant Secretary of Defense Jehn. The Committee submitted follow-up questions on May 20, and material was submitted to the Committee on June 19 by Assistant Secretary of Defense Jehn and on July 10 by Air Force Secretary Rice. References in this report to the "OSD Review" pertain to material contained in the March 15 letter from Deputy Secretary Atwood and the letters from Assistant Secretary Jehn dated April 25 and June 19, 1991.

III. ANALYSIS

Irregularities identified as a result of the Committee's inquiries concerning Air Force promotion practices

The information provided by the Department of Defense in response to the Committee's inquiries established that there were serious, significant deficiencies in Air Force promotion practices.

1. Failure to issue required implementing regulations

According to Deputy Secretary Atwood, the OSD review "revealed, in the case of general officer promotions, a failure on the part of the Air Force to ensure strict adherence to required procedures. " The OSD review noted that "the lack of a governing Air Force regulation may account for an insufficient awareness of the various provisions of DoD [Directive] 1320.12 which contributed to irregularities, both real and preceived, in general officer promotions."

The failure of the Air Force to implement the regulation was not the result of an administrative oversight with respect to a routine matter. The Air Force actively participated in the development of the 1987 changes to the DoD Directive, and specifically objected to coverage by the regulation of general officer selection boards. The Air Force also proposed striking out the language which included "the senior uniformed member of the service concerned [and] other superior military authorit[ies]" in the requirement that all communications from the leadership be in writing. The Air Force comments were not accepted by the Deputy Secretary of Defense when the 1987 changes were issued. After the amended Directive was issued, the Air Force: (1) failed to issue a regulation governing the conduct of general officer selection boards; (2) failed to incorporate the changes into the existing regulation governing field grade officer selection boards; and (3) failed to incorporate the limitations on communications into the Letters of Instructions provided to selection boards.

The failure of the Air Force to fully implement the DoD Directive persisted for years—even after the Committee brought the Directive to the attention of the Air Force on June 28, 1990. The Air Force issued a regulation governing general officer selections on February 1, 1991. The Air Force has still not revised its field grade selection board regulation to incorporate the 1987 or 1989 amendments to the DoD Directive.

As the Committee noted in its report on the National Defense Authorization Act for Fiscal Years 1992 and 1993 (S. Rept. 102-113):

The failure of a Military Department to implement a DOD Directive on a timely basis is inexcusable in any case. When it involves a directive that the Secretary has issued to address problems of abuse in the promotion selection process, the failire is intolerable.

The failure to implement the Directive meant that the Air Force provided no guidance to the officer corps in general, or selection boards in particular, as to the strict prohibitions set forth in the amendment DoD Directive.

2. Use of a preselection process to improperly exclude eligible officers from consideration by selection boards

When a selection board is convened, the board must consider each officer in and above the promotion zone for the grade and competitive category under consideration (10 U.S.C. 619(c)). There are a number of very limited exceptions, including authorization for the Service Secretary "by regulation" to "prescribe procedures to limit the officers to be considered . . .for promotion to the grade of brigadier general or rear admiral (lower half) . . . to those officers who are determined to be exceptionally well qualified for promotion . . . ."

According to the OSD review, the Air Force employed a preselection process without issuing the statutorily required regulation. The Air Force routinely used such unauthorized preselection boards to exclude eligible officers from consideration without prescribing the required procedures.

The OSD review determined that "[t]hese screening boards normally eliminated from consideration by the statutory board approximately 90 percent of those officers who would otherwise have been eligible for consideration by the statutory board."

The OSD review noted that "[n]o formal means were used to advise eligibles of the brigadier general pre-screening process." The effect was that thousands of officers who reasonably could have believed that their nonselection for promotion resulted from the decision of a statutory selection board had, in fact, been eliminated from consideration through unauthorized procedures before the statutory board ever met.

According to the OSD review, the Air Force used a three-tier preselection process to screen out candidates prior to convening statutory brigadier general selection boards. The first tier consisted of Initial Screening Boards established primarily at major command levels, which eliminated approximately 90 percent of the eligible officers from further consideration. The second tier involved a Central Screening Board, which eliminated about 50 percent of those recommended by the Initial Screening Boards. The final tier was the statutory selection board, which considered the remaining eligible officers.

The Initial Screening Boards were established at each of the major commands and at Headquarters, Air Force. As a result, eligible officers did not compete against their peers throughout the Air Force, as contemplated by the statutory centralized selection process. Instead, they were screened out through a procedure in which they unknowingly competed only against officers within their own command.

The Initial Screening Board at a major command consisted of general officers appointed by the major command commander. Thus, officers eligible for promotion who reasonably expected that they would be considered by a selection board convened by the Service Secretary, as required by law, were instead eliminated from consideration by screening boards appointed by commanders in the field.

An Initial Selection Board convened at a major command was allowed to forward no more than 15 percent of the eligible officers for centralized screening. The Headquarters Initial Selection Board was allowed to forward no more than 10 percent of the eligible officers for centralized screening.

The effect of the Initial Screening Board process was that at least 85 percent of the colonels assigned to the major commands,

and at least 90 percent of the colonels assigned to Headquarters, Air Force, were improperly precluded from competing against their peers elsewhere in the Air Force before a central promotion board.

The balkanization of the Initial Screening Board process into separate boards for each major command, and a separate boards for the headquarters organizations, meant that an officer could be eliminated even though the officer was better qualified than an officer in another command who was selected. The potential for unfair treatment was magnified with respect to smaller commands, in which the 15 percent limitation meant that in absolute numbers, fewer officers in the smaller commands, as compared to larger commands, were eligible for selection. Thus, an officer at a smaller command who might rank well within the top 15 percent of Air Force colonels on a Service-wide basis, could be excluded from further consideration because of the limited number of selections available to that officer's command. In addition, officers in headquarters commands, which were subject to a 10 percent limitation, were at a disadvantage to their counterparts in major commands, which could forward 15 percent of their eligibles.

The second tier—the Central Screening Board—considered all eligible officers forwarded by the Initial Screening Boards. The Central Screening Board not only considered the military records of eligible officers, it also had access to a "closed" evaluation form—an evaluation that was not made available to the officer being evaluated. Although the closed form was authorized by regulation, the Central Screening Boards were not so authorized.

The Central Screening Board was composed of general officers from the major commands, the Air Force Secretariat, the Air Staff, and Joint Agencies. The president was appointed by the Secretary of the Air Force, and the members were appointed by the Chief of Staff of the Air Force. The Central Screening Board was permitted to forward up to half of the eligibles it considered to the Final (statutory) Selection Board.

The third tier, the Final (statutory) Selection Board, had access to the officer's military records, the "priority lists" submitted by major commanders and other selected officials, and the closed form evaluations.

According to the OSD review, the statutory selection board "considered all eligibles forwarded by the CSB [Central Selection Board], plus a small number of other eligibles identified by the commanders who did not score through the CSB." The "other eligibles" consisted of officers who were not forwarded by the Central Selection Board but who were identified on "priority lists" submitted by the commanders of major commands and other selected officials after they were notified of the results of the Central Selection Board. The priority list system served as a supplement to the screening process, and enabled those permitted to submit priority lists to ensure that favored candidates were not eliminated from consideration by the screening process. These "priority lists" are discussed in more detail in section 3, below.

Statutory screening boards, which are authorized to narrow the field, have a less stringent selection standard than regular (i.e., final) selection boards. Regular selection boards may recommend only those "best qualified" for promotion. The statutory standard for screening boards—"exceptionally well qualified"—permits the final board to select the "best qualified" from a wider field—those found by a screening board to be "exceptionally well qualifed." The Air Force, which did not have a regulation governing its screening boards, did not use the "exceptionally well qualified" standard. This was improper, because officers who might have been forwarded under an "exceptionally well qualified" standard were eliminated under the percentage quotas assigned to the screening boards.

The problems caused by failure to use the statutory criteria were compounded because the screening boards operated with virtually no written guidance, other than the limitation on the percentage that could be forwarded. As a result, the Initial Screening Boards could operate without regulations requiring the safeguards applicable to statutory selection boards, such as: (1) the requirement that no officer may be a member of two successive boards for the consideration of officers of the same competitive category and grade; (2) the requirement that eligible officers be provided with at least 30 days notice of the convening of a board and provided an opportunity to send a written communication to the board; (3) the requirement for Secretarial guidance, including guidance to ensure appropriate consideration of joint duty assignments; (4) the prohibitions against reviewing authorities adding to or deleting from the recommendations of selection boards; and (5) limitations on communications to selection boards. As a result, officers who reasonably believed that their records were considered in accordance with such safeguards were eliminated by screening boards in which such safeguards were not required to be observed.

In summary, instead of an authorized screening process with centralized selection using a statutory standard, the Air Force used an unauthorized process in which 90 percent or more of the eligible officers were eliminated through decentralized boards using an improper standard without regulations requiring the statutory safeguards applicable to regular selection boards.

3. Improper communication of "priority lists" to selection boards

The OSD review found that since the 1960's, the Air Force "allowed certain senior officers and civilian officials to provide to general officer promotion boards a list of eligible officers recommended for promotion. . . . These . . . Priority Lists . . . were the personal choices for promotion of the officials who prepared the lists, and proposed for promotion a small subset of the eligible officers."

The OSD review observed that the "use of these lists was not addressed in regulation and was not common knowledge outside the general officer management community." According to the OSD review, "[e]ligible officers were not made aware of the priority list system."

Officials permitted to submit a priority list were allowed to designate no more than 4 percent of the eligible officers in their command. Priority lists consisted of a rank ordering of certain candidates by the commander. There was no narrative information. Thus, the list did not provide selection boards with any information about the military record of an officer. The information communicated by the list—the presence or absence of a name, and the relative order of names on the list—was signficant, however, because the list communicated the views of the major commanders and other senior officials as to who should be selected.

As noted in the OSD review, use of such lists violated the 1989 amendments to DoD Directive 1320.12, which generally prohibited "communications regarding paticular officers" (subject to very limited exceptions). A March 6, 1991 Air Force memorandum, included as an enclosure to the OSD review, explained that the Deputy Chief of Staff for Personnel briefed the Secretary of the Air Force on the use of priority lists after the 1987 amendments to DoD Directive 1320.12. He did not brief the Secretary after the 1989 changes, which expressly prohibited communication of information such as priority lists to selection boards.

In addition to violating the 1989 changes to the DoD Directive, the use of priority lists compounded the problems noted in section 2, above, concerning the use of unauthorized screening procedures. The priority lists were prepared by the major commanders and other selected officials after they were notified of the results of the Central Screening Board. As a result, an officer who had not been selected by the Central Screening Board could nonetheless be considered by the final, statutory board if fortunate enough to be placed on a commander's priority list. Thus, even if the preselection process had been properly structured under 10 U.S.C. 619(c)(2) "to limit the officers to be considered by a selection board . . . to those officers who are determined to be exceptionally well qualifed for promotion," the statutory process would have been undermined by the use of priority lists to circumvent the statutory standard.

In summary, the use of priority lists improperly communicated the views of the senior leadership about particular officers to selection boards. In addition, the priority lists enabled the leadership to circumvent the preselection process. None of this was made known to eligible officers, who could reasonably believe that they were being considered for promotion on the basis of their official military records.

4. Improper communications between the Air Force leadership and selection board members

The OSD review noted that a board president had specific conversations with the Service Secretary and Chief of Staff during the 1989 brigadier general promotion board. According to the OSD review, these communications "did not comport with paragraph G.2. of DoD Directive 1320.12 in that these communications were not in writing, were not provided to each board member, and were not made part of the board record."

The review also noted that, as a general practice, "prior to the signing of the board report by promotion board members, the results of general officer promotion boards were routinely provided to both the Chief of Staff and the Service Secretary." These oral reports not only created the opportunity for improper verbal communications of the views of the Air Force leadership in violation of DoD Directive 1320.12, but also were contrary to 10 U.S.C. 617(a), which requires the board to provide the Secretary with a "written report, signed by each member of the board."

In response to a follow-up question by the Committee, the Air Force described the following incident, which illustrates the problems created by improper communications during a board's proceedings. A board was convened to select 32 officers for promotion to major general out of 102 eligibles. The board conducted a trial run, followed by a discussion, and "an initial review and scoring of the candidates." The board then adjourned for the evening.

When the board president reviewed the results, he found that Brigadier General

"XYZ" was not among the top 32 in the order of merit, despite the fact that he had scored well in the trial run. According to the Air Force report, "[t]here had been some discussion of this officer's performance among some of the members after the trial run."

That evening, the board president had a "courtesy visit" with the Chief of Staff, during which he asked whether the Chief of Staff was satisfied with the performance of Brigadier General "XYZ" and whether the Chief of Staff agreed with the Vice Chief's decision to place Brigadier General "XYZ" on the "priority list" that the Vice Chief had submitted to the selection board. The Chief of Staff noted his satisfaction with Brigadier General "XYZ's" performance and his agreement with the placement of Brigadier General "XYZ" on the Vice Chief's priority list.

The next day, the board president advised the board of his concern that there was an "anomaly or disconnect" in the scoring. He also advised the board that "the Chief agreed with the Vice Chief's placement of BG XYZ on the priority list and that the Chief was satisfied with the duty performance of BG XYZ." The board decided to rescore Brigadier General "XYZ's" record, and the result of the rescoring placed him in the top 32 officers selected for promotion. According to the Air Force report, two of the members of the board, who had not been present during the entire discussion of the rescoring process, "believed that the rescoring of BG XYZ was very unusual and that there was actual or implied pressure to select BG XYZ." The Air Force report added that another member of the board "suggested that 'influence' may have caused the board to rescore, but that no one directed the board to select BG XYZ." Other members of the board did not have a clear recollection of the matter. As noted in the Air Force report, "the circumstances under which this rescoring was accomplished must be viewed as a violation of paragraph G2 of DOD Directive 1320.12, because of the communication between the Chief of Staff and the board president."

This incident underscores the inherent unfairness of communications to the board by the senior leadership during the deliberative process. The selection board was limited to recommending 32 officers for promotion. In the scoring that took place before the conversation between the Chief of Staff and the board President, Brigadier General "XYZ" did not score among the top 32 eligibles. After the conversation, he was included—thereby displacing another officer who did not have the benefit of a discussion between the board President and the Chief of Staff. The issue is not whether the Chief of Staff "directed" the board to select Brigadier General "XYZ"; rather, it is the failure of the Air Force to conduct its selection board proceedings, as required by law, in a manner that insulated board members from any communication that could be viewed by board members as influencing them towards a particular selection.

This incident illustrates the manner in which the failure of the Air Force to implement the DoD Directive left the Service vulnerable to improper conduct.

The OSD review found that the Deputy Chief of Staff for Personnel, although not serving as a selection board member or on the administrative support staff, was afforded access to promotion board proceedings. According to the OSD review: "This created the opportunity for violation of the rules governing communications insofar as this officer could be perceived as informally expressing the views of the Service Secretary, Chief or Staff, or other superior authority." The OSD review also noted that "such access may be in conflict with [10 U.S.C. 618(f)] which provides that the proceedings of a selection board may not be disclosed to any person not a member of the board." To the extent that the Deputy Chief of Staff for Personnel was involved in communications beyond routine administrative assistance to the board, such activities were in violation of the regulations and the statute.

A March 6, 1991 Air Force memorandum, included as an enclosure to the OSD review, notes that the Deputy Chief of Staff for Personnel "did, on occasion, discuss eligible officers with a board president or member." According to the March 6 memorandum, "on occasion a board member would ask if the Chief or other senior officials felt strongly about a candidate who had been highly rated. If the question was asked, he answered it."

The OSD review provides further details: "The Air Force informs us that prior to the convening of a promotion board, neither the CSAF [Chief of Staff of the Air Force] nor other senior officials conveyed their views about individual officers to [the Deputy Chief of Staff for Personnel]. In the course of working general officer assignments and related personnel matters with the senior staff, [the Deputy Chief of Staff for Personnel] became aware of how the senior staff regarded some officers. *If asked for comment, [the Deputy Chief of Staff for Personnel] provided his assessment of how the officer was viewed by the CSAF or another senior officer.* If he did not know enough to form an opinion, he declined to offer one." (emphasis added).

The March 6 Air Force memorandum observes that on one occasion, the Deputy Chief of Staff for Personnel "spoke to a full board from his own personal knowledge about an officer he believed had an integrity problem. He believed he had a personal responsibility to inform the board that the officer under consideration had lied to him and therefore lacked integrity." The OSD review notes that although the Deputy Chief of Staff for Personnel had advised the officer's supervisor of his concern, he had taken no action before or after the selection board to document this concern in an official record that would be properly before a selection board. The DoD letter also notes that the particular officer was not selected for promotion. The officer was not aware of, nor did he have an opportunity to rebut, this adverse information.

An additional difficulty is presented by the role of the Deputy Chief of Staff for Personnel in the "scoring" process. A statutory selection board determines which officers are selected through the assignment by board members of numerical scores to each eligible officer. Those who score highest, up to the number of eligibles the board is authorized to recommend, are selected. In the Air Force, the Deputy Chief of Staff for Personnel assisted the board in the conduct of "trial scores". The purpose was to promote discussion about the attributes that would make an officer worthy of selection. The "trial" scoring involved use of selected records of eligible officers, not hypothetical candidates. The discussion that followed involved consideration of the merits of an officer's records. The participation of the Deputy Chief of Staff for Personnel in these discussions constituted improper communication of the views of a senior officer about a particular eligible candidate in violation of DoD Directive 1320.12.

According to the March 6, 1991 Air Force memorandum, the Deputy Chief of Staff for Personnel "had full access to all boards, and considered it part of his role as DCS/Personnel to be there." The memorandum notes that earlier in his career, as a board member, he had observed previous Deputy Chiefs of Staff for Personnel "in the [selection] board room" and believed that "this was expected of the DCS/Personnel as part of his job, and indeed, that it would have been noted and questioned by board members if he were not present for a board."

The OSD review did not address the issue of whether it was appropriate for the Deputy Chief of Staff for Personnel to personally provide administrative support to selection boards. Because he was viewed by other members of the board as a representative of the senior leadership, he should not have been placed in that position. Even if it had been proper for him to provide administrative support to the boards, it was essential that he perform such tasks in a manner consistent with applicable law and regulations. In communicating unfavorable information to the board about a specific officer, he acted contrary to the position of trust which had provided him with access to the board's deliberations.

5. Improper communications by board members during board proceedings

The March 6, 1991 Air Force memorandum, summarizing information provided by the Deputy Chief of Staff for Personnel, noted that "[b]oard presidents from time to time have contacted officials outside the board structure concerning an eligible officer." In one case, "a board president called a CINC to clarify the ranking of an eligible officer on the CINC's PL [priority list]." In another instance, "contact was made with a commander to ascertain the meaning of remarks on a closed form" (i.e., the evaluation form that was not provided to the eligible officer).

The OSD review notes:

[T]he Air Force conducted general officer boards in a manner that afforded the board members—who were all general officers—a significant degree of autonomy. Although the board recorders and support personnel limited access to the boardroom area and attempted to monitor the use of the telephones in the board room area, the board members had the opportunity to initiate and receive communications about any subject including eligible officers.

In the absence of a regulation limiting communications, there was no express limitation on the manner in which board members, exercising their "autonomy," could communicate with outside officials during board deliberations. This created the opportunity for violations of the prohibitions against such communications.

6. Improper increase in the number of officers authorized to be selected for promotion

DoD Directive 1320.12 provides that after a board is convened, the Service Secretary may not increase the number of officers authorized to be selected without the written approval of the Secretary of Defense. The purpose of this provision is to prevent a recurrence of the action taken with respect to the 1987 Marine Corps major general board, when the number of authorized selections was increased, after the board had made its initial decisions, to facilitate the selection of a candidate who was not initially selected by the board.

The OSD review determined that in 1988, after a board convened, the Secretary of the Air Force authorized an increase in the num-

ber of selections without the approval of the Secretary of Defense. According to the March 6, 1991 Air Force memorandum, this occurred when the Secretary and Chief of Staff were briefed on the results of a board, before the board adjourned, by the President of the board and the Deputy Chief of Staff for Personnel. The briefing took place before the board itself was informed of the order of merit that resulted from the scores they gave the candidates. During the briefing, the leadership was informed that a particular officer was placed below the cutoff point during rescoring procedures used to break a tie for the last remaining position to be selected. The "cutoff point" is the position on the order of merit list that separates those officers selected for promotion (above the cutoff point) from those officers who are not selected (below the cutoff point).

After hearing the briefing, the Chief of Staff suggested, and the Secretary agreed, to increase the number of eligible selections in order to include the officer who otherwise would not have been selected. According to the Air Force memorandum, the Deputy Chief of Staff for Personnel was not aware that such an action was impermissible without approval by the Secretary of Defense, and no one on his staff raised an objection. Although this was in clear violation of the changes in DoD Directive 1320.12 issued in 1987 to prevent manipulation of selection board results by the leadership, the change was approved by the Air Force leadership and the officer was selected and promoted.

7. Manipulation of the scoring process

The Air Force general officer promotion process used a scoring system to rank in order the candidates under consideration. When there was not a clear break point at the selection cut off line (i.e., between those who would be selected and those who would not be selected), the Air Force used a procedure involving repetitive rescoring of those in the group just above and below the cut off line. The OSD review documented the manner in which this process could be manipulated to favor a particular officer. As noted above in the context of improper discussions between the leadership and board members, there was one incident in which a particular officer was scored below the group eligible for additional scoring. In that instance, the board President "expanded" the size of the group eligible for additional scoring, which resulted in an additional opportunity for that officer to be considered. That officer, who would not have been selected had the normal scoring process been followed, received a score upon rescoring that improved his position relative to other eligible officers, resulting in his selection.

The improvement in that officer's relative position upon rescoring necessarily resulted in a lowering of another officer's relative position. Since the board was given a fixed number of selections, manipulation of the scoring process not only resulted in the selection of an officer who would not have been selected under normal procedures, it also resulted in the nonselection of an officer who would have been selected had regular procedures been followed.

Such manipulated rescoring undermines the integrity of the promotion process because it provides discretion for the board's results to be altered to the advantage of a particular officer not initially selected and to the disadvantage of an officer initially selected. The Air Force has subsequently eliminated any rescoring that is not needed to break a tie at the cutoff point.

8. Selection of field grade officers

The OSD review did not find similar systemic problems with respect to selection for grades 0-6 and below:

The review determined that the existence of governing regulations, the training and use of full-time recorders, and control of access to board areas made the field grade process less vulnerable to "ad hoc" action and inappropriate influences than was the case in general officer promotion boards.

The Committee notes that none of the information provided by OSD or the Air Force documents any incidents of inappropriate communications to a field grade selection board. The Committee also notes, however, that the OSD review was designed to identify systemic problems and involved the interview of only a handful of board members and support personnel. As a result, it did not serve as a comprehensive review of selection boards that have met since the 1987 amendments were issued to DoD Directive 1320.12. The continuing failure of the Air Force to implement the prohibitions on communications in its field grade regulation means that the Air Force continues to be unnecessarily vulnerable to violations in individual cases.

9. Failure of the Air Force to undertake timely review and corrective action

In response to the Committee's questions in the summer of 1990 about a secific selection board, the Air Force noted on August 3, 1990 that adverse information concerning two officers was provided to the President of the board but not to the other members of the board. The response, however, did not reflect that this procedure was in violation of the requirement in DoD Directive 1320.12 to provide such information to all board members. Instead, the response implied that the Secretary acted under statutory authority:

Under Section 615(a) of Title 10 [of] the United States Code[,] the Secretaries of the Military Departments are responsible for determining the information to be provided to promotion selection boards and for establishing the procedures by which the boards are provided the information. This would include policies concerning information on providing potentially adverse information to selection boards about individuals considered for promotion.

This response fails to take into account the Air Force's own 1987 review of DoD Directive 1320.12, which concluded that the amended Directive established mandatory procedural requirements for the conduct of selection boards.

In response to the Committee's specific question as to the regulatory basis for providing a document to the board President that was not made available to each member of the board, the Air Force letter asserted that the Secretary had statutory authority for his action:

In performing his statutory responsibilities under Section 615(a) of Title 10 the Secretary decided to show the material to the President of the Board and allow the President an input as to whether the information should or should not be provided to the members of the board.

This response fails to note that while the Secretary has general statutory authority to provide information to selection boards, he has no authority to disregard limitations established by his superior, the Secretary of Defense. Moreover, it is inconsistent with the Air Force's own 1987 review of the DoD Directive, which noted that it would be improper for the board President to screen adverse information for purposes of deciding what information should be provided to the board.

On February 7, 1990, the Air Force provided a report to the Secretary of Defense on matters related to the Air Force's selection board problems. The Air Force acknowledged that the Service had used a variety of unauthorized practices, such as nonregulatory preselection boards, briefings for the senior leadership before boards adjourned, improper access to the selection board by the Deputy Chief of Staff for Personnel while the board was in session, and submission to boards of priority lists from certain commanders. The Air Force acknowledged that these practices were inconsistent with the Defense Officer Personnel Management Act and the 1987 and 1989 amendments to DoD Directive 1320.12, but attempted to deflect criticism from the Air Force by stating:

The Air Force, *like the other Services*, gave insufficient recognition to these changes and did not issue the implementing regulations required by DoD Directive 1320.12; until recently DoD took no steps to ensure that such regulations were issued. (emphasis added).

Subsequently, the Committee asked the Department of Defense whether the systemic deficiencies in the Air Force selection board system were present in the systems managed by any other Military Departemnts. DoD advised the Committee on June 19, 1991 that the OSD review had not encountered the problems exhibited by the Air Force in any of the other Services, and that the review "did not find systemic deficiencies in the implementation of DoDD 1320.12 by the other Services.

An additional problem with the Air Force response is the implication that the Air Force problems were somehow excused because "DoD took no steps to ensure that such regulations were issued." The Department of Defense necessarily and properly operates on the premise that orders will be obeyed. While OSD always retains ultimate responsibility for the performace of the mission, and should institute appropriate organizations, it is inappropriate for a Military Department to imply that OSD is responsible for the Military Department's failings when the Military Department has been given clear instructions to implement an important adminstrative matter.

In material provided to the Secrtary of Defense on March 6, 1991, the Air Force provided the following description of the Air Force's reaction to the changes proposed in the 1987 amendments to DoD Directive 1320.12:

[The Deputy Chief of Staff for Personnel] recalls that when DoD Directive 1320.12 was changed in 1987, he believed it was intended to correct problems that the Navy had experienced with its promotion boards, and he did not believe that any of those problems existed with Air Force boards. He did not believe that any Air Force Secretary or Chief of Staff had ever interfered with the selection process or that they ever would. He and his staff disagreed with the general officer provisions of DoDD 1320.12 circulated in May 1987 on the basis that there was no need for them. In the Air Force's view, the system had worked effectively and fairly for over twenty years.

This explanation, however, is incomplete. As noted in Part II of this report, the Air Force actively participated in the development of DoD Directive 1320.12, opposed inclusion of general officers, reviewed the Directive in detail after it was issued, and nonetheless failed to issue appropriate implementing regulations.

After the OSD review documented the numerous deficiencies in Air Force practice,

the Air Force provided additional views to the Committee. In a letter dated April 9, 1991, the Air Force acknowledged the failure to issue implementing regulations, but provided the following explanation:

The Air Force did not issue the required implementing regulations, relying in part on the erroneous assumption that an expanded 1987 Secretarial Memorandum of Instruction to the Board would be sufficient. The sensitive "close-hold" aura that had traditionally surrounded general officer matters seems to have allowed the incorrect view to develop that regulations spelling out procedures were unnecessary.

The implication is that the Air Force was in technical noncompliance by not issuing a regulation, but that there was coverage in the "expanded" Secretarial Memorandum of Instruction. This response was incomplete. The Secretarial Memorandum of Instruction referred to the provisions of the DoD Directive concerning the duties of the board President, the general requirement for board members to act without prejudice, and the responsibility to report misconduct; but it made no reference whatsoever to the central provisions of the 1987 amendments—the restrictions on communications to the board concerning particular officers.

As noted above, the Air Force—for more than three years—failed to implement the 1987 amendments to the DoD Directive designed to address the potential for abuses in the promotion selection process. It has still not issued an implementing instruction for field grade promotions. These failures were harmful to the Air Force in general and to the officers eligible for promotion in particular. Thousands of officers were improperly excluded from consideration by statutory selection boards through use of an unauthorized selection process. Other officers were unfairly disadvantaged because they were not included on unauthorized "priority lists" used to communicate the preferences of selected leaders to promotion boards. The process was particularly unfair to those officers who—unbeknownst to them—were the object of particular communications or victims of manipulation of the scoring process.

In a large organization, such as the Air Force, there will be occasional failures to properly implement laws and regulations. The test of an organization's effectiveness is its willingness to promptly recognize such failures, take corrective action, and ensure that there is a thorough assessment of accountability and responsibility for the failures. In this case, the Air Force compounded the deficiencies in the promotion process by the failure to take timely action when the problems were brought to the attention of the civilian leadership.

IV. SUMMARY OF FINDINGS

The DoD review identified systemic deficiencies in the Air Force selection process. These deficiencies included the following:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense Directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded 90 percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority lists" prepared by senior officers.

(4) Improper communications between the Air Force leadership and selection board members.

In addition, the DoD review identified specific instances in which the following deficiencies occurred:

(1) Improper communications by board members with outside personnel during board proceedings.

(2) Improper increase in the number of officers authorized to be selected for promotion.

(3) Manipulation of the scoring process used by selection boards to determine which officers would be recommended for promotion.

V. OBSERVATIONS

The integrity of the selection board process

The integrity and fairness of the selection board process traditionally have been major concerns of the Committee on Armed Services. The Committee has acted through legislation, review of nominations, and oversight to ensure that the procedures used for selection boards are fair to the officer corps and are designed and conducted to select the best qualified officers for promotion.

The relationship between the integrity of the selection process and the integrity of the officer corps was underscored during recent Committee hearings. General Gordon R. Sullivan, Chief of Staff of the Army, noted that:

There is a direct link between the integrity of the selection board process and the integrity of our officer corps. The link lies in the confidence our officer corps has in the objectivity and professional ethic of the board. Our selections must be fair, impartial, and based upon demonstrated potential instead of subjective criteria, and they must be seen as such by our officer corps.

General Carl E. Mundy, Jr., Commandant of the Marine Corps, similarly observed that:

Integrity is the basis for the special trust and confidence reposed in the officer corps. . . . Any breach of integrity in the selection process jeopardizes this special trust and confidence.

The Air Force process for selection of general officers

The Air Force used a promotion selection system that did not properly implement the statutory and regulatory standards procedures established to ensure the integrity of the promotion selection process.

The starting point was an unauthorized preselection process in which 90 percent or more of the eligible officers were improperly excluded from consideration by statutory selection boards. The preselection process employed an improper standard, precluded officers from competing against their counterparts on a Service-wide basis, failed to provide regulatory guidance incorporating the safeguards applicable to statutory boards, provided major comannders and other senior officials with the means to circumvent the process through use of priority lists, and operated without the knowledge of the officers under consideration.

The 10 percent who were considered by statutory boards were considered under procedures involving unauthorized use of "priority lists" to improperly communicate the choices of selected leaders to the statutory boards. The procedures were further tainted by incidents involving improper communications to the boards by the Air Force leadership, unauthorized increase in the number of officers selected for promotion, and manipulation of the scoring process.

The process provided the commanders of major commands and other selected officials with multiple opportunities to directly communicate their preferences about specific individuals to selection boards. Rather than relying on the official records and evaluations of eligible officers, the Air Force used a system in which a commander of a major command could convene an Initial Screening Board at the command level, circumvent the screening board process through submission of a priority list, and signal specific preferences to the statutory board by the relative placement of officers on a priority list. Within the board, preferences could be further communicated through discussion with the Deputy Chief of Staff for Personnel about the views of the senior leadership, direct communications from board members to persons outside the board, and personal discussions between the board President and the Air Force leadership. The system was further subject to compromise through the addition of names after the board had made its initial selections and through the use of "rescoring" to include officers who otherwise would not have been selected and to exclude officers who had been selected.

These problems were compounded by the failure of the Air Force to make these procedures known to eligible officers. Thus, officers who reasonably believed they were reviewed under a statutory process were, reviewed by a separate process known only to insiders.

Legislative action

In response to the problems identified as a result of the Committee's inquiries and the OSD review, the Committee initiated legislation to better ensure the integrity of the promotion selection process, which is set forth in section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. The legislation: (1) requires the Secretary of Defense to prescribe uniform regulations governing information furnished to selection boards; (2) provides that any communication to a selection board, including any member of the board, must be in writing, furnished to all board members, and made a part of the selection board's record; (3) ensures that the information provided to boards about an officer consits only of material from the officer's official military personnel file, information provided to the board by the officer concerned, or other substantiated, relevant information, identified and forwarded under uniform procedures established by the Secretary of Defense that could reasonably and materially affect the deliberations of the selection board; (4) ensures that eligible officers receive notice of and an opportunity to respond to the information about them that will be considered by the board; (5) restricts disclosure of the board's results to anyone outside the board until the members have completed and signed their final report; (6) prohibits improper influence on the board; (7) precludes use of a reselection process except under carefully limited procedures; and (8) provides eligible officers with notice of and an opportunity to respond to any information that is transmitted by a Service Secretary as part of a recommendation that an officer be removed from a selection board list.

Administration action

As a result of the review initiated by the Committee, the Air Force has issued a regulation governing general officer selection boards. The Air Force no longer uses a preselection process for promotion to brigadier general, and has eliminated the use of priority lists. It has also eliminated the "closed form" evaluation process, thereby ensuring that eligible officers have an opportunity to review and comment on information about them that will be provided to selection boards. Although more than four years have passed since Secretary Weinberger promised that regulations would be issued to implement the corrective actions

he directed in the wake of the Marine Corps major general board investigation, the Air Force still has not amended its field grade regulation to implement DoD Directive 1320.12.

Additional changes will be required as a result of the reforms mandated by section 504 of the National Defense Authorization Act for Fiscal Years 1992 and 1993. In view of the failure of the Air Force to implement the changes directed by Secretary Weinberger in 1987, the staff recommends that the Committee request the Assistant Secretary of Defense (Force Management and Personnel) to carefully monitor implementation of this legislation. The staff also recommends that the Committee conduct appropriate oversight hearings to review the manner in which the legislation has been implemented.

TRIBUTE TO JAMES F. ORR III

Mr. COHEN. Mr. President, in these difficult economic times it gives me great pleasure to call to the Senate's attention a financial success story and the man responsible for it.

The story involves a Maine-based company called UNUM, the largest long-term disability insurer in the United States, and the man at its helm, James F. Orr II.

Under Orr's leadership as chairman and chief executive officer, UNUM also has become a major provider of specialty risk insurance as well as one of the top-rated firms in the nation for its progressive workplace environment. At a time when many businesses are cutting back, UNUM is looking to expand globally.

A veteran of 20 years in business and finance, Orr came to UNUM five years ago at a time when the company had just converted from a mutual to a stock corporation and had money to invest. Relying on his financial expertise, intellect and commitment, he cut costs, shrunk the employee base and turned the company into a lean and aggressive business.

The result has been good for UNUM and good for Maine. The company, based in Portland, employs 3,400 workers in the state and paid them more than $115 million in salaries last year, which has provided a big boost for the southern Maine economy.

The company had $185 million in net income last year, and the last economic report shows the firm increasing profits by 14 percent in the third quarter.

And all of this has been accomplished while providing a comfortable and friendly work environment. The company operates its own child care center, provides employees three months paid leave for childbirth, adoptions and eldercare and has a wellness center for employees, among other benefits.

UNUM under Jim Orr's leadership is a true success story and one that can serve as an example for many other companies.

More details about the exceptional UNUM story are included in an article that appeared in a recent issue of the Maine Times. I would ask that the article be reprinted in the CONGRESSIONAL RECORD so all my colleagues can learn about this fine Maine company.

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

[From the Maine Times, Nov. 1, 1991]

JIM ORR WANTS UNUM TO CONQUER THE WORLD

(By Phyllis Austin)

James F. Orr III, chairman and chief executive officer of UNUM, is not singing the blues these days, despite the hard times of the insurance industry. Instead, he is crowing about the Maine-based company's hypergrowth and looking across both oceans to expand globally.

Orr, a former Wall Streeter, had to make tough cost-cutting and restructuring decisions five years ago to position UNUM for its surge to a $10.3 billion-in-assets corporation. Now, lean and aggressive UNUM is the largest long-term disability insurer in the U.S. and the United Kingdom and a major provider of specialty risk coverage, such as travel accident, life and other customized products. Plus, under Orr's leadership, the company has become one of the top rated in the nation for its progressive workplace environment.

Orr, 48, is celebrated in the business world for his accomplishments, but in Maine, where the company has been headquartered for 110 years, not many people know who he is. He's away from Maine traveling much of the time, and when he's home, Orr prefers privacy, not showmanship.

From day one, Orr and UNUM were an easy fit. At 43, he was top-line veteran of 20-years in the financial services industry and aspired to be chief executive of a company on the rise. UNUM, fresh from converting from a mutual to a stock corporation, was flush with $727 million of new investment capital and looking for a new CEO of his age and experience.

"Without question," Orr says, "the moon and stars were in the right relationship" for his and UNUM's successes. Orr believes the company "would have done well regardless [of who was CEO]," given the situation.

His reluctance to take credit for UNUM's prosperity comes from Orr's self-effacing view of himself as a team player, as someone in the right place at the right time. But by all accounts, Orr had the perfect skills for the high-pressured job—intellect, initiative, financial savvy, concentration and commitment. He had to use them to deftly cut costs, shrink the employee base and eliminate divisions draining UNUM in the mid-'80s.

The Wall Street Transcript, which has given Orr the Gold Award in the insurance industry for the last three years praises him as a "foresightful strategist [whose] incisive leadership has brought to UNUM a strong sense of purpose and direction."

With net income last year of $185 million, or $5.38 per share, UNUM earned a 15.2 percent return on equity (including $12.8 million from the resolution of special tax issues). The third quarter report issued last week showed UNUM continuing to defy the general economic malaise by increasing profits 14 percent.

UNUM spokesperson Anne Brenton say Orr expects, by year's end, to reach the 15 percent return goal he has set for the company, regardless of the business cycle. How can Orr shoot for the sky? Because UNUM's targeted market of professional and white-collar workers in small to mid-size companies is underpenetrated.

Only 20 million of the 30 million or so of those workers eligible for UNUM policies are covered so far. And with 24 percent of all premiums in the long-term disability business already in the fold, UNUM is besting the competition.

"As I've said before, we're in the business of what's between our ears," says Orr. "What we know, and how we put that knowledge to work, is the difference between UNUM and the competition. And that difference is, indeed, great," Just ask Cigna, Standard of Oregon, Paul Revere or Monarch, UNUM's major competitors, who are trying to keep up with the trend-setter.

Orr likes to point out that one of the reasons UNUM is doing so well is it didn't chase high yields or buy "junk bonds" indiscriminately in the '80s, as did other insurers now scrambling to survive. When UNUM saw problems developing in the commercial real estate market, Orr led the company to reduce its mortgage commitments.

Now, only 23 percent of UNUM's invested assets are in real estate, down from 41 percent in 1985, and only 3 percent are delinquent mortgages, below the industry average. High yield junk bonds comprise just 2 percent of UNUM's invested assets, with the largest in Time Warner Inc. the publishing/entertainment conglomerate.

As UNUM has prospered, so has Maine. Figures provided by the company report 1990 expenditures in Maine totaled $154,488,000. Of that, $115,500,000 was in salaries to UNUM's 3,400 workers here. Purchases, including real estate and utilities, amounted to $35 million; charitable donations, $1,020,000; and taxes, $2,968,000.

Financial analysts say southern Maine's economy would be devastated if UNUM pulled out for a more internationally central location. But Orr says Mainers shouldn't worry. UNUM's home office is in Portland for good, although there are about 100 field offices elsewhere.

Frankly, Orr says, UNUM's presence in Maine says nothing positive about the state's business climate. In fact, almost all of UNUM's business is done outside the state in major metropolitan areas of the country.

UNUM put down its roots here in 1981 because of a friendlier regulatory situation than in Boston, where the company started 30 years earlier. "I'd say Maine's a great place to be. We're very happy to be in Maine," says Orr. "But in the classic sense, the business climate is not great. That's not to say that business shouldn't locate here, he says, although business studies rank Maine "quite low on their list * * * there is the quality of life and other factors that play into the decision. From a recruiting perspective, Maine "is a tremendous advantage, because it is such an attractive place to live."

A $1 MILLION A YEAR PAYCHECK

Although the marriage of Jim Orr and UNUM has been relatively short, it's already hard to separate the two. Orr will talk about the company all day, but he doesn't like to focus on himself.

Since he constantly travels outside Maine and isn't a regular among Portland's social elite, Orr is something of an enigma, even to neighbors and the local business community. But bits and pieces of Orr's life are in the public domain.

Business Week reported last May that Orr earned $1,026,000 in salary and bonus in 1990—a 6 percent increase over the previous year and in the ballpark with the CEO's of Zerox, Gillette, CBS and Dow Jones.

Records at the Falmouth tax assessor's office value Orr's two-acre waterfront property and home in Falmouth at $900,000; he pays $14,311 in taxes.

He and his wife, Ann, and daughters Brook, a student at Bates College, and Sage, a student at Waynflete, belong to the exclusive Woodlands Country Club. They take mini-vacations from time to time in England and the Rockies.

While Orr says he likes the "high quality lifestyle" in Maine, he doesn't appear to have ostentatious habits that his wealth would support. He prefers skiing at Sunday River resort in Bethel to Vail or other posh Western ski towns and sails off Falmouth rather than in the Caribbean.

The times he attends social functions in Portland—at the art museum or symphony—he's there more for business than for personal reasons, according to one patron. He doesn't booze or schmooz or go to local restaurants. There's nothing he likes better than reading a hefty political biography at home.

Orr travels half of his work life outside Maine to meet with managers at other UNUM offices, talk with investment analysts, brokers and clients. He is often asked about the impact of work on his family life. "I spend a lot of very, very high quality time with my kids. You have to deal with the [work and separation]. And I think we're dealing with it very comfortably."

Orr's sleek and crisp inner sanctum is on the seventh floor of Two Portland Square, with a spacious view of Portland harbor. While company headquarters is no more luxurious than leading law offices in the city, the atmosphere is tangibly different. UNUM feels like a global home office, and in the lobby has the different world capital clocks typical of an international headquarters. There's an intensity in the air, heightened when Orr's "manager" ushers him from meeting to meeting—on time.

At 48, Orr is as attractive a CEO as they come, tall and fit-looking in his well-tailored suits, with penetrating blue eyes and salt-and-pepper hair. A furrow on his forehead, laugh lines and a dimple in his chin are beginning to add "character" to his handsome face that could grace the pages of Esquire or Vogue. He prefers his jacket off as he glides around the office and drinks pineapple juice for a mid-morning energy boost.

While he seems to be a smiling, easy-going CEO, Orr is clearly focused on accomplishing the maximum moment to moment. If he's not a textbook workaholic, he's close, putting in at least 11-12 hours a day, attending two or three night meetings a week and rarely spending a full weekend "off".

But he believes in civic responsibility and serves as a trustee at Bates College, Maine Medical Center and Peoples Heritage Financial Group. He's chairman of the Maine Coalition for Excellence in Education and a director of the New England Colleges Fund, Nashua Corp., Grumman and the American Council of Life Insurers.

How much of value does he really contribute, given his travel schedule? "Very little," says Orr. Explaining himself, Orr says the board is "really there as a back-stop to fire the CEO, to represent the shareholders' interests, to assess management and to [weigh] the reasonableness of the strategic plan. The board is not there to run the operation."

"If I'm on a board, I attend the meetings . . . [but] I really do it because it's one of the few ways I have to talk to people outside, get input and a broader perspective on business and the economy," Orr says. "I get a lot of very good information that helps me in my role in this company. Someone in my role has very few people to talk to. It's hard to really have an indepth discussion and get challenged on things, and you're forced to think about things differently. A board is a vehicle that really helps with that."

While being a CEO may be lonely at times, it's a job Orr always knew he wanted. Raised in Minneapolis, Orr's father was in the electronic business and traveled around the world, and his mother was a writer and housewife. He couldn't think of any specific events that shaped his life. But he was obviously influenced by his father's work and "academic" interests, he says.

Orr is a graduate of Villanova University in 1965, where he majored in science and was a track star. He received a master's degree in business administration from Boston University in 1970. He began his career with a major Boston bank and subsequently spent several years in the securities industry in New York and Boston. He was a principal in a Boston-based, privately held investment firm from 1969 to 1975.

Orr spent over 10 years with Connecticut Bank & Trust (CB&T) as executive vice-president and treasurer in Hartford. He was a well regarded, top line officer but didn't show exceptional managerial talent, according to one source who knew him at the time.

But Orr made "a great move to leave a ship [CB&T] that was the Titanic," says Portland financial analyst Gerard Cassidy of Tucker Anthony Inc. by the time Orr departed, CB&T had become part of the Bank of New England, which collapsed last January.

Just before Orr was hired by UNUM, then-chairman Colin Hampton made a radical move in transforming the company from a mutual owned by policyholders to a publicly traded firm. But Orr was the one tapped to make demutualization work, in the wake of declining earnings and stock.

ORR'S BLIND SPOT

Price competition and skyrocketing costs had caused UNUM to post $70 million in losses for the group medical sector over two years. Orr moved quickly to slash about $25 million a year in expenses by cutting costs, eliminating 200 jobs at headquarters, and lopping off the medical sector and other programs draining UNUM. He redirected more money into sales and marketing to strengthen the core product, long-term disability.

Also, Orr began buying back UNUM stock, which benefited shareholders. Since 1988, UNUM has purchased 33 percent of its outstanding shares. "Frankly, investing in ourselves was one of the most attractive things we could do," he says. "We're presented opportunities every day to spend money. But there are very few out there that meet our strategy standards." He denied it was a move to thwart a potential takeover.

Analyst Steve Hirshon of Maine Securities Inc. gives Orr credit for "keeping employee morale intact" during the restructuring period.

Orr began by linking employees' earnings with the company's goals and performance. In other words, they take home cash bonuses when the company meets the target for earnings per share, as well as less tangible goals, such as improvements in customer services. After UNUM exceeded its 1990 goals, workers received 9 to 14 percent of their salary as a bonus, depending on seniority.

With so much success, it's easy to wonder if Orr has ever stumbled at UNUM. It's hard to pinpoint, he says. "If you look back, it's my not understanding somebody or missing an assessment of an individual. It's very important to me to understand how somebody's wired up. I've made some real blunders on what makes somebody tick and as a result trying to fit them in the right way and put the pieces together correctly."

He admits to increasing trust in his intuition about people and the company, the older he gets. "Maybe because I'm a deductive thinker, I always pooh-poohed intuitive thinking. But I must say more and more I rely on a more intuitive feel for things. Then I think it's coming to some wisdom in life. You have a reservoir down there that sits there, and you don't have to see it, feel it and touch it. But it's there, and I can rely on it. I do more and more of that."

HIGH-TECH TALK

UNUM employees give Orr high marks for UNUM's responsive working environment.

To start with, he encourages workers to use the electronic message system to talk to him. They can use their own desk terminals or sound off anonymously from computers in the lobby.

UNUM operates its own child care center and gives employees three months paid leave for childbirth, for adopting a child and for eldercare. Employees are reimbursed for child care costs when they're traveling, and workers who have school-aged children are allowed seven-and-a-half hours off from work for school-related activities as well as three "personal days" during the year for doctors' appointments and other personal matters. UNUM also has a wellness center for employees to exercise, provides access for the handicapped and keeps employees educated about AIDS.

Working Mother magazine's October issue included UNUM in its list of 85 "family friendly" companies, and a year earlier, *Good Housekeeping* named UNUM among its 69 companies for working mothers.

Although Orr graciously credits his staff for coming up with most of the new ideas around the office, he's the one who ultimately approves their implementation. Orr's concern about workers is also revealed in his approval of continuous employee education and retraining (a $3 million a year program) and his involvement in educational reform. Orr serves on a national board studying educational restructuring, as well as on the Maine Coalition for Excellence in Education.

The malfunctioning educational system has hit home at UNUM because the company recruits 75 percent of its employees in Cumberland County. UNUM has found in recent years that many high school graduates lack basic skills in math and communications. "The point is we can train our people to work as customer service reps, underwriters or managers," he says. "But we cannot teach the basic academic, reasoning and social skills they need to function in our training program. No business can."

To boost school improvement efforts, UNUM has contributed $1.1 million to fund a University of Southern Maine effort to improve teaching the $440,000 for the non-profit Maine Aspirations Foundation to raise personal, career and academic goals of students. UNUM also has contributed $60,500 to the Portland Partnership, an effort initially funded by UNUM in 1989 to encourage parent and community involvement in the city's public schools. The donations, spread over five years, also include contributions of time and technical assistance from UNUM employees.

TOWARD A GLOBAL FUTURE

With everything going so well, does Jim Orr sleep soundly at night? Certainly not

every night. Many businesses that UNUM targets (the 50 to 1,000-employee firms) are reassessing their health care spending. And UNUM must continue to convince these employers, suffering from the current recession, that long-term disability is worth the average 2 percent of their payroll.

One way UNUM keeps clients and beats the competition is to invest about $3 million a year in "benefits management," a nice way of saying it tries to uncover malingerers and help claimants get on Social Security, thus lowering UNUM's payout and the client's premiums. The effort includes investing in rehabilitation programs to shorten the "long term" of the disability coverage. To compete with UNUM's expertise, competitors have cut their policy prices. Allstate slashed its up to 15 percent to lure away some of UNUM's business but gave up.

UNUM's secret weapon is a huge database with 38,000 group clients and about five million individuals. The volume helps UNUM price its risks better than competitors.

No crystal ball is needed to predict UNUM's future. It's a favorite topic of Orr's and must make the competition squirm. In two words, UNUM is on an acquisitions hunt.

"We're going to be sitting here in 1998, the 150th anniversary year, and the insurance industry will look very, very different," he says. "There's no question there will be more and more international competition, and we've got to prepare this institution for that."

The company recently acquired National Employers Life, the leader in permanent health insurance in the U.K., with about 40 percent of the group market. UNUM's position in Canada was greatly enhanced last year when it bought the individual disability business of Constellation Life of Toronto.

Orr is looking across both oceans because the Swiss and Japanese spend more per capita on insurance than any other nation. And only 20 of the 50 largest insurance companies— and only four of the top 10—are headquartered in the U.S. Orr likes to note that the largest insurers—in terms of premiums, revenues and total surplus—are the Japanese. The insurer with the highest stock market value is German. Most important, Orr says, European and Asian insurers are growing at a much faster rate than those in the U.S.

"We'd like to have a leadership presence in the world's three major trading blocs—North America, Europe and the Pacific Rim—in time for our 150th anniversary as a company in 1998. We want to be a major international player in this industry. And I believe we're well on the way toward that goal."

G.E. MEDICAL SYSTEMS OF FLORENCE: LEADING THE WAY FOR AMERICAN INDUSTRY

Mr. HOLLINGS. Mr. President, one of the striking qualities of the American free-enterprise economy is its ability to renew itself in response to the challenge of recession and foreign competition. We in South Carolina take tremendous pride in being on the cutting edge of that innovation. Time and again, South Carolina industries have been recognized for excellence and innovation. To cite just two recent examples, Milliken & Co. won the prestigious Baldrige Award in 1989, and earlier this year Greenville Machinery Corp. of Greer won the Commerce Department's "E" Award for excellence in exporting.

Mr. President, the elite ranks of American industry were joined this month by General Electric Medical Systems of Florence, SC, which was awarded the 1991 PEPI Showcase Award by the Positive Employee Practices Institute. Each year, the institute surveys plants and divisions of Fortune 500 companies to identify the unit which has achieved the most dramatic results by motivating and empowering its workforce.

Since 1988, G.E. Medical Systems has operated with a self-managing work force in which employees set their own priorities, schedule their own work, track their own production goals, and take corrective action to ensure high-quality products. The result at G.E.'s Florence plant has been a 50-percent reduction in labor and material costs, plus sharp productivity gains in each of the last 3 years.

Mr. President, since the plant set its new course in 1988, G.E. Medical Systems has been an outstanding case study in successful employee self-management. Thanks to this PEPI Showcase Award, G.E.'s example will now be studied nationally and internationally. I salute all the men and women of G.E. Medical Systems in Florence. They have done South Carolina proud. And they are leading the way for American industry.

THE REAUTHORIZATION OF THE HIGHER EDUCATION ACT

Mr. DODD. Mr. President, I would like to take this opportunity to commend my colleagues on the Labor and Human Resources Committee, especially Senator PELL and Chairman KENNEDY, for their leadership and success in moving the reauthorization of the Higher Education Act through the committee process.

I, along with the other members of the committee, have spent the last few months working to reauthorize this historic legislation.

This is a strong bill that works to expand access to higher education to every person, regardless of family income, gender or ethnicity.

Access has become increasingly more difficult over the last decade, as the percent of Federal aid to students in the form of grants has dropped dramatically from 76 percent to 29 percent.

In 1980, the average Pell Grant covered 41 percent of tuition costs. Currently, Pell grants only cover, on average, 26 percent of tuition costs. This has forced the most needy students to supplement their grant awards.

Can the families hit hardest by these reductions be asked to sacrifice even more? Not in these extremely difficult economic times. It will be a travesty if families are forced to deny their children a college education.

In my home State of Connecticut, as well as throughout the rest of the country, many families are struggling as it is. Their income levels are too high to be eligible for Federal grants but too low to afford a college education.

Skyrocketing tuition costs and reductions in Federal aid have made higher education unaffordable for some and a tremendous burden for many, preventing some from achieving what they were raised and taught to strive for—the American dream.

The reauthorization of the Higher Education Act works to make the American dream a reality for lower and middle-income families.

It will expand Pell grant eligibility and grant levels to help more families—at a time when they need help the most.

It increases availability of loans to more middle-income families and increases the amount of loans.

It simplifies the student aid application process.

It improves program integrity to reduce levels of default.

It assures the financial stability of intermediaries in the student aid process.

It works to increase the supply and availability of teachers as we will be faced with huge shortages in the very near future.

It provides help to rebuild college and university facilities.

These sweeping proposals will represent a renewed and bolstered Federal commitment to improving access to educational opportunities.

Mr. President, while we will not have time to complete action on this measure this year, we cannot allow the day to come when colleges and universities are only accessible to the very rich and to the very poor. The future of this nation rests in our hands and we must respond and respond quickly.

ADM. DENNIS MATTHEW BROOKS

Mr. SHELBY. Mr. President, I rise today to express my thanks and to congratulate Rear Adm. Dennis M. Brooks who will be retiring on January 1, 1992, after 34 years of active duty with the U.S. Navy.

Admiral Brooks and I grew up together in Alabama. While I went on to the University of Alabama, Dennis received a much deserved appointment to the U.S. Naval Academy. He was commissioned an ensign in 1957 and was designated a naval aviator in February 1959. Admiral Brooks has served in six fighter squadrons, commanded Fighter Squadron 51 and Fighter Squadron 121 *and* accumulated over 4,500 hours and 990 carrier arrest landings in F-8 and F-4 fighter aircraft. Admiral Brooks' major sea commands include the U.S.S. *Kansas City* and the U.S.S. *Constellation*.

Following the command of the *Constellation*, Admiral Brooks assumed various commands in the Pacific including command of San Diego-based Carrier Group 7, Battle Group Bravo in the Indian Ocean and Carrier Group 5/Carrier Strike Force 7th Fleet/Battle Force 7th Fleet, Homeported in Subic Bay, Philippines. In September 1987, Admiral Brooks assumed command of all U.S. armed forces in the Persian Gulf region as commander, Joint Task Force Middle East. Admiral Brooks, then served as the director of Warfare Systems Architecture and Engineering at the Space and Naval Warfare Systems Command from September 1988 until he assumed his present position as director, Defense Support Project Office and deputy director for Operations, J-3 National Systems Support, the Joint Chiefs of Staff in August 1990.

Admiral Brooks has received numerous medals and awards during his 34 years of active duty. This impressive list includes the Defense Superior Service Medal, The Legion of Merit with three gold stars in lieu of a fourth award, the Navy Commendation Medal and the Joint Meritorious Unit Award in the Persian Gulf.

Admiral Brooks is married to the former Delores Katherine Gober, of Birmingham, AL. Lorrie and Dennis have three children. Son, Mark is a 1985 Graduate of the U.S. Naval Academy and a naval aviator. Their daughters, Amy and Allison attend the University of West Florida.

Mr. President, Adm. Dennis Brooks has given his entire adult life to the service of our country. He is about to take a well-deserved retirement. He and his wife Lorrie are returning to our home State of Alabama and will be residing in the Pell City area. His leadership, expertise and good counsel will be missed and is deserving of our Nation's gratitude for his efforts in our behalf.

TRIBUTE TO UNITED STATES DISTRICT JUDGE BERT HALTOM

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a close personal friend and a truly outstanding individual, E.B. "Bert" Haltom, Jr., who is assuming senior status as a U.S. District Judge for the northern district of Alabama effective January 1, 1992.

Bert was appointed to his lifetime Federal judicial office by President Jimmy Carter, and became a member of the U.S. District Court for the Northern District of Alabama on June 6, 1980. His official duty station since September 6, 1981, has been in Huntsville, AL, an area known for complex cases due to its high technology industry and space-related activity. Upon taking senior status, Bert will move his office to Florence, AL, his hometown.

Prior to taking office as a Federal district judge, Bert engaged in the private practice of law in Florence for over 30 years. His extensive practice as an attorney covered almost all areas—personal injury, labor law, civil rights, probate, banking, domestic relations, and so on. In the past, I tried cases with him and against him. He represented many indigent defendants as appointed counsel and demonstrated commitment to equal justice. He was one of the finest trial lawyers that Alabama has produced during my lifetime. His trial ability was honored by his selection to the fellowship of the American College of Trial Lawyers of the International Society of Barristers.

In 1948 Bert graduated from the University of Alabama School of Law, where we were classmates. He served 8 years as a member of the Alabama Legislature, including one 4-year term in the House of Representatives and another 4-year term in the Alabama Senate. He also served in World War II in the U.S. Air Force, Flying 35 combat missions in the European theater of operations as a ball turret gunner on a B-24 bomber.

Bert is a member of the American and Alabama Bar Associations. His service as a U.S. district judge was superb—he served on many committees and associations of Federal judges, and was recognized as one of the outstanding jurists of the Federal bench. He is married to the former Constance Boyd Morris and has one daughter and two grandchildren.

Judge Bert Haltom's outstanding legal abilities are only matched by a warm, friendly, compassionate personality. I salute him for his past service, and I wish him well in the coming years.

TRIBUTE TO RUTH OSBORNE

Mr. HEFLIN. Mr. President, Ruth Osborne will be retiring November 30 after 30 years as the chief clerk in the Franklin County, Alabama, probate judge's office. She has spent these many years running the office and cheerfully greeting people as they passed by her desk.

During her tenure in the probate office, Ruth Osborne has served with four judges: W.W. Weatherford, Jimmy Byars, Hal Kirby, and, most recently, Larry Jackson. She was hired by Judge Weatherford in 1961, and probably has met everyone in Franklin County on at least one occasion during her career.

What made her service so special was her ability to truly do it all. Her daily duties ranged from handling probate records to assisting in weddings. She dealt with virtually every conceivable situation, and always knew how to handle any problem or circumstance that arose. Ruth contributed a lot to Franklin County and its people, and meant a great deal to the probate office.

Although Ruth will be sorely missed by her coworkers and those who frequent the probate office, she is understandably looking forward to her well-deserved retirement. Mother of four and grandmother of nine, she is very active in several civic organizations, so she will have plenty to fill her time. She also plans to travel and work with different groups in her area.

Mr. President, I wish to congratulate Ruth on a long and distinguished career and extend to her my best for a happy and healthy retirement. I will share a word of caution, though: during any visits to the old office, don't let your former colleagues put you to work.

HUMAN RIGHTS AND SELF-DETERMINATION FOR KOSOVA

Mr. PRESSLER. Mr. President, while most of Serbia's tanks and troops have been ravaging lives and democracy in Croatia, other tanks and troops have been sent to wage war against the Albanian people of Kosova.

Serbian-controlled Federal troops have amassed a large arsenal of weapons to crack down on the people of Kosova. All universities have been closed by the authorities. The authorities have forbidden the use of the Albanian language. Military rule essentially dominates Kosova. Within the last few days alone, six Albanians have been killed. Many other Albanians have been forced to flee from their homes. In all, between 15 percent and 18 percent of the population has fled Kosova.

Most of those fleeing Kosova are young men under the age of 40, who are leaving to escape forced conscription into the Yugoslav Federal Army. Many Albanians in the Yugoslav army have defected. While many have escaped, others are presently being held hostage by the Federal authorities.

Mr. President, the right of these men to refuse to serve in the very army that is being used to kill innocent civilians in Croatia should be protected. Indeed, such protections are recognized under international law. According to the Geneva Convention of 1951, no one can be forced to serve in the ranks of an occupation army. Few can deny that the Yugoslav Army is a brutal occupying force in Kosova.

Hundreds of thousands of Yugoslavian refugees are now seeking political asylum in Europe—most in Switzerland and Hungary. Their plight demands a humanitarian solution. To turn them back would be an assignment to death. These refugees should be granted political asylum or some other temporary humanitarian status. Under no circumstances should they be deported.

Mr. President, I am horrified at the daily massacre of innocent civilians by Federal troops loyal to Serbia's Communist dictator—Slobodan Milosevic. Despite 14 cease-fire attempts by the

European Community and now the United Nations, the war wages on.

As an original cosponsor of a comprehensive sanctions bill, S. 1793, against the Serbian Government, it is obvious to me that the Serbian Government will not listen to diplomatic pleas. The recent step to initiate sanctions against Yugoslavia is not enough. These sanctions are not directed against the people of Serbia. They are aimed at their oppressors.

Mr. President, I am also an original cosponsor of a resolution with Senator D'AMATO expressing the sense of the Senate regarding recognition of, and establishment of diplomatic relations with Croatia, Slovenia, Bosnia-Hercegovina, Kosova, and Macedonia.

In a democratic referendum on September 26, 1991, the vast majority of the citizens of Kosova approved independence. This step was not a hasty one. The Government of Kosova has attempted for the last 2 years to reason with the Federal Government. In response, the Federal Government has stripped Kosova of its status as an independent republic.

Mr. President, I urge a world-wide humanitarian response to Kosova's plight. Serbia's war must stop before the current reign of terror claims any more lives.

SUPPORT FOR THE PEOPLE OF ARMENIA

Mr. PRESSLER. Mr. President, today I rise to express my concern over the situation in Soviet-occupied Armenia. The people of Armenia have embraced democracy and voted freely for a President. Yet today, perhaps because of their moves toward representative government, they are subject to repeated attacks by their neighbors—the Azerbaijanis.

Today, armed groups of Azeri militia sealed off Armenian-inhabited Nagorno-Karabakh and began shelling its capitol, Stepanankert. This unprovoked use of force follows a comprehensive blockade of gas to Armenia which began on November 4. The cutoff of gas supplies comes in the midst of winter. Shortages of many essential goods are rampant. Unfortunately, all major roads and the railroad pass through Azerbaijan before reaching Armenia—one of the many nightmares of Soviet central planning and distribution.

The current blockade is not the first time that the Azerbaijani Government has used its geographically favorable position against the Armenian people. Blockades of Armenia have been instituted before—before and even following the tragic earthquake in Armenia 2 years ago.

Mr. President, the government of Azerbijan is attempting to intimidate the Armenian people into ending its support of self-determination for the Armenians in Nagorno-Karabakh. Due to crackdowns by the Azerbaijan authorities, 300,000 Armenian refugees have been forced to flee for their lives. This has created a tragic human rights situation and has left many people homeless.

The situation between Armenia and Azerbaijan is often misrepresented as an ethnic dispute on a level playing field. This is just not true. The Azerbaijanis have been aided intermittently by the Soviet military. Specifically, the Soviet military and the Azeri militia have taken joint military actions to depopulate Armenian villages in Nagorno-Karabakh. In many instances, Soviet forces have stood by and watched while Azeri militia have attacked innocent civilians. The cause of peace in this area of the world would be greatly aided by the withdrawal of all Soviet and Azerbaijani military forces from Nagorno-Karabakh.

We cannot stand by silently and watch the starvation and brutalization of the Armenian people. The United States has a moral imperative to speak out against Azerbaijan's cruel blockade and other bullying tactics.

I support the conditioning of any technical assistance and/or food aid to Azerbaijan upon the immediate cessation of its economic blockade of Armenia, the end of violence in Nagorno-Karabakh, and Azerbaijani respect for self-determination for all Armenians.

In addition, I urge the President to use his good offices to urge the Azerbaijan Government to lift immediately the blockading of railroads into Armenia and end the shelling of Nagorno-Karabakh.

Mr. President, I yield the floor.

INTERNATIONAL MONETARY FUND REPORT

Mr. BROWN. Mr. President, I want to take a moment to bring to my colleagues' attention the upcoming release of a report on the International Monetary Fund, or IMF. The report's release takes on a special significance when you remember that Congress has yet to approve the administration's request for a $12 billion increase in the IMF's quota.

I am told by the Alexis de Tocqueville Institution, which sponsored the report, that it was conducted in a bipartisan manner to uncover the facts surrounding the IMF and their loan policies. Mr. Greg Fossedal, the institute's chairman, charged Joe Cobb, a noted economic analyst, to lead the analysis with the help of other noted economists on this tough project. We've needed a thorough, factual, outside look at the IMF for a long time. This report should be a start in that direction.

Treasury's report released in May of this year is filled with rhetoric, but provides little hard documentation on what the IMF's current assets are used for, whether IMF policies are successful or not, and how IMF programs are structured. For those of us here in the Congress who are being asked to increase the fund's capitalization for the second time in a decade by billions of dollars, rhetorical assurances should not be enough. We need cold, hard facts.

I am told the de Tocqueville Institute's several-hundred-page report will give us a good start at some of those facts. It will look at the detailed implications of IMF policies for countries receiving IMF loans. Specifically, the report attempts to look at exactly how IMF programs are structured and what is included in conditional IMF loan packages for borrowing countries.

I am certain this project was very difficult, especially getting specific data on the IMF from our Government or directly from the IMF. Frankly, Mr. President, when we're talking about $12 billion of U.S. taxpayer money, our citizens have the right to know exactly what's being done with our money. Getting clear information from our Treasury Department on IMF programs—the numbers for the conditional deals behind the rhetoric—should be easy, not nearly impossible.

The de Tocqueville Institute's preliminary estimates uncovered interesting facts. Between 1985 and 1988, 47 IMF-sponsored arrangements involving monetary policy were studied. Nine involved fixed exchange rates, 6 involved adjustable pegs, 10 provided for a real-exchange rate rule and 22 of them were a complete float. However, the institute's study has uncovered a greater willingness on the part of the IMF since 1989 to experiment with fixed currency rates as a means of ensuring a stable economy. Especially important are results from Argentina's attempt to link their currency directly to the dollar. In the last 6 months, with the two currencies linked, Argentina's inflation has remained below 4 percent and economic growth continues above 3 percent of real GNP without wild fluctuations characteristic of the Argentine economy only a short time ago.

I am told the report also looks at IMF claims about the importance of privitization. The fund has placed an increasing rhetorical emphasis on privitization, but preliminary analysis shows the Fund has actually given much less emphasis to it than to other areas—budget balancing, for instance. To assist a nation in improving its tax collection, the IMF has sent in dozens of tax specialists, but has nothing similar for privitization.

Mr. President, during the coming break, I hope my colleagues, their staffs, and the news media will take time to read the de Tocqueville Institution's report on the International Monetary Fund—especially before we vote to spend $12 billion to increase our investment in the IMF.

I thank my colleagues for their attention.

AUTOMATED TELEPHONE CONSUMER PROTECTION ACT

Mr. PRESSLER. Mr. President, I support Senate passage of S. 1462. This legislation is the result of a House and Senate conference on comprehensive telemarketing legislation. It incorporates legislation Congressman MARKEY introduced in the House of Representatives and I introduced earlier this year in the Senate, and legislation introduced by Senator HOLLINGS. S. 1462 contains the provisions I first suggested in S. 1410, which passed the Senate earlier this year. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. I want to thank Chairman HOLLINGS and Chairman MARKEY for their efforts both to forge an agreement on our three bills.

Mr. President, consumers in my home State of South Dakota are fed up with the annoyance of unwanted telephone solicitations. Unlike other communications media, the telephone commands our instant attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. The complaints of consumers have been heard.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now on uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the substitute we have before us today directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. While I personally believe that an electronic database will give the most promising protection for consumers, we recognize that newer technologies could be used more effectively in the future. It is important to note that certain anti-competitive questions may arise as a result of the form of protection the FCC chooses. For this reason, it is important for the FCC to keep a close watch on the impact of its rulemaking on businesses that compete with larger monopolies.

We included in this substitute a provision that directs the FCC to examine whether local telephone solicitations by small businesses and second class mail permit holders should be subject to the same FCC regulations that would apply to all other telemarketers. Many small businesses conduct responsible telemarketing in the local areas they serve. Since their business depends upon their good standing in the community, they conduct their own telemarketing in a very respectable way.

We include in this bill an exemption for businesses that have an established business relationship with their customers. For example, if Citibank's credit card operation needed to inform customers about new services it intended to provide to their credit card customer, clearly this contact would be allowed.

The effect of this legislation will be to prohibit "cold calls" by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business and who affirmatively has taken action to prevent such calls. Many responsible telemarketers have told me that this will save them both time and money by reaching only those people who are most likely to respond positively to their solicitations.

S. 1462 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers.

This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the substitute requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The substitute bill requires that autodial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

While our substitute will not end all unsolicited calls, it will give back to consumers the freedom to choose how their telephones are used. The balanced approach we take in the Pressler-Markey-Hollings legislation, will finally give consumers relief from modern door-to-door salesmen who now have the unrestricted ability to invade the privacy of our homes at any time.

Mr. President, I ask unanimous consent that several articles in support of this legislation be placed in the RECORD immediately following my remarks.

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

[From the Chicago Tribune, Nov. 22, 1991]

PUTTING LIMITS ON AUTODIALERS

Ever had a pleasant dinner interrupted by a telephone call, only to hear a tape-recorded voice greet you with an offer of something to buy? Then you may think there is nothing but good in congressional efforts to put a stop to such annoyances.

That reaction is perfectly understandable but not entirely wise. Autodialers may not be to everyone's liking, but they have value to some buyers and sellers—otherwise, they would vanish on their own. Fortunately, there are ways to deal with the aggravations and abuses without barring the machines altogether.

Autodialers have grown in use because, as a New York Times story put it, "they don't eat, they don't sleep and their feelings never get hurt when people curse them or hang up on them. They just call and call and call—each one up to 1,500 times a day."

By one estimate, these gadgets make 20 million calls a day in the United States, flogging a wide variety of goods and services. Most consumers, no doubt, hang up within seconds, if not milliseconds, but enough stay on the line to listen—and buy—that many companies wouldn't think of doing business without them.

They create problems beyond the interrupted meal. They can tie up phone lines, even after victims hang up, overwhelm electronic paging services and inflict unwanted expenses on cellular phone owners, who pay for incoming as well as outgoing calls.

The Senate recently passed two measures dealing with autodialers—one good and one bad. The good one, sponsored by Larry Pressler (R-S.D.), directs the Federal Communications Commission to either let consumers shield themselves by registering their numbers or to put the autodialers all on one exchange, enabling consumers to block their calls. The bad one, offered by Ernest Hollings (D-S.C.), bans autodialers from calling either fax machines or homes.

Hollings' blunderbuss approach would not only penalize businesses and consumers that benefit from autodialers, but probably run afoul of the Constitution as well. The 1st Amendment protects the freedom to speak—even by phone and even by recording. If Congress can't outlaw indecent messages provided by "phone sex" services—as the Supreme Court has ruled—it presumably has to be careful with broad prohibitions on the delivery of messages by autodialer.

A better approach is to zero in on clear abuses. A House bill would ban calls to emergency lines of health care facilities, police and fire departments. It would put pagers and cellular phones off limits. And autodialers would be required to disconnect after the person called hangs up—something not all do now.

Lawmakers should keep in mind that while recorded solicitations may be annoying to most consumers, they perform a valued function for some. It isn't too much to ask that Congress, in trying to protect the former, should also accommodate the interests of the latter.

[From the New York Times, Nov. 8, 1991]

SENATE VOTES DIALER BAN

WASHINGTON, Nov. 7.—The Senate unanimously approved bills today that would virtually ban the use of automated dialing machines in telephone marketing and would make it easier to block unwanted calls by live sales representatives.

The first measure, sponsored by Senator Ernest F. Hollings, Democrat of South Carolina, would make it illegal to use machines that automatically call homes and play recorded sales pitches, unless a person has given specific written or spoken permission.

A second measure, sponsored by Senator Larry Pressler, Republican of South Dakota, would instruct the Federal Communications Commission to adopt rules to help people block both live- and computer-delivered sales calls.

[From the Washington Post, Nov. 19, 1991]

HOUSE VOTES TO RESTRICT CALLS BY TELEMARKETERS

(By Cindy Skrzycki)

The House of Representatives yesterday passed legislation to restrict telemarketers who dial some 38 million Americans every day with unsolicited commercial telephone calls, selling credit cards, aluminum siding, children's photographs and uncounted other products.

The bill, which passed by a voice vote, has to be reconciled with two initiatives approved by the Senate that also take aim parimarily at auto-dialers, which are computers that spew prerecorded messages. Differences in the bills should be ironed out by the end of the week, said a staff member on the House telecommunications and finance subcommittee.

Once a compromise reaches the White House, however, its fate is less certain. The Bush administration has raised objectoins to taking away or regulating one of business's most potent and economical marketing tools.

Nevertheless, the issue of blocking unsolicited sales calls generated by humans, computerized machines or facsimile machines isn't likely to go away as millions of Amercians find their dinner hours interrupted by telephone sales calls, sometimes from machines that refuse to free the line.

"When people get home from work, they deserve some peace and quiet," said Rep. Edward J. Markey (D-Mass.), sponsor of the House bill and chairman of the subcommittee on telecommunications and finance.

The House bill attempts to balance the privacy rights of individuals against the rights of businesses that may be using telemarketing not to solicit but to reach customers to warn of an electrical power test or a delinquent loan.

The Senate bill, sponsored by Sen. Ernest Hollings (D-S.C.), proposes to ban all computerized calls to the home unless the party consents to receiving them. In contrast, Markey's bill would charge the Federal Communications Commission with coming up with a way to protect consumers from commerical solicitations.

The House bill does allow businesses with established relationships to call even if a name shows up on an industry "do-not-call list." Contact would stop if the consumer objected again to being called.

The House bill prescribes additional restrictions for auto-dialers: The machines would have to identify themselves and hang up as soon as possible. They would not be allowed to call emergency phone lines, or mobile or cellular phones.

Also, the House bill requires faxes used for advertising to include the identity and telephone number of the faxer. It also asks the FCC to consider banning "junk faxes."

The Hollings bill places an outright ban on unsolicited faxes unless there has been some prior consent from the consumer.

Under the Markey bill, the FCC would have about a year to explore the best way to protect the privacy of residential telephone subscribers, an approach that is also suggested by Sen. Larry Pressler (R-S.D.) in a bill that passed the Senate earlier this month.

Some of the alternatives the FCC might consider include a national electronic database of people who do not want to be called, the use of new telephone technology to block such calls, or special markings such as an asterisk in the telephone book.

Studies done by telephone companies and other organizations show that automated telemarketing, which has grown into an industry that generates $435 billion in sales, is a growing irritant to Americans who feel the telephone is invading their privacy.

[From the Baltimore Sun, Nov. 19, 1991]

SENATE, HOUSE HANG UP ON TELEPHONE SOLICITORS; BOTH HOUSES PASSED SIMILAR LEGISLATION

(By David Hess)

WASHINGTON.—If you're being annoyed by telephone sales pitches from total strangers—or even worse, a computer—help may be on the way.

The House voted without dissent yesterday to short-circuit those nuisance phone solicitations. The Senate already has acted, and minor differences in the two bills are expected to be resolved quickly.

"The aim is not to eliminate the Brave New World of telemarketing," said Representative Edward J. Markey, D-Mass., "but rather to secure the individual's right to privacy."

According to Representative Markey, some 300,000 companies use the phones to make unsoliciated sales pitches to 18 million Americans every day.

Under Mr. Markey's bill, if you don't want to receive calls from the telemarketers, you could ask the Federal Communications Commission—or its designated agent—to put you on a "Don't Call" list. Any call after that would be illegal, and the caller would be subject to a fine of up to $1,500.

Because of the technical details, it would take about a year for the FCC to put the system in place.

In addition to barring unwelcome calls from sales agents, the bill would ban automatically dialed calls from computers. And it would vastly curb the use of "fax" machines to send unsolicited advertisements.

The bill exempts charitable organizations and political parties, as well as polling and market research firms.

It also would allow magazines, newspapers, cable TV and credit-card companies to call their current subscribers.

The Senate has approved similar bills, sponsored by Sen. Ernest F. Hollings, D-S.C., and Sen Larry Pressler, R-S.D. A final House-Senate version is expected to be enacted later this month.

The Bush administration opposes the legislation but took no action to derail it yesterday.

The President's Office of Management and Budget says that the proposal "would result in unnecessary regulation of commercial activities and could curtail technological innovation and eliminate legitimate business operations."

Congressional Republicans, however, generally support the bill, and several of them heartily endorsed it yesterday.

Marge Roukema, R-N.J., whose husband is a physician, said that her husband urged her to support the bill for health and safety reasons.

"He said a private line in his office, set aside for medical emergencies, has been tied up by these telemarketers and automatic dialing operations," she said.

[From the Indianapolis Star, November 11, 1991]

BILL WOULD OUTLAW SOME COMPUTER CALLS

The Senate has approved a bill that will outlaw computer phone solicitations unless consumers said they wanted to receive the calls. The legislation now goes to the House.

"It is time we liberated Americans from obnoxious telephone calls," said Sen. Larry Pressler, R-S.D., who sponsored the bill. "Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night."

The legislation also is designed to end other junk telephone calls. It prohibits:

Telephone solicitations to residential phone customers who choose not to receive the calls.

Use of automatic dialing machines or computer voice calls to emergency lines, cellular phones or pagers.

Unsolicited faxes.

The bill also allows consumers to recover damages for violation of the legislation.

Fraud by phone getting more common

Telephone fraud costs U.S. consumers about $1 billion a year. All too often, older people are a favorite target. That's because they are more likely to have money.

To combat the growing menace, the Federal Trade Commission has a free booklet

called Fraud by Phone. To get a copy, write to Public Reference, FTC, Washington, D.C. 20580.

[From the Congressional Quarterly Weekly Report, November 9, 1991]

The Senate on Nov. 7 passed on voice votes two bills aimed at ensuring the privacy of telephone consumers from marketers. A bill (S1410), sponsored by Larry Pressler, R-S.D., would direct the Federal Communications Commission (FCC) to halt the intrusion of unsolicited marketing calls.

One option is an electronic database that would allow consumers to register their phone numbers and receive protection from unsolicited advertising. Another is to place all telemarketers on a single phone exchange, to allow consumers to block calls from that exchange.

The FCC also would have to examine whether small businesses and second-class mail permit holders should be subject to the same rules. The bill would not prohibit businesses from calling established customers.

The other measure (S1462), sponsored by Commerce Committee Chairman Ernest F. Hollings, D-S.C., would curb the use of automatic telephone dialing devices. Businesses would be banned from placing automatically dialed calls to either fax machines or homes. Consumers who receive such calls could sue in state courts.

The House Energy and Commerce Committee in July approved a companion bill (HR1304) that would call on the FCC to protect consumers from unwanted telemarketing calls and regulate—but not ban—computerized dialing to either fax machines or residences. It awaits floor action.

[From the San Diego Union and Tribune, November 8, 1991]

PHONE SOLICITATION CURB GAINS IN SENATE

WASHINGTON—The Senate yesterday approved a bill that will outlaw computer phone solicitations unless consumers said they wanted to receive the calls.

The legislation was passed on a voice vote without opposition and now goes to the House.

"It is time we liberated Americans from obnoxious telephone calls," said Sen. Larry Pressler, R-S.D., who sponsored the bill. "Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night."

The legislation also is designed to end other junk telephone calls.

Telephone solicitations to residential phone customers who choose not to receive the calls.

Use of automatic dialing machines or computer voice calls to emergency lines, cellular phones or pagers.

Unsolicited faxes to junk machines.

[From Gannett News Service, Nov. 7, 1991]

SENATE VOTES TO LIMIT TELEMARKETING

(By Norm Brewer)

WASHINGTON—Legislation to limit unsolicited telemarketing—particularly the use of autodialing—passed the Senate Thursday without opposition.

The measure is needed to protect the privacy of consumers from solicitors who call more than 18 million Americans each day, said Sen. Larry Pressler, R-S.D., who wrote the initial bill restricting telemarketing.

"Consumers are fed up with the nuisance of unwanted telemarketing calls to their homes day and night," he said in a statement. "Junk mail can be thrown away. Television commercials can be turned off, but the telephone demands to be answered."

Pressler said the measure would not end telemarketing, which has skyrocketed in sales to more than $435 million last year.

But the Federal Communications Commission would have to consider options for banning telemarketers from calling residential consumers who do not want to be called. Options include a list of those consumers or putting them on exchanges that would be off-limits to telemarketers.

Use of automatic dialing machines would be restricted. The autodialer caller would have to be identified—including address and telephone number. If the consumer hung up, the autodialing machine would have to quickly hang up, too.

Now, some machines do not hang up until the recorded message has ended. That has created problems at hospitals and on emergency lines because it keeps the consumer's line tied up. The bill would allow hospitals, police and fire departments, and owners of paging and cellular equipment to block calls from autodialing machines.

So-called "junk" advertising using fax machines also would be prohibited.

More than 40 states—including South Dakota—already restrict telephone solicitations. However, telemarketers can operate nationally from states where laws are lax.

Pressler said the measure would "assist states in their attempts to regulate intrastate telemarketing abuse."

The House could consider a similar bill next week.

[From the Cincinnati Enquirer, Sept. 29, 1991]

CONGRESS CONSIDERS PROPOSALS TO LIMIT UNINVITED PHONE CALLS

Much of America is fed up with automatic, mechanized, privacy-invading phone calls. But nobody has figured out quite what to do about it, though members of Congress are trying.

Bills to regulate the calls, which have a habit of interrupting sleep, dining or entertaining, are making their way through the legislative process. One, by Rep. Edward J. Markey, D-Mass., would bar such calls to hospital emergency rooms and other public-safety numbers and to paging services and cellular phones.

Sen. Ernest F. Hollings, D-S.C., would prohibit unwanted calls to homes. His bill would also require auto-dialers to hang up within five seconds after a call recipient hangs up. Yet another bill, by Sen. Larry Pressler, R-S.D., embraces the Markey bans and adds another on unsolicited advertising sent by fax machine.

The Markey and Pressler bills also instruct the Federal Communications Commission to study ways to protect phone customers. All lines should remain open to pollsters and other researchers, even if their non-automatic calls are sometimes annoying. Nor should government, federal or state, silence those who seek with their own voice to market a product or service.

But phone customers who want it deserve protection from the tape-recorded, metallic voices of those who make up to 1,000 calls daily.

[From Newsday, Sept. 16, 1991]

CURB TELE-JUNK

You're finally home from work, you've just sat down to dinner and the phone rings. What now? A disembodied voice that reminds you faintly of the paranoid computer HAL in "2000" wants to sell you something. And whether you want to buy or not—even if you hang up—the voice's taped sales spiel will tie up your phone until its course.

Junk mail is bad enough, but at least it doesn't keep you from getting the mail you want. But what can you do about endless junk phone solicitations—dialed automatically, to one number after another, without human intervention? Or about the plague of junk fax?

With some help from Congress, currently considering several bills to regulate telemarketing, you could do quite a lot.

At the least, as Sen. Ernest Holling (D-S.C) proposes, Congress should require an automatically dialed call to disconnect within five seconds after the targeted number hangs up, leaving the line free for emergency calls.

Unsolicited advertising by fax should be banned, as it would be under a bill offered by Sen. Larry Pressler (R-S.D.). Why should you provide paper and electricity for this?

Telemarketers should be required to compile a "don't-call" list of people who don't want to be bothered. If that fails, a national "don't-call" database may be necessary.

HAL, you'll recall, seized control from humans for a time. These bills would wrest it from machines and put it in human hands.

(By Thom Kupper Credit Newsday)

BILLS WOULD LIMIT RECORDED TELEMARKETING

[From the San Francisco Chronicle, Sept. 10, 1991]

Days after the 1989 Loma Prieta earthquake, a man whose house had been leveled was surprised to hear his phone ringing from under a pile of debris. He searched through the rubble and lifted the receiver to this ear, only to hear a recorded message trying to make a sale.

A Michigan family was unable to call an ambulance when their father was injured because an automatic dialing machine had called their house and would not hang up.

And at a college in Pennsylvania, a blind switchboard operator was besieged by an authomatic dialing machine that called her switchboard five times a minute for several days.

These are a few of the many stories told at a recent Senate hearing looking into the "automatic dialing-recorded message playing" machines that are under attack by consumer groups as public annoyances and occasional safety hazards. The machines, which can make their tape-recorded pitch to as many as 1,000 homes a day, have become the primary target of a flurry of pending legislation aimed at regulating the telemarketing industry.

Representative Edward J. Markey, D-Mass., who is sponsoring one of the bills, said the machines are turning home telephones into "receptacles of 'junk calls' in the same way that junk mail often inundates our mailboxes."

Even the Direct Marketing Association, which represents the telemarketers, concedes the need for regulation. Dick Barton, the group's vice president for government affairs, said the organization was ready to support many of the restrictions that would be imposed by bills sponsored by Markey and Senators Larry Pressler, R-S.D. and Ernest Hollings, D-S.C.

Markey's bill would ban any automated calls to public safety numbers, paging services or cellular phones. Pressler would ban those calls as well as any unsolicited advertising sent by fax machine.

Hollings goes furthest of all, outlawing any unwanted automatic calls to homes and re-

quiring autodialers to hang up within five seconds after the call's receiver hangs up.

The bills all passed through committee with strong support, and its seems certain that some version will be passed by both houses of Congress.

[From Newsday, Sept. 5, 1991]

HOW TO HANG UP ON THOSE AUTOMATED PHONE CALLS

You're finally home from work, you've just sat down to dinner and the phone rings. What now? A disembodied voice that reminds you faintly of the paranoid computer HAL in "2001" wants to sell you something. And whether you want to buy or not—even if you hang up—the voice's tape sales spiel will tie up your phone until it's run its course.

Junk mail is bad enough, but at least it doesn't keep you from getting the mail you really want. But what can you do about endless junk phone solicitations—dialed automatically, to one number after another, without human intervention? Or about the growing plague of junk fax, which can occupy your machine with somebody's sales pitch just when you're expecting an important document that can't wait for overnight mail?

With some help from Congress, which is currently considering several bills to regulate telemarketing, you could do quite a lot.

At the least, as Sen. Ernest Hollings (D-S.C.) proposes, Congress should require an automatically dialed call to disconnect within five seconds after the targeted number hangs up, leaving the line free for emergency calls.

Unsolicited advertising by fax should be banned outright, as it would be under a bill offered by Sen. Larry Pressler (R-S.D.). Why should you provide paper and electricity for somebody's unwanted ad?

Every telemarketer should be required to compile a "don't-call" list of people who have indicated—perhaps quite vehemently—that they don't want to be bothered by future calls. (This newspaper deletes numbers from its computerized telemarketing list on request.) If that doesn't work, a national "don't-call" database may be necessary.

HAL, you'll recall, seized control from humans for a time. These bills would wrest it from machines and put it in human hands.

[From The Detroit News, July 25, 1991]

BILL AIMS TO HANG UP 'TELENUISANCE'

WASHINGTON—Congress is being asked to pull the plug on a national "telenuisance."

Tapping into an apparent wellspring of annoyance, the communications panel of the Senate Commerce Science and Transportation Committee Wednesday heard senators and witnesses recount a litany of complaints about computerized phone solicitations.

Labeling the practice everything from a "telenuisance" to "the modern form of telephone terrorism," the annoyed urged the panel to approve legislation by Sen. Ernest Hollings, D-S.C., that would ban computerized solicitations to residential phones, unless the user gives prior consent.

Hollings' bill is being considered by the subcommittee along with companion legislation, written by Sen. Larry Pressler, R-S.D., which also would curtail "junk fax" transmissions. The Pressler bill would direct the Federal Communications Commission to develop a national list of people who do not want solicitation calls.

Machine-generated telephone calls represent "the fastest growing category" of consumer complaints nationwide, according to Steven Hamm, South Carolina's consumer affairs director speaking for the National Association of Consumer Agency Administrators.

"Computer calls are now the modern form of telephone terrorism," Hamm said.

He urged the subcommittee to "put some teeth" into both the Hollings and Pressler proposals by imposing stiff penalties for violators.

Telemarketing industry representatives said they favored some regulation of computerized solicitations, but opposed an outright ban.

Direct Marketing Association Senior Vice-President Richard Barton said his industry group would favor prohibitions on "line seizure" by computer callers, as well as restricting calls to critical social services such as hospitals, both features of a House proposal.

"We are noting more than sources of revenue to an industry that has lost its moral compass," said Robert Bulmash.

"This out-of-control industry will summon us * * * by using our conditioned response to answer the phone as if we were nothing more than Pavlovian dogs with wallets," he said.

COMPUTER CALLS IRK LEGISLATORS

[From the Toronto Star, July 25, 1991]

WASHINGTON (REUTER) Automated telephone advertising calls are a growing nuisance and need federal regulation, several senators and witnesses told a hearing.

"Computerized message players are a nuisance and an invasion of an individual's right to privacy," Senate commerce committee chairman Ernest Hollings, said yesterday.

"They are not just a nuisance, they're plain dangerous," Sen. Larry Pressler added. He said the calls can tie up emergency telephone lines.

Hollings and Pressler have introduced bills to regulate the calls and to ban calls to emergency numbers.

Witnesses at the committee's hearing said telemarketing firms are using computer-operated telephone systems to make hundreds of calls a minute with recorded advertising messages. Because the computers call telephone numbers in sequence, they can reach unlisted numbers, telephone pagers and cellular telephones.

Holling's bill would prohibit unsolicited computerized telephone calls to homes, emergency numbers, pagers and cellular telephones. It would also ban unsolicited advertisements to facsimile machines.

[From Securities Week, Securities (SCR) July 22, 1991]

SENATE PANEL TO HOLD A HEARING ON BILL THAT WOULD RESTRICT COLD-CALLING

The Senate Communications Subcommittee will hold a hearing on a telemarketing bill this week, which if adopted, would have the unintentional effect of restricting cold-calling by brokers.

The "Telephone Advertising Consumer Rights Act," which was introduced by Sen. Larry Pressler (R-SD) in late June, is designed to give consumers a break from unsolicited telemarketing calls dialed by both humans and computers.

The bill requires the Federal Communications Commission to protect consumers from unwanted telemarketing calls in several ways. Consumers would be able to put their phone numbers on a "DO NOT CALL" list at the FCC, or, all telemarketers would be placed on a single exchange, which would allow consumers to block all calls from that exchange.

While the legislation is not aimed primarily at brokers, the bill's language is written in a way that would include cold-calling restrictions. The bill says that "telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services."

Pressler's bill is similar to telemarketing legislation introduced in the House by Rep. Edward Markey (D-MA). Markey's bill has already cleared the House Telecommunications and Finance Subcommittee, and the legislation is waiting to be reviewed by the full Energy and Commerce Committee. That hearing is not likely to occur until after Congress returns from its August recess.

[From the Washington Times, July 25, 1991]

CONGRESS TRIES TO SHIELD PUBLIC FROM DELUGE OF TELEMARKETING

(By Jay Mallin)

The voice on the telephone line bubbled over with exciting news—a free trip to Hawaii, available just by calling a "900" number.

Being nothing but a mindless recording, however, the voice had no way of hearing the "click" as the recipient of the call hung up. And as the call was dialed by a computer that was probably picking phone numbers at random, no one knew that calling that particular phone number was probably a mistake.

The recipient of the call—perhaps the hundredth or thousandth such call placed by the computer that day—was Sen. Daniel K. Inouye. Being a Senator from Hawaii, he had no need of a free vacation in the islands, even if one was really available .

But as chairman of the Communications Subcommittee of the Senate's Commerce, Science and Transportation Committee, Mr. Inouye is likely to have considerable say on restrictions on telemarketing being considered by Congress.

The incident was just one of many that has everyone from consumer groups to the telemarketing industry association backing some kind of limit on telemarketing calls.

"Computerized calls are the scourge of modern civilization," Sen. Ernest Hollings, South Carolina Democrat, said recently on the Senate floor when he introduced a bill to limit the calls. "They wake us up in the morning, they interrupt our dinner at night, they force the sick and elderly out of bed, they hound us until we want to rip the telephone right out of the wall."

Several lawmakers have introduced bills to limit telemarketing calls. But the bills are still undergoing revision, and there is a range of choices Congress must make before it has a final version to consider—from whether to include non-profit organizations in any ban to exactly what kinds of calls should be prohibited.

Mr. Hollings' bill, for instance, would ban what everyone agrees are the most annoying calls—the ones that are placed by machines, often dialing random or sequential numbers, and that play pre-recorded messages with no involvement by a live person.

Stories about the disruptive effects of such machine calling abound. The "autodialers" have tied up cellular phone systems, rung every phone in a hospital, and once jammed the home phone line of a mother who was trying to call an ambulance for her sick child.

"They're not just a nuisance—they're just plain dangerous," said Sen. Larry Pressler,

South Dakota Republican, during a hearing of Mr. Inouye's subcommittee yesterday.

A representative of the Direct Marketing Association, the industry trade group, agreed such calls should be stopped.

"We * * * agree with the major thrust of the [Hollings] bill," said Richard Barton, senior vice president for government affairs at the Direct Marketing Association, a trade association with 3,500 member companies.

The Hollings bill, however, would do nothing to limit telemarketing calls by live operators. Other bills would go further.

Mr. Pressler has introduced a bill—similar to one offered in the House by Massachusetts Democrat Rep. Edward Markey—that would ask the Federal Commuunications Commission to look into the possibility of creating a national "Do Not Call" list.

Consumers who do not want to receive telemarketing calls would ask to be placed on the list, and telemarketers would then be prohibited from calling them.

The concept has been adopted by one state, Florida. But state legislation can't limit interstate calling, and so supporters of the idea say a national law is required.

In yesterday's hearing, though, Mr. Pressler's bill was attacked—from opposite sides—by both consumer representatives and the industry.

Michael Jacobson, who says his Center for the Study of Commercialism wants to halt the "permeation of advertising" in everyday life, argued the Pressler bill puts the burden to stop telemarketers on consumers, who must sign up to be on the list.

At the other end of the issue, Mr. Barton said the Direct Marketing Association questions the workability of maintaining a national "Do Not Call" database.

He suggested another alternative, one he said that has been adopted by South Carolina. That state requires organizations to maintain internal "Do Not Call" lists, so that people who receive an unwanted call can instruct the organization not to call again.

Mr. Pressler and Mr. Hollings said yesterday they may try to combine their bills, and on the House side Mr. Markey's proposal has already gone through a number of revisions. But members of Congress said they know their constituents are angry about the calls.

"I have received numerous complaints from Hawaiians who complain they are being called at all hours of the night by persons and computers who are calling from the East Coast" and who don't realize there is a time difference, said Mr. Inouye.

"This is a very emotional issue," Steve Hamm, administrator of South Carolina's Department of Consumer Affairs, told the subcommittee. "And I want you to know that you have hit the pulse of America" by considering the problem.

HOW TO ESCAPE THOSE CALLS

Here are some ways you can avoid most telephone marketing pitches.

Write a letter.

The Direct Marketing Association, a trade group, keeps a list of people who do not want to be called and makes it available to member companies that agree to comply. This can stop about 80 percent of the pitches, but you have to renew your request every five years.

Telephone Preference Service, c/o the Direct Marketing Association, 11 West 42nd St., P.O. Box 3861, New York, N.Y. 10163-3861.

Tell them not to call again.

Believe it or not, this simple expedient actually works for awhile with some companies, whose officials figure it is better not to anger potential customers.

The national photographic portrait chain Olin Mills, for instance, says it keeps "Do Not Call" lists at each of its studios, but they might call again after two years.

Use their technology against them.

Many telemarketers now use "predictive autodialers." The machines dial the numbers and connect the call to a live operator only if someone picks up the phone and says "Hello."

If your "Hello" is followed by a long pause or a click or a beep, just hang up before the machine puts a live operator on the line.

THE NEED FOR A NATIONAL PROGRAM TO PREVENT BALLAST INTRODUCTIONS OF EXOTIC SPECIES

Mr. GLENN. Mr. President, I rise today to reiterate my support for a national program of ballast management to prevent infestations of nonindigenous organisms in all waters of the United States. Nonindigenous species, like the zebra mussel, are an acute problem in the Great Lakes. However, they threaten the aquatic ecology and the economy of all four of the Nation's coasts, as well as inland waters.

Last fall Congress enacted a version of S. 2244, a bill I authored and introduced earlier in the summer as cochair of the Senate Great Lakes Task Force. S. 2244 comprehensively addressed the problem of unintentional introductions of nonindigenous species, and stressed prevention. Because ballast tanks of merchant ships are the leading vector of introduction of nonindigenous species, the bill as introduced required a program of environmentally sound ballast management for ships destined for any U.S. port. The national scope of the program was important to me because it was more protective of the Great Lakes, an area of particular concern to my constituents, but also because the absence of such a requirement creates a major gap in our national environmental protection policies.

The Non-indigenous Aquatic Nuisance Prevention and Control Act as enacted established a ballast management program for ships destined for Great Lakes ports only. I was very gratified to see the probability of infestations by nonindigenous species in the Great Lakes dramatically reduced with the enact of the final version. However, I remain concerned that the limited scope of the prevention program will leave the Great Lakes vulnerable to organisms that may become established in contiguous waters, such as the Hudson or Mississippi Rivers. I am also concerned that the remainder of the Nation's marine and fresh water ecosystems continues to be vulnerable to degradation by invading species.

I cannot adequately stress the environmental protection value of a national program of ballast management. In Lake Erie, where the zebra mussel infestation is still raging, we have all but lost our native species of freshwater clams. Other ecological costs are still under study but could include disruption of the migratory patterns of water fowl, and the spawning activity of fish. The economic costs to raw water users are already in the millions of dollars.

A recent Congressional Alert Bulletin from the Coast Guard reported that high levels of human cholera were discovered in the ballast tanks of merchant vessels visiting Mobile Bay from South America. And a November 22, 1991 article in the Wall Street Journal reported increased outbreaks of red tide in U.S. marine waters, and cited ballast dumping as a means of transmission. These articles underscore the fact that non-indigenous organisms transported in ballast water can also create serious public health threats.

I urge the attention of my colleagues to the need for a national program of ballast management to protect all U.S. waters from the serious problem of biological pollution from nonindigenous organisms. I will certainly be working closely with the majority leader to reserve adequate time in the Senate schedule for the upcoming session of Congress to reconsider the need to change current ballast management practices. I seek unanimous consent to have the aforementioned articles printed in the RECORD following my remarks.

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

Subj: FDA Ballast Water Sampling Program

1. Following the discovery of vibrio cholera in oysters in Mobile Bay in August of this year, the Food and Drug Administration [FDA] with Coast Guard support, has been conducting a vessel ballast water sampling program. Samples of ballast water, bilges, and MSD holding tanks were taken from deep draft vessels arriving in Mobile Bay from South America.

2. Two vessels arriving from South American Ports sampled on 6 and 7 November tested positive for vibrio cholera in a combination of ballast water, fire main water, bilge water and MSD holding tank samples. Both vessels have since sailed foreign.

3. Cholera is an acute, diarrheal illness caused by infection of the intestine by the bacterium vibrio cholera. The infection is often mild and self-limited or without symptoms. Nevertheless, the disease can sometimes be severe or fatal. Cholera is normally contracted by drinking water or eating food that is contaminated with the cholera bacterium.

4. Recognizing the potential and we stress "potential" for a significant health threat to the U.S. an emergency meeting was held in Washington, DC on 18 November with representatives from CG, EPA, FDA, NOAA, CDC and PHS to discuss the Mobile Bay situation. As a result of that meeting, the FDA is going to take the lead in a vessel sampling program that will take samples from a total of 65 vessels inbound from South American ports. By 28 November 1991 all 60 vessels will be sampled. The following ports have been selected for the sampling program: New

York, Baltimore, Philadelphia, Hampton Roads, Miami, Mobile, New Orleans, Houston, Galveston, LA/LB and San Francisco. Other ports may be added at a later time. COTPS shall assist in supporting the FDA sampling program. Full details of the FDA program will be passed on when finalized.

5. On 4 July 1991 IMO adopted international guidelines for preventing the introduction of unwanted aquatic organisms and pathogens from ships ballast water and sediment discharges. Copies of the resolution and IMO Guidelines are being provided to all shipping agents within the U.S. by COMDT G-M.

6. G-MEP intends to publish a Federal Register notice of national voluntary guidelines for ballast water exchange, using the IMO protocols as the base document, in the near term.

7. Separate Coast Guard policy is currently being developed to ensure appropriate actions are taken if a vessel tests positive for cholera in the FDA sampling program. It will be passed to the field as soon as it is completed.

8. G-KOM advises that no health threat exists to personnel conducting routine boardings on foreign vessels, provided that food and drink prepared or stored aboard is not consumed and good personal hygiene programs are observed.

[From the Wall Street Journal, November 22, 1991]

TOXIC RED TIDES SEEM TO BE ON THE RISE, INCREASING THE RISKS OF EATING SHELLFISH

(By DAVID STIPP)

Alfonso Falon owes his life to bad cooking.

When the Galicia I, a New Bedford, Mass., fishing boat, landed some mussels last year, Mr. Falon and other crew members decided to eat them for supper. By the time the shellfish began boiling, though, the crew was busy catching cod. Ninety minutes later, the mussels were as tough as rubber bands, but Mr. Falon was ravenous and ate more than a dozen.

The mussels were caught near Georges Bank, a rich fishing area 150 miles off Massachusetts. Unknown to the Galicia's crew, state health officials had issued a warning two weeks earlier that a deadly nerve toxin had been found in the area's shellfish.

Mr. Falon's first symptom of the paralytic shellfish poisoning, or PSP, was numbness in his lips. Soon other crew members were similarly affected. Mr. Falon eventually lost all feeling below the neck, went into convulsions and passed out. Captain David Cabral, who had eaten a cheeseburger for supper, gunned the boat toward shore for help.

Analysis showed that eating just a few of the raw mussels could have been lethal. But lengthy cooking had leached out most of the poison, and Mr. Falon recovered.

The Galicia's crew would seem to have had little reason to worry about the mussels. Red tides, the "blooms" of algae that cause such toxic episodes, were thought to occur only near the shore. But to many red tide experts, PSP's spread to Georges Bank wasn't too surprising.

A world-wide "epidemic" of harmful algal blooms has developed during the past few years, says Theodore Smayda, a University of Rhode Island oceanography professor. Blooms are cropping up in new places, and formerly nontoxic algae are turning toxic. The pattern suggests red tides are becoming a "major plantetary trend," like acid rain and ozone-layer thinning. Common underlying causes may be at work—coastal pollution and possibly global warming—he adds.

The latest U.S. outbreak is on the west coast, where a red tide toxin called domoic acid has appeared for the first time—first in anchovies off California and last week in razor clams off Oregon and Washington. It has apparently killed only sea birds so far. Bu the outbreak "is very significant and disheartening," says Sandra Shumway, a red tide expert with the Maine Department of Marine Resources. In 1987, mussels laced with domoic acid poisoned 153 people on Canada's Prince Edward Island, leaving 10 with brain damage and killing three.

Despite such episodes, many scientists dispute that red tides have reached epidemic proportions. Better monitoring of toxic blooms with satellites and other high technology may account for much of the apparent rise in frequency, they say. Moreover, fallout from red tides may be growing more as a result of an increase in coastal shellfish farming than because of the spread of toxic algae, says Donald M. Anderson, researcher at Woods Hole Oceanographic Institution in Massachusetts

But researchers generally agree that red tides are on the rise, at least to some extent. Some shellfish operators now carry mice on their boats. If the rodents keel over when they're injected with extracts of freshly caught mollusks, red tide toxins are probably present and the boats move on, says Patricia Tester, a red tide expert with the National Maritime Fisheries Service in Beaufort, N.C.

Red tides are bursts of growth by different species of algae, or microscopic floating plants at the base of the ocean food chain. They usually aren't toxic and often aren't red—they can be brown, yellow or colorless. The poisons in toxic red tides are transmitted to people through "filter-feeding" shellfish—such as mussels, clams and oysters—which strain nutrients from sea water and concentrate toxins in their internal organs.

Saxitoxin, which sickened the Galicia's crew, is one of the most deadly poisons known. It's found in algae off the north Atlantic and Pacific coasts. In the Southern U.S., a common red tide poison is brevetoxin, found in algae that grow in the Gulf of Mexico. Less toxic than saxitoxin, it typically causes a nonfatal flu-like illness. But some coastal residents are so sensitive to it that they get "choky" from the tiny amounts misted off waves, says Richard Pierce, research director at Mote Maine Laboratory in Sarasota, Fla.

Red tides have been known for centuries. But during the past two decades, blooms have occurred with portentous regularity. In 1972, a massive red tide bloom first brought paralytic shellfish poisoning to New England's southern coast; PSP blooms have occurred there annually since. In 1983, the Philippines' first known PSP bloom killed 21 people who ate affected shellfish. In 1987, PSP brought disaster to Guatemala, killing 26. Less deadly blooms have also occurred frequently during the past few years, including dense "brown" tides that have devastated Long Island's scallops.

Scientists are only beginning to puzzle out root causes. Japanese ships have apparently transported harmful algae to Australia in ballast water, says Matt Murphy, a red tide expert on Ireland's Sherkin Island. The water is pumped out as ships get close to port to take on cargo.

Most red tide stories are more complicated, though. In 1987, for example, hundreds of dead and dying bottle-nosed dolphins mysteriously washed up on the shores between New Jersey and Florida. Many had pox-like blisters, suggesting a bacterial or viral culprit. Tissue analyses also showed high levels of toxic man-made chemicals in some. But researchers were baffled—the widespread dying didn't fit known patterns of disease or chemical dumping. Meanwhile, an estimated half of the East Coast dolphins were wiped out by early 1988.

In late, 1987, 14 humpback whales beached and died on Cape Cod, providing a critical clue. An analysis showed mackerel in their stomachs contained saxitoxin—the first time red tide had been linked to the mass death of marine mammals, says Joseph Geraci, a veterinarian at the University of Guelph in Ontario, Canada. Based on that finding, researchers eventually traced the dolphin deaths to an unprecedented Atlantic coast outbreak of brevetoxin.

The red tide poisons had apparently weakened the animals, making them easy prey for diseases and chemicals they normally could cope with. A contributing factor, says Dr. Geraci, could be a switch in the animals' diets to include more fish tainted with red tide toxins. The mammals' favored food is growing scarce under heavy fishing-industry pressure. And numbers of some legally protected mammals, such as humpback whales, may have risen in certain places to the "carrying capacity" of the habitat, perhaps causing them to expand their dietary horizons, Dr. Geraci says.

But the most common causal thread running through the red tide story is pollution. In "a good half-dozen places" around the world, long-term increases in the abundance of harmful algae have been correlated with rising levels of nutrients from sewers, fertilizer runoff and other sources, says the University of Rhode Island's Dr. Smaya. Woods Hole's Dr. Anderson says anti-pollution measures such as greater use of "phosphate-free" detergents may also contribute to red tides by changing chemical ratios in coastal waters in ways that favor toxic algae.

If pollution is promoting red tides, the blooms are likely to get much worse in coming years. The population along the U.S. coasts is expected to grow to 127 million by 2010 from 80 million in 1960, greatly increasing the amount of sewage and other pollutants spewed into the sea. The percentage of U.S. shellfish beds in which harvests are banned or limited because of high levels of fecal coliform bacterial is already rising fast—to 37% in 1990 from 31% in 1985, according to a recent report by the National Oceanic and Atmospheric Administration. There's "an almost inexorable trend that threatens to destroy the harvest of wild or natural shellfish" in U.S. waters, the report concludes.

AIDS AND SEXUAL BEHAVIOR STUDIES

Mr. MOYNIHAN. Mr. President, in recent weeks, while the Nation's attention has been riveted on Earvin "Magic" Johnson and his announcement that he tested positive for the AIDS virus, the cancellation of two studies of sexual behavior, representing our best hope in the fight against AIDS, has gone unnoticed.

I would like to say that this Nation's leaders have echoed Mr. Johnson's call for AIDS prevention through education. But that would be a lie. The fact is that neither the administration nor the Congress are willing to address what may be the most fearsome epi-

demic since the Bubonic plague. Both have given in to uninformed individuals who would have us turn our backs on this epidemic. And nothing illustrates this more clearly than the recent defeat of two scientific surveys of sexual behavior.

More than 195,000 people in this country alone have been diagnosed with AIDS since 1981, of whom 120,000 have died. 1,500 were children. And these are only the documented cases. As many as 1 million Americans may be infected with HIV. They too will die.

In the majority of cases, AIDS is transmitted sexually. And since there is no known cure for AIDS, modification of risky behaviors is currently the only way to prevent HIV infection. In its 1991 Report, "The AIDS Research Program of the National Institutes of Health," the Institute of Medicine noted that:

> Lack of knowledge regarding patterns and determinants of sexual and drug using behaviors in the general public as well as in groups at particular risk of HIV infection has hampered public health efforts to develop health education intervention efforts for the prevention of AIDS.

To design effective AIDS education and prevention programs, we need current data on sexual behavior. The embarrassing truth is that we have been waging the war against AIDS with data that was collected over 40 years ago.

From 1938 to 1953, Charles Alfred Kinsey conducted a survey of human sexual behavior. According to Wendy Baldwin of NICHD, it remains the only comprehensive source of data concerning sexual behavior in America. Kinsey study formed the basis of two books, "Sexual Behavior in the Human Male" (1948) and "Sexual Behavior in the Human Female" (1953), now known as "The Kinsey Report." There are numerous methodological problems with the Kinsey study. Yet for lack of more up-to-date comprehensive data, our knowledge about the prevalence of various sexual behaviors is still largely based on this source. This will not do.

Public health experts have long known that we need better and more recent data. Indeed, in 1987, the National Institutes for Child Health and Human Development [NICHD] contracted for a study of sexual behavior and attitudes. They awarded the grant to the University of Chicago's National Opinion Research Center [NORC]. I have met with Professor Gagnon and Edward Laumann of the NORC project. Both are respected leaders in their field.

Since the National Institutes of Health approved the NORC survey in 1988, it has undergone multiple reviews by the Office of Management and Budget, the NIH Director's Office, the Office of the Secretary of Health and Human Services, as well as the Office of the Assistant Secretary of Health. The revised study includes only those questions that bear some relationship to the transmission of HIV/AIDS. Notwithstanding, Secretary Sullivan has not permitted the survey to move forward. The American Teenage Survey has suffered a similar fate. In May 1991, the NICHD awarded a grant to Dr. Richard Udry of the Carolina Population Center and Dr. Ronald Rindfuss of the University of North Carolina to conduct a study of adolescent sexual behavior. Their application received high marks from its review panel. Secretary Sullivan canceled the project in July. I would not be surprised if this honorable member of the President's cabinet considered resigning over this matter.

This is an outrageous situation. The administration advocates behavior modification to prevent HIV infection. Yet how can we modify behavior when we know so little about it?

Despite the President's request for $3 million to implement the adult sexual behavior study, the administration has done little to advance this proposal and the Congress has done everything in its power to stop it.

Prof. Norman Birnbaum of the Georgetown University Law Center recently commented on the state of our society: "Social vision has failed; the public capacity to think has been degraded." His observation applies here. The administration and Congress has permitted fear and intimidation to blind them from their obligation to think and lead. Mr. President, research on human sexual behavior serves a public health need. I ask you, why has the administration not taken an active role in this matter?

In the Labor, Health and Human Services, and Education appropriations bill [H.R. 2707], Congress prohibited Federal funding of the adult and teen sexual surveys. But fear and silence will not slow this epidemic. Indeed, without scientific information concerning the behaviors that contribute to the transmission of AIDS, this disease will overtake us.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, the idea of a world ruled by law is as old, almost, as the idea of law itself. For more than 200 years this Nation has been committed to the idea that nations must act with law on their side and not simply indignation in their hearts.

Of late we have drifted away from this notion. But with the end of the cold war and the beginning of a new era of violent ethnic conflict, we need more than ever to adhere to the idea that rules are needed to restrain this cycle of violence.

We frequently say that the plight of the American hostages in Lebanon is outrageous. It is. But more to the point, it is illegal. The Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, prohibits the taking of hostages at any time and in any place whatsoever. Yet this practice of holding innocent parties against their will with the hope of somehow effecting a change in the political order continues.

Yesterday, family and friends celebrated the return of former hostage, Tom Sutherland. I rejoice with them. But insist that we stand firm in our resolve to see all hostages everywhere released.

Mr. President, today marks the 2,446th day that Terry Anderson has been held captive in Lebanon. We have word through Terry Waite that Terry Anderson, Alann Steen, and Joseph Cicippio will be released before year's end. I call on their captors to fulfill this pledge.

Mr. LAUTENBERG. Mr. President, I rise in support of title V of H.R. 3704, the NOAA Authorization Act of 1991. Title V establishes a comprehensive monitoring program for our oceans and coastal waters.

Mr. President, we have made a great deal of progress in restoring the health of our marine waters. We no longer discharge raw sewage and dump sewage sludge and industrial waste into our coastal waters and ocean. We have begun to address nonpoint pollution—runoff—which threatens our waters. And fish are returning to our nation's estuaries.

But more remains to be done. According to EPA's latest national water quality inventory, in 1988 30 percent of our estuaries which have been assessed throughout the country either are failing to achieve water quality standards or are threatened with failing to achieve those standards. And 224 beach closures were reported in 18 States. These are remarkable figures nearly two decades after passage of the Clean Water Act.

I have joined Senator MITCHELL in introducing S. 1070, the Coastal Protection Act, to provide the programs we need to address the remaining coastal problems. This act is based on hearings held jointly in 1989 by the Subcommittee on Superfund, Ocean and Water Protection which I chair and the Subcommittee on Environmental Protection. We'll address most of the provisions of the Coastal Protection Act during the Senate's consideration of the Clean Water Act next year.

One essential element to restoring the health of our waters and one component of the Coastal Protection Act is to establish a comprehensive marine monitoring program. Title V establishes such a program. It is based on the monitoring program included in the Coastal Protection Act. And it includes provisions to establish a program to monitor garbage and other floatables along our shorelines, develop protocols for marine pollution mon-

itoring and to disseminate information about marine pollution. These provisions were first included in the Comprehensive Ocean Assessment and Strategy Act which I introduced in 1989.

Title V will be an important part of our efforts to protect our coastal waters. I'm pleased that it is contained in this legislation.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. BURDICK. Mr. President, after many hours of difficult negotiations, I am very pleased with the final Intermodal Surface Transportation Efficiency Act of 1991. As the first reauthorization of the highway program in the post-Interstate era, this bill offers states new flexibility to meet their transportation needs.

In the short term, this bill creates jobs at a time when the nation desperately needs an economic boost. In the long term, this historic bill will improve our nation's roads and bridges and build a strong transportation infrastructure to carry us into the 21st century.

The final bill includes the flexibility that I consider essential to balance the needs of all 50 States. Urban States can put more dollars into mass transit and reducing pollution, while rural States can concentrate on needed road and bridge improvements. This bill increases Federal spending on highways and transit, providing more Federal funds to each of the 50 States.

As chairman of the Environment and Public Works Committee, I would like to commend everyone involved in drafting this historic bill. A special thanks to the subcommittee chairman, Senator MOYNIHAN, for his visionary leadership, and to Senator SYMMS, the ranking member of the subcommittee. I would also like to thank Senator CHAFEE, the ranking member of the full committee. The conference committee had 92 members, and I thank each Member of this body who contributed.

I cannot say enough about David Strauss, Mike Weiss, Kathy Ruffalo, and George Schoener on my committee staff who contributed many weekends and late nights to get this bill finalized before Thanksgiving. Roy Kienitz and Rob Connor on the majority staff and Jean Lauver on the minority staff also deserve special mention for their extraordinary efforts. I would like to offer my sincere thanks to all the staff who worked so hard in developing this bill.

This is historic legislation, and I call on all my colleagues to give it their full support. This bill will create hundreds of thousands of jobs to improve our economy while improving our transportation infrastructure.

PROTECTING THE MEDICAID PROGRAM

Mr. RIEGLE. Mr. President, this body must address an issue vitally important to this country's health care program for low-income individuals, the Medicaid Program, before Congress adjourns this year. We are presented with this problem due to a Health Care Financing Administration (HCFA) regulation published on September 12, that would severely restrict a state's ability to finance its portion of the Medicaid Program.

HCFA published interim regulations September 12, that would prohibit states from using any type of provider donation or tax to fund its portion of the Federal match. Not only was the regulation vague and contradictory in many places, but it also violated congressional intent regarding the use of provider taxes under Medicaid. I sent a letter in early October with other committee and subcommittee chairmen including Chairmen BENTSEN, DINGELL, SASSER, PANETTA, and WAXMAN asking for the withdrawal of the Medicaid regulations. I also held a hearing on July 26, about this issue in the Subcommittee on Health for Families and the Uninsured which I chair and which has jurisdiction over the Medicaid Program. The clarifying regulations that came out October 31, did not improve the situation. In fact, the administration added a new regulation, relating to Medicaid payments to "disproportionate share hospitals" which serve many low-income individuals, that hurts hospitals nationwide.

Mr. President, the short-term moratorium legislation that the Finance Committee recently reported out with favorable recommendation would have given us some time to reach agreement on a specific proposal with all interested parties, including States, the administration, Congress, providers and advocates. We also reported out a compromise proposal, without recommendation, that was developed in recent negotiations between the administration and the National Governors Association (NGA). We did this on Friday because committee members only saw a brief outline of the proposal late Thursday afternoon and the legislative language was still being drafted. Many Governors were concerned that the language being drafted did not accurately represent the proposal they had in fact agreed to.

I was very pleased that the Governors and the administration have been meeting to develop recommendations. What is very troubling about this process, however, is that the legislative language of the so-called NGA-administration compromise agreement continues to change by the hour as states continue to work with the administration to address their various concerns. My office did not even receive a draft of the language until Monday and I understand that such negotiations continued well into Tuesday.

Clearly, this is not the way to make important policy decisions regarding the Medicaid Program, one that serves millions of vulnerable families and children. I am also concerned that the Office of Management and Budget (OMB) is simply dictating policy in an arbitrary way. For example, on Friday, in the Finance Committee, we were told that if the moratorium is extended to April 1, 1992, then there would be no budget problems. When Senator MITCHELL wanted to extend the moratorium to July 1, suddenly there was a problem, but no rationale for the problem.

But Mr. President, Congress must act on this issue today, because the current proposed regulations would have a devastating impact on States' Medicaid programs and the people they are intended to serve and because the administration refuses to withdraw the HCFA regulations. We do need some limits in the area of financing Medicaid through provider donations and taxes, and ideally we need more time to fully consider the options and their implications. We are presented today, however, with the current regulations or proceeding with the NGA-administration proposal. Proceeding with the NGA-administration proposal may be the best approach given the circumstances, because under a short-term moratorium, it is not clear at all whether the administration would negotiate in good faith and some of the provisions in the current NGA proposal that would help Michigan, and other states, may be adopted.

Mr. President, a major problem with the NGA-administration compromise proposal continues to be its treatment of hospitals that treat a disproportionate share of low-income or Medicaid patients. The proposal would limit the total amount of Medicaid expenditures for disproportionate share payments available to states to 12 percent. Currently, there is no limitation or cap whatsoever on total payments. This is an unprecedented change that the administration is suggesting and let me emphasize again they just brought it up in a regulation issued October 31. I remain extremely concerned about this because Congress has not held hearings on this topic and we must carefully consider such an unprecedented change. As I understand it, however, the administration will not accept any proposal without such provisions related to disproportionate share so we would be stuck with the current regulations, a more unacceptable alternative to Michigan and other states.

In Michigan, over one-third of our hospitals are disproportionate share hospitals and receive special payments under Medicaid because they serve many low-income, Medicaid or uninsured patients. Part of Michigan's dis-

proportionate share program has nothing to do with the State's voluntary donation program and so this part of our program is being unfairly affected by the NGA-administration proposal. Their proposal, thus, goes beyond the scope of the current problem. It's also important to note that Michigan's program clearly meets Congress's intent of providing enhanced payments only to hospitals that serve a disproportionate number of Medicaid and other low-income patients.

It's unclear to me why we must address the issue of Medicaid's disproportionate share hospitals in the NGA-administration plan when the real problem of taxes and donations have been addressed by requiring taxes to be broad-based and capping their level of use at 25 percent of a State's Medicaid expenditures.

Mr. President, because of recent budget cuts by Governor Engler in Michigan, our hospitals will be burdened with even more uninsured people and consequently, more uncompensated care costs. Close to 1,000,000 Michigan citizens now have no insurance coverage, including 300,000 children. Governor Engler has proposed a series of State cuts in health care benefits, effective October 1, that has increased the number of uninsured by close to 10 percent, about 83,000 single men and women. And in Wayne County alone, an additional 47,000 people will be without health care at the end of December because funding for its CountyCare program was cut by Governor Engler.

This is a tremendous burden on an already squeezed health care system. Hospitals, trauma centers, emergency units already have more than they can handle. Nationwide, 60 trauma care units have closed over the past 5 years due to uncompensated care and already low Medicaid payments. Michigan hospitals lost over $360 million in uncompensated care costs last year alone. The current NGA-administration proposal locks Michigan's total level of payments under disproportionate share to 12 percent at a time when they need the flexibility to give more money to disproportionate share hospitals.

Under the compromise, the only way Michigan could help hospitals that are especially over-burdened would be to take money from other hospitals. Hospitals have been calling my office and asking that we preserve the flexibility in the current disproportionate share hospital program to address the additional health care needs of Michigan citizens.

Mr. President, I will not block adoption of the NGA-Administration proposal despite these reservations because we need to move the process forward, but I will be working in the Senate-House Conference to ensure that disproportionate share hospitals programs under Medicaid can continue to operate to meet congressional intent of providing payments to hospitals that serve a disproportionate number of Medicaid and other low-income patients. My State needs flexibility both in the short-term, particularly in the Detroit area, and long-term to address urgent health care needs in Michigan.

MICKEY LELAND MEMORIAL DOMESTIC HUNGER RELIEF ACT

Mr. LEAHY. Mr. President. When we passed the Mickey Leland Memorial Domestic Hunger Relief Act as the nutrition title of last year's farm bill, we intended, quite simply, to relieve hunger. I was concerned when the Department proposed regulations that interpreted many provisions of that legislation in ways that will increase, rather than decrease, the prevalence of hunger in America.

By enacting these amendments to the farm bill, we intend to restore that original intent. Senators on both sides of the aisle were troubled by many of these proposed regulations. On the other hand, once our Committee began work on this legislation, the Department agreed to reformulate many of its objectionable proposed regulations.

Today, I will discuss only what seem to me the most troublesome provisions of the Department's proposed regulations.

I would like to commend the Members on both sides of the aisle and in the other body for the outstanding spirit of cooperation that made it possible to pass this legislation in such a relatively short time. It is a tribute to the outstanding track record of the Federal nutrition programs that they continue to enjoy such strong bipartisan support and that any threats to their well-being brings a prompt, firm response from Members of widely differing political philosophies.

Our intent in enacting the provision on simplifying resource and eligibility determinations was clear. We intended to exclude resources whose relative value was slight. As I stated in my remarks accompanying that legislation, no purpose is served when a household is denied because of a resource that could not be sold for any substantial amount of money to buy food.

In implementing this provision, however, the Department developed a troubling rule. The proposed rule has two requirements: The resource must have a sale price of $2,000 or less, and the cost of sale must be at least 75 percent of the sale price. This regulation will only continue to deny food stamps to households due to resources whose sale would yield little or no money for food.

In addition, the Department ignored the intent to simplify the resource determination and ease the paperwork burden on State agencies and households. By creating the two-pronged cost of sale and sale price test, the Department has complicated the process. The Department has created two mathematical formulas that caseworkers must figure out—and households must understand—before the household can be determined eligible. In light of the burden on already overworked and understaffed State agencies, the Department should not be adding to the workload.

Nonetheless, we added this specific provision of the legislation to ensure that resources that are not actually available to the household for food are not counted to the household. By imposing arbitrary standards to determine when a resource is inaccessible, the Department would have complicated the program.

This amendment is intended to address these concerns. A resource will be considered exempt if its disposition is unlikely to yield any significant amount of money to buy food for the household. No arbitrary sale-price or percent-of-value test may be imposed. States shall not be required to verify the value of a resource in order for it to be excluded by this provision.

No one deserves our sympathy and concern more than the homeless. It was to make the program more accessible to these people that we enacted the provision on estimates in lieu of verification of shelter costs. The Department's regulatory interpretation of this provision included some important positive elements but also sent States a message that could effectively destroy the provision's usefulness.

We were pleased that the Department opted to allow homeless households with low shelter costs to use the shelter standard, properly rejecting the notion of establishing some cumbersome standard for determining what is "low." At least in this instance, the Department upheld the spirit of the legislation to simplify the application process for all homeless households, as well as for State agencies. Shelter costs for the homeless are hard to anticipate and harder still to verify, but nonetheless consume a large part of homeless households' incomes.

Unfortunately, the Department set $93 as the shelter standard. The provision we passed last year required States to estimate the shelter expenses that homeless households were likely to have in a month. The Department's rule would discourage State agencies from developing their own standards based on local shelter costs and encourage them to substitute the $93 figure. However, the Department's $93 figure is unrelated to actual shelter costs and is simply too low. Formerly homeless households may well spend more than $93 if they pay for shelter for even 1 week in a month. All of these households will be forced to document their actual costs, which may be difficult or impossible. States will have to anticipate how much homeless households

are likely to spend in the future. Our intent to reduce paperwork for the whole class of homeless households would be frustrated.

In promulgating its final rule, we now expect the Department to strike a better balance between the interests of reducing paperwork burdens for recipients and State agencies with the interest in providing guidance to State agencies. A single national number, if set at a level more reasonable than the Department's $93, could be a useful timesaver for States with low shelter costs. We expect the Department's final rule to make clear, however, as the law does, that States in which homeless people could realistically incur higher housing costs establish their own levels, which may be well above the national minimum chosen by the Department. Naturally, both the national and State or local numbers should be adjusted for inflation.

Recognizing that recipients of general assistance (GA) are the poorest of the poor, we intended that categorical eligibility streamline the procedure for processing GA households in the Food Stamp Program as it has for AFDC and SSI recipients. The Departments's overly restrictive interpretation would defeat this purpose by unnecessarily limiting the kinds of GA programs eligible for categorical treatment. Of course, categorical eligibility should only apply to households receiving needs-based assistance.

The Department, however, has proposed to restrict the criteria much farther, imposing absolute income and resource limitations. These limitations are far more stringent than Food Stamp Program criteria, which allow deviations from the income and resource guidelines for households in special circumstances.

Further, the Department's decision to restrict categorical treatment to recipients of GA programs with certification periods of 3 months or more will frustrate our intent to simplify the process. We understand that there are GA programs that have very stringent need standards but require new applications every month. The Department's interpretation would create undue burden for recipients and State agencies and would defeat the intent of this provision.

This amendment is intended to reduce the paperwork burden for applicant GA households, and to ensure that recipients of truly needs-based GA receive categorical treatment in the Food Stamp Program. Categorical eligibility would apply to households who receive GA under a program whose income criteria are comparable to, or more restrictive than, those in the Food Stamp Program. Recipients of one-time emergency assistance for transients and others whose need is manifestly limited to a single month would not be categorically eligible.

I was very troubled by the Department's approach to monthly reporting and retrospective budgeting. In particular, the changes made by the Department—neither required nor authorized by legislation—would cause needless hardship for recipients and increased the burden on State agencies. The provisions restricting notice to households and expanding the proration of benefits completely contravene our intent to relieve hunger since they make it even harder for eligible families to receive benefits.

The Departments's proposed rule combined the incomplete filing notice with the termination notice. We seriously doubt that recipients would receive adequate notice of their rights if this rule were not amended. When monthly reporting was first required, serious concerns were expressed as to whether households could realistically be expected to comply with the paperwork requirements. Because of such concerns, we restricted the scope of monthly reporting in 1985, 1988, and 1990.

It was thought that giving households two separate notices would at least partially address those concerns. The Department's proposal to combine the two forms would inevitably increase procedural terminations and caseload "churning" rather than simplification.

Fortunately, I have been informed that representatives of the Department agreed to abandon its proposal to combine the two forms. Instead, the Department will continue the requirement that households be given separate notice of both adverse actions. Households must receive separate notices of the late or incomplete filing and, if they refuse to comply then, of termination until the household complies with its reporting obligations. Nothing in this amendment is in any way intended to restrict households' right to retroactive food stamps once they file their late monthly reports.

In addition, the Department proposed to prorate the benefits of households submitting late monthly report forms. The Department failed to realize that these households are penalized already by having to wait to receive food stamps. Reducing the benefits the eligible household finally receives would compound the hardship and cause undue burden on households.

The Department's rule would increase the hardship on monthly reporting households—who are generally the working poor, and who already have more burdensome paperwork requirements than other households—by prorating their benefits within a certification period. This is not allowed for other households and should not be imposed on households who must make monthly reports. Further, proration of benefits for late reporters would increase the burden on State agencies, as caseworkers must calculate prorated amounts as well as the regular benefit amounts.

This package includes an amendment to override the Department's proposal and prevent State agencies from prorating the benefits of households who submit late monthly report forms. This legislation makes clear that proration of benefits is only allowed after the expiration of a certification period or the termination of a certified household that became ineligible under one of the act's substantive rules, such as the gross income test. Benefits may not be prorated where the household's certification period has not expired, even if the household has not participated at some point during that period due to being suspended for a monthly reporting or similar problem.

We intended in the head-of-household provision to ensure that the person who is chosen as the "head of household" is actually the person primarily responsible for making the household's key decisions. We weighed the recipients' interest in an unlimited right to select the head of household against the Department's interest in ensuring that Program goals are not undercut by artificial designations and struck a balance between the two to accommodate the real-life circumstances of food stamp households.

The Department's proposal is unfortunate. It would destroy the compromise we reached by imposing a primary wage earner test when younger people with wages move in with older persons who are not their parents and whose income comes from other sources. This rule creates a hardship for extended families sharing a home by penalizing all of the members when a younger wage-earner acts irresponsibly. The primary wage earner test not only is often inequitable, it also burdens State agencies.

The Department's proposal to recoup recipient claims through Federal income tax refund offset raises serious due process issues. Under this proposal, recipients are unlikely to receive adequate notice that their refunds are being intercepted. They are also unlikely, as a practical matter, to have a realistic chance to contest that action. Further, the provisions for appeal are inadequate, especially because the Department's proposal would allow offset to be used to reclaim overissuances—resulting from even inadvertent errors—that are 10 years old. It is difficult for anyone to give a detailed accounting of their activities 10 years earlier. Moreover, since States may be trying to collect overissuances in other ways, the danger of duplicate collection seems very high.

In light of the many hardships that the refund offset may cause, and its potential to undermine the incentives the earned income tax credit is intended to create, we believe that now is not the

time to initiate this procedure. The Department should focus instead on more immediate goals: implementing the Leland Act, responding to the dramatic increase in caseloads caused by the recession, promoting simplicity and consistency in program administration, reforming the grossly ineffective employment and training program, and removing barriers to participation.

I am pleased that it appears that the Department now believes that no claims should be collected that are older than 6 years.

Last year's legislation dropped the requirement that 30 days must be given a household to elect a repayment method after that household was found to have committed fraud. As a matter of discretion, the Department should give at least 10 days to avoid the chaos that demanding instant action would bring.

Unauthorized by any legislation, the Department proposed to apply the shortened time frame to households who had not committed fraud, but had only made an inadvertent error. The Department's proposal would not only cause undue burden for households, it would increase the burden on State agencies as well.

I was alarmed to learn that over the past 3 decades AFDC benefits have declined in real terms, after adjustment for inflation, by an amount roughly equal to the benefits the Food Stamp Program provides. The cause of this decline is unclear, but it certainly seems possible that some States are seeing Federal food stamp dollars as a substitute for State-Federal AFDC moneys. If so, this is completely unacceptable. No one should be worse off in any other program because the Food Stamp Program exists. We expect the Department to work diligently to ensure that the Food Stamp Program's effectiveness is not undermined by having food stamps and other programs work at cross-purposes and reduce each other's benefits.

Last year's legislation required the Department to conduct enough demonstration projects to determine the effect on the program of excluding as a resource one vehicle per food stamp household. Unfortunately, the Department shows no sign of beginning to conduct these projects and has discouraged interested State agencies.

This legislation requires the Secretary to initiate those vehicle demonstration projects by January 1, 1993. Nonetheless, speaking as a Senator from one of America's most rural States, I hope that the Department initiates the projects well in advance of that deadline. In addition, I note the Arkansas State agency has requested some time ago that the Department conduct a demonstration project in that State, and I hope that the Department recognizes that State agency's interest and the work they have already done in thinking through how this demonstration would work when it selects sites.

To help disabled people regain their self-sufficiency, the Social Security Administration (SSA) has for some time encouraged recipients of Supplemental Security Income (SSI) benefits to develop "plans for achieving self-support" or PASS plans. A PASS plan might, for example, involve saving money to buy equipment the recipient needs to pursue a trade, or might call for the recipient to take some kind of specialized training to qualify for work that is within his or her functional capacity.

The farm bill excluded from food stamp resource determinations any assets of SSI recipients, including money saved under PASS plans, that SSI excludes from its resource calculations. The larger problem for PASS participants, however, is that current rules have been interpreted to require food stamp offices to count the SSDI benefits going into the PASS account as well as the SSI benefits that the participant is actually receiving as income. Although this practice has been found unlawful in the only court case decided to date, throughout most of the country disabled people working to regain their self-sufficiency are still being denied food stamps because of their PASS plans.

This legislation would provide that moneys SSA pays to a provider of training services or into a PASS account under the terms of a PASS plan would be treated as vendor payments—which in fact they are—and excluded from consideration as income. We do this because moneys set aside for the fulfillment of a PASS plan obviously are not reasonably available to meet the household's food needs.

The final bill makes a change in the language concerning the outcomebased performance standards the Secretary is required to establish for the Food Stamp Employment and Training Program. The final language removed the requirement that the performance standards be based on improvements in household members' educational levels. This change was made to give the Secretary more flexibility to develop performance standards that are compatible with the performance standards to be developed for the JOBS program authorized under Title IV-F of the Social Security Act.

This change is in no way indicative of a lessening of our intent that the performance standards reward States that provide educational services to their Food Stamp Employment and Training Program participants. We also expect that nothing in the performance standards developed for the Food Stamp Employment and Training Program will put States at a disadvantage for placing participants in longer-term educational programs.

Providing educational services is an essential component of any employment and training program because educational levels are more closely linked to an individual's ability to become self-sufficient than at any time in the past. University of Michigan researcher Sheldon Danziger has studied the relationship between educational attainment and earnings from 1949 to 1986. He found that the least educated individuals not only have the highest poverty rates, but have also experienced the greatest deterioration in their economic status over time.

The Commission on the Skills of the American Workforce found that in 1987 young male high school graduates with 1 to 5 years of work experience earned real weekly wages 20 percent lower than in 1979. The Economic Policy Institute reported that the earnings of men aged 24–34 with only a high school diploma declined 9 percent over the past decade, while the earnings of those without a high school diploma declined 12 percent.

MEAT AND POULTRY INSPECTION EXEMPTIONS

Mr. LEAHY. Mr. President. The Federal Meat Inspection Act [FMIA] and the Poultry Products Inspection Act [PPIA] are among the Nation's oldest statutes designed to protect the public health. These acts require the daily presence of a government inspector at facilities manufacturing meat and poultry products for resale.

If done correctly, such inspection ensures that exacting manufacturing and processing requirements result in wholesome and properly labeled meat and poultry products. In effect, these inspectors are the eyes of consumers, who cannot otherwise protect themselves against improper manufacturing or unsanitary plants.

This continuous inspection is necessary because products of animal origin can be carriers for disease and microbiological contaminants that could jeopardize the public. Accordingly, from the time of slaughter, through processing, until the consumer purchases a product at the supermarket, the meat or poultry is subject to continual inspection by officials of the U.S. Department of Agriculture [USDA] acting under the authority of the above statutes.

Visual inspection is required at the time of slaughter to eliminate the risks of disease. Inspection is also required at the time the meat or poultry is further processed—which can include being cooked or cured to ensure that microbiological-contaminants, such as listeria, salmonella, and E. Coli, are destroyed for ready-to-eat products. combined, these programs result in the safest meat and poultry supply in the world.

Furthermore, inspection is generally required of all further processing of the

cured or cooked product when it is used in further processed products designated for resale. There are many reasons for such inspection. First, further processing of the meat may reintroduce old dangers or create new dangers, such as under processing a canned meat product. Second, a safe cooked or cured product may be recontaminated during processing or distribution.

Third, manufacture for resale may introduce new dangers of mishandling.

Notwithstanding the above, it is appropriate, from time to time, to review whether inspection is necessary in every instance. There may be limited situations when the risks discussed above are not present, or where there are protections available other than continuous Federal inspection. If such situations are identified, consideration should be given to exempting the processing of such products from inspection.

It must be emphasized, however, an exemption should not be granted to save money or for political expediency. The purpose of the inspection acts must never be compromised—the public health must be protected.

The American consumer enjoys the safest meat and poultry supply in the world, much of this due to inspection. Whenever such a protection is lowered or altered, it must be clearly established that consumers will not be placed at risk. Section 1015 does not abandon these principles nor, if properly implemented, does it lower public health protections.

Section 1015 of the technical corrections bill would require the Secretary of Agriculture to exempt the processing of pizzas in certain circumstances from the continuous and daily inspection requirements. It does not provide an exemption from the adulteration and misbranding requirements of he inspection acts. However, such exemptions may only be exercised in limited, well-defined circumstances where the risks discussed above would not be present.

Further, such exemptions would be granted only through a rulemaking that establishes ample protections to the public health. Finally, the legislation would begin the process of reviewing previously granted exemptions to ensure they are consistent with the public health.

The amendment requires the Secretary to exempt pizzas from inspection requirements of the inspection acts. However, this authority is limited both procedurally and substantively. Further, the section mandates the Secretary to conduct a study on the impact of products previously exempted under the historical exemption provisions of the acts.

Subsection (a), of section 1015, would amend section 23 of the FMIA to require the Secretary to exempt from inspection, by regulation, the processing of pizzas containing previously inspected and passed meat components in a cured or cooked form. In promulgating regulations to implement this provision, the Secretary shall prescribe whatever terms and conditions are necessary to ensure that no risk to food safety or public health arises.

These terms and conditions are to be issued under section 21 and 25 of the FMIA. Section 21 is the Secretary's general execution of the act. it is not expressly cited in the statute as the Secretary has the clear authority to adopt any and all needed conditions for the exemption.

Section 24 authorizes the establishment of storage and handling requirements for facilities not processing meats under continuous inspection. It is also expected that the Secretary will impose whatever additional requirements may be necessary to ensure that no risk to public health arises from this exemption. Thereby, the Secretary will ensure public safety in the absence of the daily inspection.

Subsection (b) makes parallel changes to section 15 of the Poultry Products Inspection Act. Under this subsection the Secretary is likewise required to impose conditions on the exemption consistent with sections 14(a) and (b).

Further, the exemption may be granted for the processing of pizzas which contain only cooked or cured meat and if the product will be distributed only to public or private non-profit institutions that operate under supervision that the Secretary determines will protect public health, such as the direct supervision of a registered dietician or the use of trained personnel. The Secretary has broad authority to refuse, withdraw or modify any exemption.

Subsection (c) requires the Secretary to implement subsections (a) and (b) through notice and comment rulemaking, which shall include at least one public hearing examining public health and food safety issues raised by the granting of this exemption. In such rulemaking, the Secretary is required to develop such terms and conditions as may be necessary to ensure food safety and protect the public health from any increased risk associated with granting of an exemption under subsections (a) and (b). This rulemaking should be completed by August 1, 1992.

Subsection (d) requires the Secretary, in consultation with the National Academy of Sciences, to conduct a study to evaluate and develop criteria for exemptions from inspection of meat food products. This study shall include current exemptions granted under section 1(j) of the FMIA and section 4(f) of the PPIA for products that have historically not been deemed by consumers to be products of the meat industry. In addition, the studies shall examine the appropriateness of granting exemption from the requirements of the FMIA for wholesale meat outlets engaged in minimal processing activities.

The legislation would provide a procedural and substantive framework for the Secretary to grant an exemption from inspection of pizzas.

As an initial matter, the new authority granted by this legislation would exempt the processing of pizzas from the requirement of daily inspection if certain conditions are met. The processing operation and products manufactured under such an exemption would still remain within the Secretary's authority and would be subject to the adulteration, misbranding, and other provisions of the FMIA or the PPIA, including storage, handling, processing and facility requirements.

The Secretary has broad authority to impose additional requirements upon an exemption as necessary to assure that the exemption gives rise to no risk to public health. Moreover, the Secretary has broad discretionary authority to withdraw or modify such exemptions to effectuate the purposes or provisions of the act.

The Secretary would have the authority to withdraw or modify any exemption in particular instances or at particular facilities, subject to appropriate due process protections. Further, the Secretary may indefinitely suspend a previously granted exemption and then reassess the exemption through a new rulemaking proceeding if there is basis to believe a risk to public health exists.

Subsections (a) and (b) would impose several procedural conditions on the grant of an exemption. The requirement to grant an exemption applies only where such an exemption gives rise to no risk to public health. Notice and comment rulemaking provides an appropriate structure for the Secretary to receive public input, and hence is required.

Such rulemaking, which includes a public hearing, shall focus on evaluating the public health implications of granting any proposed exemption. The notice and comment rulemaking is to identify any risk to public health that may arise through such an exemption, and to guarantee such risks must be eliminated through the terms and conditions the Secretary must adopt as a precondition of implementation of the exemption.

School children are likely consumers of these pizzas. Therefore, such terms and conditions must positively ensure food safety for these vulnerable populations, despite the absence of an inspector at that final processing stage.

The requirement for the Secretary to grant an exemption from inspection of pizzas must not be construed as a statutory mandate to lower food safety protections—it is not. Indeed, the man-

date to ensure food safety and protect public health in the absence of continuous inspection should cause the Secretary to prescribe terms and conditions that are very exacting.

Even if the inspector is not present on a daily basis, equipment and facilities must adhere to high standards of cleanliness, and safe food handling must be assured through the terms and conditions. Only when the Secretary has developed such terms and conditions should the Secretary promulgate a final rule to implement subsections (a) and (b). If such terms and conditions cannot be established to the satisfaction of the Secretary, I do not believe that such regulations, to grant the exemption, should be published.

Earlier versions of this provision, passed by both the House and Senate, authorized, but did not require, the Secretary to grant exemptions. In this provision, the word "shall" replaces the word "may" to make clear that it is the firm intent of Congress that the Secretary must address this issue.

The new authority established herein in not mere discretionary authority for the Secretary to exercise to the extent, and at whatever time, the Secretary deems appropriate. The Secretary is obliged by this authority to prosecute a thorough and carefully considered rulemaking. However, this requirement does not relieve the Secretary of his public health protection duties.

The substantive requirements of the legislation have been designed to make certain that a product exemption will not be granted where there are substantial risks inherent in manufacturing the pizza for resale. To be eligible for exemption, the meat or poultry component of the pizza must have been previously inspected and passed by USDA in a cured or cooked form. Failure to start with such meat would clearly entail risk.

Furthermore, there are risks inherent in the storage, handling, and processing of meat or poultry. The legislation requires the Secretary to mandate requirements for facilities processing without daily inspection. Sanitary specifications for facilities, equipment and storage rules, as well as acceptable processing methods must be adopted to fully eliminate the risks of preparing meat food products. Finally, the pizza may only be distributed to public or non-profit private institutions. Such institutions may purchase such products for immediate consumption, thereby avoiding some food handling risks.

I expect that such institutions will be required to operate under supervision that assures that food handling and sanitation practices protect public health, such as the direct supervision of a register dietician or a staff trained in proper safe food handling techniques.

Admittedly, the Secretary bears a substantial burden to develop terms and conditions that are so effective as to ensure food safety when an inspector is not present on a daily basis.

In the evaluation of information from these sources, the Secretary would consider the history and nature of the product, whether a pattern of unsanitary conditions may exist in the industry, educational level and training of personnel, compliance with ingredient specifications and the health status and vulnerabilities of likely consumers, among others.

The Secretary retains broad discretion to refuse, withdraw, or modify such exemption to effectuate the purposes of the act. When this authority is exercised with respect to a particular facility, due process protections must, of course, be afforded. Regarding an exemption generally, in the event new evidence arises or the Secretary, in his or her discretion, otherwise determines that a risk to public health exists, such exemption should be suspended pending completion of a rulemaking to reevaluate the matters and promulgate such new terms and conditions as are required to ensure food safety and protect public health or eliminate the exemption.

In addition, the Secretary is expected to assure that manufacturers of exempt products comply with labeling requirements. Failure to require adherence to such labeling requirements would result in an unlevel playing field for competitors and institutional consumers who increasingly rely on product labeling.

The Secretary is expected to promptly exercise his or her discretionary authority to refuse or withdraw an exemption from inspection in any case where an exempt facility manufactures for resale products that fail to comply with relevant labeling requirements.

In the development of this legislation, concerns were expressed regarding current exemption provisions of the FMIA and PPIA. These provisions permit the Secretary to exempt totally from the act's coverage those products containing meat or poultry which historically have not been considered by consumers as products of the meat food [or poultry] industry. It is alleged that these provisions have resulted in a patchwork of inconsistent exemption decisions, not based on a public health standard.

Accordingly, subsection (d) of the legislation would require the Secretary to begin reviewing these exemptions by directing the Secretary undertake a study, in consultation with the National Academy of Sciences, to develop criteria for, and evaluate, present and future exemptions for meat and poultry products, as well as the effects of those exemptions would have on public health. Once that study is completed, within 24 months from the date of enactment, it is anticipated that the Secretary will work with the Congress to resolve the controversy and ensure public health protection.

The sponsors envision the fruit of this study to be a coherent policy for product exemptions consistent with the protection of public health.

FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT AMENDMENTS OF 1991

Mr. WELLSTONE. Mr. President, I would like to thank the chairman of the Agriculture Committee, the senior Senator from Vermont, for all of his work on the meat and poultry inspection provisions of this technical corrections bill. And I would like to commend him for the excellent explanation just delivered of the final language contained in the bill on that subject.

I fully suscribe to the principles of public health protection as the chairman put them forward. I fully agree with him regarding the importance of taking great care in setting meat and poultry inspection policy in order to uphold those principles. I believe strongly in maintaining food safety and protecting public health through the USDA inspection system. And although such a system could probably never function perfectly, we certainly owe much to our current one.

Important issues relating to the public policy process and to the protection of public health have been raised in recent months during consideration of the provisions of this bill regarding the sale to schools of meat-topped pizza. I would like to review some of those issues quickly and outline my concern about them.

The House passed the technical corrections bill during the summer with brief language on the subject of exemption from meat inspection requirements for some pizzas. The language, as I understand it, was adopted at the last minute, and had never been considered in subcommittee deliberations or in any hearing in the House. We in the Senate made what we feel were substantial improvements to that language before passing the overall bill last Friday. Now, following a staff conference on the bill, we have yet another version of it, containing new language on meat-topped pizza, which was passed by the House earlier today.

As the chairman knows, I have been following this issue with great concern. I was somewhat alarmed by the early House version of the bill because of what appeared to me to be an outright special-interest exemption from meat-inspection requirements for some products. I felt that particular restaurant interests were being accommodated through a process which inadequately considered public-health impacts and which did not allow sufficient public comment and input concerning the granting of exemptions.

The chairman and his staff, working with other members of the Agriculture

Committee, took particular care to address my concerns, which were widely shared. The version of the bill which the Senate Agriculture committee sent to the Senate last week, and which we passed, fully satisfied those concerns. It authorized the Secretary of Agriculture to grant certain exemptions from inspection, but only to the extent consistent with the protection of public health. It provided for fair and open administrative procedures.

The chairman knows that I would have preferred that language. Some consumer-nutrition advocates worry that the way we are authorizing an exemption form inspection in the bill before us appears to reverse longstanding practice regarding public health criteria. They say that it could be construed as shifting the burden of proof from those who will benefit from risk to those who will be subject to the risk.

In other words, this bill now instructs the Secretary that he shall grant an exemption, albeit under certain "terms and conditions." Then the Secretary may, of course, withdraw such an exemption if that is found to be necessary in order to ensure food safety and protect public health. I wonder if it is less clear than it was before that the Secretary and those who are seeking an exemption have a burden of proof to ensure that the exemption does not threaten public health before it is granted.

I am reassured by, and strongly agree with, the explanation offered by the chairman, of this current bill's language. The terms and conditions under which the Secretary is to exempt some products from meat inspection requirements must "ensure food safety and protect public health."

Therefore, to effect this exemption, the Secretary is required to establish such terms and conditions as may be necessary to be certain of food safety, even in the absence of daily inspection. Clearly, strong sanitation requirements will be imposed through the terms and conditions. I note that the chairman cites the sanitary requirements imposed on custom operations. And I note further that if regulations specifying terms and conditions cannot be promulgated, an exemption should not be granted.

I find comfort in the chairman's assurance that the Secretary's duty to protect the public health is, if anything, expanded in the case of an exemption from the requirements of daily inspection, as will be the case if this bill becomes law. Moreover, I understand that the Secretary would have broad authority to perform that duty.

As a member of the Senate Committee on Labor and Human Resources, I intend to observe carefully the rulemaking process for any exemption granted through this provision. I will pay particular attention to the terms and conditions promulgated by the Secretary as part of any exemption process to see that they do, in fact, ensure food safety and protect public health. Because it is my understanding that these provisions accomplish that end, I will not oppose their enactment, although I would have preferred those contained in the earlier, Senate-passed version of this bill.

EXTENSION OF EXPIRING TAX PROVISIONS

Mr. WOFFORD. Mr. President, I take this opportunity to commend the chairman of the Finance Committee, the Senator from Texas, for his leadership in bringing this legislation to the floor. Because this bill, which extends several expiring provisions of the tax code, is important in getting this country's economy moving again. In my mind, this legislation combines several of the types of initiatives that are vital to long term economic growth.

This bill provides incentives for capital investment. In particular, this legislation extends tax provisions that promote research and development. It would also extend small issue industrial development bonds, which stimulate private sector investment into long-lived physical plant and equipment, to increase productivity and to create permanent private sector jobs.

IDB's have been extremely successful in retaining and creating jobs in Pennsylvania. According to the Commonwealth's Department of Commerce, IDB's have financed 160 manufacturing and industrial projects in Pennsylvania, thereby retaining 13,359 jobs and creating 6,400 new jobs between 1987 and 1990.

This bill also promotes investment in the productive capacity of individuals. It will ensure that employees will be able to continue to receive up to $5,250 annually in tuition reimbursements or similar educational benefits from their employers on a tax-free basis. Since this deduction was first enacted in 1978, over 7 million working people have benefited. And these are middle-class working people—in 1986, over 70 percent of the benefits went to people earning less than $30,000.

In addition, this bill promotes housing opportunities through the extension of the mortgage revenue bonds and the low-income housing tax credit.

I am extremely concerned that the American dream of home ownership is fading. And I believe that the Federal Government has a role in reversing that trend. During the past 20 years, MRB's have financed more than 1.2 million mortgages totaling more than $75 billion. Since 1982, the MRB program has helped more than 35,000 families in Pennsylvania. The average price of houses financed in 1990 was $57,000 and the average family income of the participants was $27,100. Clearly, MRB's are important to first-time homebuyers.

The low-income housing tax credit is an important housing production program. It is a public-private partnership in the truest sense of that term. As a result of the productive relationships promoted by the tax credit, lower income families can obtain affordable housing.

Mr. President, this legislation is important during these economically troubled times. However, I am disappointed that the extension will only be for 6 months. Such a short-term extension creates uncertainty among those that utilize these tax provisions. Consequently, I will be working with my colleagues in the near future to at least make the most worthy of these provisions permanent.

CHAMPUS

Mr. WIRTH. Mr. President, on Saturday, the Senate debated the Department of Defense appropriations conference report and discussed many of the differences between the provisions of that report and the DOD authorization conference report. One of those differences relates to a provision of the authorization bill that I strongly supported involving the CHAMPUS Reform Initiative [CRI] contract now in effect in California and Hawaii. That provision instructs the Department to rebid the contract using competitive bidding procedures to determine the vendor that will perform services after the current contract terminates in January 1993. The appropriations conference report directs the Department to do precisely the opposite. That bill instructs the Department to extend the contract for 1 year until January 1994, keeping the current contractor in place without any competition whatever.

The President has just signed the DOD appropriations bill and will soon have the opportunity to sign the DOD authorization bill. As he considers his action on the authorization bill, I think it important to establish clearly the impact of that bill's CRI provision and, in particular, the effect of the enactment of that provision upon the conflicting language of the appropriations bill.

Mr. President, it should be clearly understood that enactment of the authorization bill will have the effect of rescinding the appropriations bill's language. The instructions to the Department relating to CRI that are contained in the two bills are in direct conflict and cannot both be followed. When Senator GLENN and other members of the Senate Armed Services Committee developed the authorization bill's CRI provision, our purpose was to counteract and supersede the instruction of the House Appropriations Committee' conflicting provision. The

effect of the President's signature of the authorization bill will therefore require competitive bidding to determine the fate of the CRI contract in 1993, notwithstanding the appropriations bill's instructions to the Department to extend the contract until January 1994. Clearly, the President understands that to be among the consequences of his signature of the authorization bill. To my mind, it is one of the desirable consequences that will result from that action.

FCC REALLOCATING FREQUENCIES

Mr. HOLLINGS. Mr. President, I rise today to discuss proposals currently being examined by the Federal Communications Commission [FCC] that could have a significant impact on the telecommunications systems of the railroads, the power companies, and other users.

The FCC is considering the feasibility of reallocating frequencies around 2 gigahertz to new service providers. Some of these frequency bands are heavily used by the railroads' and power companies' microwave communications systems. The FCC also is considering the cost impact in addition to the technical feasibility of any possible reallocation that may affect these users. In fact, the FCC is reviewing suggestions that the new service providers might be required to pay the relocation expenses of the incumbent users of these frequencies, including the railroads and power companies.

The railroads and the power companies have substantial interests in this matter. The railroads, the power companies, and other basic U.S. industries and State and local governments depend on their frequency bands extensively for microwave communications. These users' investments in microwave systems are substantial. The cost of accommodating those microwave systems in other frequency bands could be very high, assuming alternative frequencies are available. These microwave facilities were installed to provide communications facilities which were not otherwise available or were not available with the necessary service reliability.

In this regard, railroads and power companies must have available to them secure and reliable communications systems. Relocating these microwave systems to other frequency bands could force these users to incur substantial costs.

As I have said before, Congress should not get involved in specific frequency allocation decisions before the FCC. The FCC is clearly the expert body when it comes to determining which service should receive which frequencies. These decisions require detailed engineering studies concerning power levels, interference, coverage areas, transmission modes, and other considerations, questions that the FCC was created to address.

As it addresses the issues related to spectrum allocations to accommodate newly proposed services, the FCC should exercise great care and prudence with regard to the microwave systems upon which railroads and power companies depend for the safe and efficient operation of trains and provision of public power.

THE SURFACE TRANSPORTATION ACT

Mr. JEFFORDS. Mr. President, I am pleased to support the conference report on the Intermodal Surface Transportation Efficiency Act of 1991, and I want to commend my colleagues for their efforts in reaching a compromise with the House of Representatives. While we did not get everything we wanted, I am glad to see that many of the Senate provisions remained in the final bill.

I would briefly like to highlight some of the aspects of this bill. Our countries' bridges are falling down. This bill provides $16 billion to help solve this problem. In my own State of Vermont, several bridges are in disrepair. In fact, I am pleased that this bill may result in repair being done on a key transportation link between rural Vermont and New Hampshire: The Maidstone bridge. I'll discuss this in more detail later.

This bill will result in the completion of the present interstate highway system. President Eisenhower had the foresight to see how important the interstate system could be to commerce in this country. Thirty-five years later we are on the brink of completing this system.

To reduce Americans' use of cars, billions will be invested in new rapid transit systems. Over $9 billion will be provided for new transit systems. Approximately $660 million will be spent for an intelligent highway system to reduce congestion. Studies have shown that tremendous volumes of oil are wasted by cars stuck in traffic. Air pollution is also increased by the idling cars.

Flexibility is also provided in this bill. This is very important to my home State of Vermont. We need the ability to transfer money between projects.

Money is dedicated to the creation of a national system of trails for backpackers. Too often we forget our original form of transportation: Walking. Vermont has many trails which are heavily used, and we are looking forward to expanding or trail network.

Scenic byways are also allowed under this act. Billboards can be prevented from being put up on these byways. Money can also be spent to remove these billboards. I wish we had kept the Senate language, but am pleased that some option exists for removing billboards. Some day we may be free of this pollution on a stick.

I would briefly like to discuss the implications of this bill for my home State. Over the 6-year life of this bill, we should get approximately $492 million. I am pleased that the conferees were able to get another $20 million to complete a very important project for Vermont: The Bennington bypass. Bennington, VT, suffers from traffic congestion. To alleviate this congestion, a road would have to be built in New York State as well as in Vermont. Recently, Vermont and New York negotiated an agreement to build this road. Now we have the funding. Soon, the Bennington bypass will be a reality.

Bennington is not the only city to profit from this bill. All of Vermont will benefit from this bill by the inflow of money into the State. Some other specific projects may also benefit. I have spoken with Vermont's Secretary of Transportation about the Bennington bypass. According to the Secretary, the additional Federal money we received will free up State money which can go to other projects. These projects could benefit from the release of State money from the Bennington project. The first is the Maidstone bridge I discussed earlier. The second is Route 7 near S. Wallingford, and the third is a project at the medical center in Burlington. I am glad the Secretary and I were able to work together to ensure additional funding for other important Vermont projects.

Mr. President, the hour is very late, so at this point I will conclude my remarks. I want to thank Senators CHAFFEE, MOYNIHAN, SYMMS, and my other colleagues on the Environment and Public Works Committee. Their staffs are to be commended as well.

INCLUSION OF AREA HEALTH EDUCATION CENTER PROVISIONS IN PUBLIC HEALTH TRAINING ACT

Mr. McCAIN. Mr. President, I rise to express my support for the Senate amendment to H.R. 3508, legislation to reauthorize public health training programs. Specifically, I would like to express my appreciation to the authors of the Senate amendment for including the concepts embodied in the Area Health Education Centers Reauthorization Act of 1911, which I introduced earlier this year with Senators GRAHAM and others.

This legislation, which has been over a year in the making, represents a consensus opinion of the Area Health Education Center community nationwide. It reauthorizes and restructures the critical Area Health Education Center Program, which is a critical component to meeting the health manpower shortage needs in rural and other underserved areas.

Again, Mr. President, I am pleased that the authors of the Senate amendment to H.R. 3508 included the concepts embodied in the Area Health Education Centers Reauthorization Act of 1991.

RELATING TO HCFA REGULATIONS BANNING PROVIDER-SPECIFIC TAXES AND VOLUNTARY CONTRIBUTIONS TO STATE MEDICAID PROGRAMS

Mr. NUNN. Mr. President, earlier today the Senate approved by voice vote H.R. 3595, legislation aimed at supplanting pending Federal regulations that would have immediately banned the use of voluntary contributions and provider-specific taxes by State Medicaid Programs.

I am very pleased that H.R. 3595, as adopted, incorporated an agreement reached this morning between Senator FOWLER and myself and representatives of the Health Care Financing Administration [HCFA]. This agreement is a great improvement over the pending HCFA regulations that would have gone into effect otherwise and avoids the immediate threat of a $250 million shortfall in the State's fiscal year 1992 budget.

This agreement was reached through the good offices of Senator BENTSEN, and was developed on the foundation of an earlier compromise worked out between HCFA and the National Governors' Association. I want to thank Senator BENTSEN, NGA, and Gov. Zell Miller of Georgia and the Georgia Department of Medical Assistance, for the roles they played in this timely agreement.

The Georgia-HCFA agreement includes three very important concessions by the administration.

First, the prohibition on voluntary contributions to State Medicaid funds will be delayed until October 1, 1992, which will give Georgia more time to plan and implement a new system for financing its indigent care fund. It also forestalls the aforementioned $250 million shortfall in Federal Medicaid match dollars in fiscal year 1992.

Second, HCFA has agreed to modify language in the bill that would have made it virtually impossible for the Georgia General Assembly to debate legislation creating the provider tax which will now be the sole legitimate method of financing Georgia's indigent care fund. This linkage language made any discussions between State officials and providers on the structure of a provider-based tax grounds for assuming the State was attempting to circumvent Federal rules and secure excessive Federal match dollars. Now such discussion can take place, a concession of considerable importance insofar as Georgia may have to adopt a constitutional amendment to establish a new indigent care financing system.

Third of all, the agreement assures Georgia officials that they can continue to utilize local government funds made available through intergovernmental transfers, without forfeiting the Federal match. This, too, will be an important component in any future state indigent care financing system.

Mr. President, these are extremely technical matters affecting the most complex elements of this enormous intergovernmental program. The agreement reached today, however, basically represents a successful effort to prevent abuses in financing of State Medicaid Programs without abusing States which are struggling to care for our most vulnerable families.

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 which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:00 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 848) entitled the "Little Bighorn Battlefield National Monument".

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 690) to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2092. An act to carry out the obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing;

H.R. 3048. An act to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants;

H.R. 3531. An act to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1992, and for other purposes; and

H.R. 3670. An act to make certain technical corrections relating to the immigration laws.

At 11:02 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 829. An act to amend title 38, United States Code, to make changes in the composition of the Eastern and Western Districts of Virginia;

H.R. 2450. An act to amend title 28, United States Code, to provide for Federal jurisdiction of certain multiparty, multiforum civil actions;

H.R. 2549. An act to make technical corrections to chapter 5, of title 5, United States Code;

H.R. 2732. An act to amend title 17, United States Code, with respect to copyright renewal, to reauthorize the National Film Preservation Board, and for other purposes;

H.R. 3237. An act to extend the terms of office of members of the Foreign Claims Settlement Commission from 3 to 6 years;

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference;

H.R. 3666. An act to amend title 28, United States Code, to provide for an additional place of holding court for the Eastern District of Texas; and

H.R. 3686. An act to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 291. An act to settle certain water rights claims of the San Carlos Apache Tribe; and

S. 1462. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1555. An act to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; and

H.R. 3282. An act to amend the Act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is governing to that activity on foreign flag vessels.

At 7:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3029) to make technical corrections to agriculture laws; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3341. An act to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes.

At 9:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary.

The message also announced that the House has passed the bill (S. 2050) to ensure that the ceiling established with respect to health education assistance loans does not prohibit the provision of Federal loan insurance to new and previous borrowers under such loan program, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 249. A concurrent resolution correcting a technical error in the enrollment of the bill H.R. 1724.

At 11:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3576) to amend the Cranston-Gonzalez National Affordable Housing Act to reserve assistance under the HOME Investment Partnerships Act for certain insular areas.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2929. An act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes;

H.R. 3337. An act to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes;

H.R. 3932. An act to improve the operation efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

H.J. Res. 356. Joint resolution designating December 1991 as "Bicentennial of the District of Columbia Month"; and

H.J. Res. 372. Joint resolution designating December 21, 1991, as "Basketball Centennial Day".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 168. A concurrent resolution condemning Saddam Hussein for refusing to comply with United Nations Security Council resolutions 706 and 712 and urging the President under the auspices of the United Nations to provide humanitarian assistance to the vulnerable populations of Iraq.

MEASURES REFERRED

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1555. An act to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; to the Committee on Finance.

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code; to the Committee on the Judiciary.

H.R. 3282. An act to amend the act commonly referred to as the Johnson Act, to give the same treatment to the repair, transportation, possession, or use of gambling devices on certain United States-flag vessels as is given to that activity on foreign-flag vessels; to the Committee on Commerce, Science, and Transportation.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2092. An act to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

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. 793. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes (Rept. No. 102-245).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1056. A bill to provide for an architectural and engineering design competition for the construction, renovation, and repair of certain public buildings, and for other purposes (Rept. No. 102-246).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 652. A bill to protect the privacy of telephone users by amending section 3121 of title 18, United States Code (Rept. No. 102-247).

S. 474. A bill to prohibit sports gambling under State law (Rept. No. 102-248).

S. 313. A bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture or extra judicial killing (Rept. No. 102-249).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 168. A bill to implement certain recommendations of the Garrison Unit Joint Tribal Advisory Committee regarding the entitlement of the Three Affiliated Tribes and the Rock Sioux Tribe to additional financial compensation for the taking of reservation lands for the site of the Garrison Dam and Reservoir and the Oahe Dam and Reservoir, and for other purposes (Rept. No. 102-250).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

H.R. 1426. A bill to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes (Rept. No. 102-251).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 757. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes (Rept. No. 102-252).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

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.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes (Rept. No. 102-253).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfer for works prepared under certain cooperative research and development (Rept. No. 102-254).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

William Carl, of Texas, to be a Member of the Board of the Panama Canal Commission;

John J. Danilovich, of California, to be a Member of the Board of the Panama Canal Commission;

John W. Crawford, Jr., of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1996; and

Leo P. Duffy, of Pennsylvania, to be an Assistant Secretary of Energy (Environmental Restoration and Waste Management).

(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.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 31 and November 15, 1991 at the end of the Senate proceedings.)

*Brig. Gen. Nathaniel H. Robb, ARNG, to be major general (Reference No. 426)

**In the Navy there are 169 appointments to the grade of ensign (list begins with Thomas H. Adair) (Reference No. 743)

**In the Air Force there are 2 promotions to the grade of colonel (list begins with Daniel D. Clifton) (Reference No. 774)

**In the Air Force and Air Force Reserve there are 26 appointments to the grade of colonel and below (list begins with Hector A. Arroyo Scotoliff) (Reference No. 775)

**In the Air Force Reserve there are 21 promotions to the grade of lieutenant colonel (list begins with Michael T. Allen) (Reference No. 776)

**In the Army Reserve there are 23 promotions to the grade of colonel and below (list begins with Charles G. Abbott) (Reference No. 777)

**In the Army there are 4 appointments as permanent professors at the United States Military Academy (list begins with James D. Hallums) (Reference No. 778)

**In the Air Force there are 680 promotions to the grade of colonel (list begins with Ronald M. Adams) (Reference No. 779)

**In the Army Reserve there are 810 promotions to the grade of colonel (list begins with Bruce A. Adams) (Reference No. 780)

**In the Naval Reserve there are 1,610 appointments to the grade of ensign (list begins with Kevin T. Aanestad) (Reference No. 781)

Total: 3,346.

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. HEFLIN:

S. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

S. 2052. A bill to amend the Internal Revenue Code of 1986 to stimulate the economy by allowing a deduction for personal interest of consumers, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 2053. A bill to amend section 1977A of the Revised Statutes to modify the remedies available to victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2054. A bill to confer jurisdiction on the United States Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. THURMOND):

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2056. A bill to assist States in developing export programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH:

S. 2057. A bill to amend title 10, United States Code, to provide for centralized acquisition of property and services for the Department of Defense, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

By Mr. LIEBERMAN (for himself and Mr. ROBB):

S. 2058. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Relations.

By Mr. NUNN (for himself, Mr. BREAUX, and Mr. PRYOR):

S. 2059. A bill to establish youth apprenticeship demonstration programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself and Mr. METZENBAUM):

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER:

S. 2061. A bill to amend the Internal Revenue Code of 1986 to provide middle income tax relief, to provide for long-term economic growth, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Ms. MIKULSKI, Mr. PACKWOOD, Mr. WIRTH, Mr. MCCONNELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. GORE, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. WOFFORD, and Mr. DIXON):

S. 2062. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY:

S. 2063. A bill to amend the Communications Act of 1934 to require cable television operators to provide notice and options to consumers regarding the use of converter boxes, remote control devices, and multiport technology; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD (for himself, Mr. MITCHELL, Mr. SIMON, Mr. JEFFORDS, Mr. DECONCINI, Mr. LEAHY, Mr. ADAMS, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE):

S. 2064. A bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period; to the Committee on Foreign Relations.

By Mr. DIXON (for himself and Mrs. KASSEBAUM):

S. 2065. A bill to federalize the crime of child molestation for repeat offenders; to the Committee on the Judiciary.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2066. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide financial assistance to local educational agencies administering public school districts where military installations are located; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 2067. A bill to provide for the elimination of the General Services Administration's Federal Building Fund; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2068. A bill to provide for a biennial review and planning for a public buildings program; to the Committee on Environment and Public Works.

S. 2069. A bill to provide that the General Services Administration provide information concerning public buildings in a certain form for the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself and Mr. BURDICK):

S. 2070. A bill to provide for the Management of Judicial Space and Facilities; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 2071. A bill to suspend temporarily the duties on certain instant print cameras; to the Committee on Finance.

S. 2072. A bill to suspend temporarily the duties on certain chemicals; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. LOTT):

S. 2073. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. RUDMAN):

S. 2074. A bill to amend section 6002, United States Code, respecting immunized testimony; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2075. A bill to facilitate and assist in the economic adjustment and industrial diversification of defense industries, defense-dependent communities, and defense workers that are adversely affected by the termination or reduction of defense spending or

defense-related contracts; to the Committee on Finance.

By Mr. PELL (for himself and Mr. WOFFORD):

S. 2076. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Rules and Administration.

By Mr. MOYNIHAN (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. ROTH, Mr. AKAKA and Mr. MCCAIN):

S. 2077. A bill to amend title XIX of the Social Security Act to provide for optional State coverage of coordinated care, and to improve Federal requirements with respect to the provision of coordinated care by health maintenance organizations in order to allow States to reduce costs and improve quality care in contracting for managed care services under the medicaid program; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. SHELBY, Mr. REID, Mr. DIXON and Mr. INOUYE):

S. 2078. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2079. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself and Mr. DURENBERGER):

S. 2080. A bill to clarify the application of federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JEFFORDS:

S. 2081. A bill to sell agricultural commodities to the Union of Soviet Socialist Republics so as to promote local food distribution and production and the operations and privately owned agricultural enterprises; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2082. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2083. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2084. A bill to provide for a minimum medicare payment level of 90 percent for rural referral centers allowable capital-related costs; to the Committee on Finance.

By Mr. MITCHELL (for Mr. PRYOR (for himself, Mr. DOLE, Mr. COCHRAN, Mr. BOND, Mr. SHELBY and Mr. BOREN)):

S. 2085. A bill entitled the Federal-State Pesticide Regulation Partnership; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BRADLEY:

S. 2086. A bill to amend the Internal Revenue Code of 1986 to provide for individual development accounts, and for other purposes; to the Committee on Finance.

By Mr. SIMON:

S. 2087. A bill to prohibit certain use of the terms "Visiting Nurse Association", "Visiting Nurse Service", "VNA", and "VNS"; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 2088. A bill to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

By Mr. NICKLES (for himself, Mr. PACKWOOD and Ms. MIKULSKI):

S. 2089. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; to the Committee on Governmental Affairs.

By Mr. AKAKA:

S. 2090. A bill to amend the Harmonized Tariff Schedule of the United States with respect to knit sweaters assembled in Guam; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. KENNEDY, Mr. SIMON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. BRADLEY, Mr. ADAMS, Mr. KOHL, Mr. CRANSTON, Mr. KERRY and Mr. INOUYE):

S. 2091. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2092. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAMM (for himself and Mr. MCCAIN):

S. 2093. A bill to insure that any peace dividend is invested in America's families and deficit reduction; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SIMON (for himself, Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 2094. A bill to repeal sections 601 and 604 of the Emergency Unemployment Compensation Act of 1991, relating to certain student loan provisions; to the Committee on Labor and Human Resources.

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 2095. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for health insurance premiums, to provide for the creation of individual medical care savings accounts, to repeal certain tax benefits relating to medical expenses, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. DECONCINI, Mr. COATS, and Mr. CRANSTON):

S. 2096. A bill to establish a period of congressional review for proposed arms sales to countries other than NATO allies or major non-NATO allies; to the Committee on Foreign Relations.

S. 2097. A bill to require a report regarding proposed sales to countries of the Persian Gulf and the Arabian Peninsula of defense articles pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Mr. FORD:

S. 2098. A bill to authorize the President to appoint Major General Jerry Ralph Curry to the Office of Administrator of the Federal Aviation Administration; considered and passed.

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. SIMON, Mr. WIRTH, Mr. REID and Mr. HATFIELD):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2101. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GARN (for himself and Mr. ROCKEFELLER):

S. 2102. A bill to amend the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2104. A bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physicial assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN (for himself, Mr. FORD, Mr. LUGAR, Mr. SPECTER and Mr. WOFFORD):

S. 2105. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. SPECTER and Mr. GORTON):

S. 2106. A bill to grant a Federal charter to the Fleet Reserve Association; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. BOND and Mr. KENNEDY):

S. 2107. A bill to amend the Employment Retirement Income Security Act of 1974; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 2108. A bill to establish a national policy to encourage the proper collection, handling, treatment and disposal of medical waste materials; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. PACKWOOD and Mr. HATCH):

S. 2109. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductible for the year in which paid or incurred; to the Committee on Finance.

By Mr. CHAFEE:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to increase the rollover pe-

riod on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

By Mr. INOUYE:

S. 2112. A bill to amend the Communications Act of 1934 to encourage competition in the provision of electronic information services, to foster the continued diversity of information sources and services, to preserve the universal availability of basic telecommunictions services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself, Mr. CRAIG, Mr. SYMMS and Mr. HELMS):

S. 2113. A bill to restore the Second Amendment rights of all Americans; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 2114. A bill to amend the Social Security Act to provide access to health care benefits for all Americans, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2115. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

By Mr. RIEGLE:

S. 2116. A bill to improve the health of children by increasing access to childhood immunizations, and for other purposes; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. SIMON, Mr. DECONCINI, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DODD, Mr. WIRTH, Mr. GLENN, Mr. ADAMS and Mr. METZENBAUM):

S. 2117. A bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

By Mr. DECONCINI (for himself and Ms. MIKULSKI):

S. 2118. A bill to create a Department of the Treasury Forfeiture Fund; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2119. A bill to amend title II of the Social Security Act to waive the twenty-four month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome (AIDS), and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S.J. Res. 236. A joint resolution designating the third week in September 1992 as "National Fragrance Week"; to the Committee on the Judiciary.

By Mr. DASCHLE:

S.J. Res. 237. A joint resolution proposing an amendment to the Constitution of the United States to set the compensation of services for Members of Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S.J. Res. 238. A joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week"; 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. BINGAMAN (for himself, Mr. EXON, Mr. GORE, Mr. GLENN, Mr. BRYAN, Mr. LIEBERMAN, Mr. ADAMS, Mr. HARKIN, Mr. FORD, Mr. DASCHLE, Mr. LEAHY, Mr. DODD, Mr. KERREY, Mr. WELLSTONE, Mr. HOLLINGS and Mr. ROCKEFELLER):

S. Res. 234. A resolution expressing the sense of the Senate on the sale of 40 percent of McDonnell Douglas' commercial aircraft division to the Taiwan Aerospace Corporation; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO:

S. Res. 235. A resolution expressing the sense of the Senate that the bloodshed must be stopped in Croatia; to the Committee on Foreign Relations.

By Mr. ADAMS (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. INOUYE and Mr. WIRTH):

S. Res. 236. A resolution expressing the sense of the Senate that the President rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian, and bisexual Americans from serving in the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. GORE:

S. Res. 237. A resolution to bring an end to illegal logging practices in the Philippines and for other purposes; to the Committee on Foreign Relations.

By Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. KENNEDY and Mr. WOFFORD):

S. Con. Res. 80. A concurrent resolution concerning democratic changes in Zaire; to the Committee on Foreign Relations.

By Ms. MIKULSKI:

S. Con. Res. 81. A concurrent resolution expressing the sense of the Congress regarding visionary art as a national treasure and regarding the American Visionary Art Museum as a national repository and educational center for visionary art; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. SIMON, Mr. MCCONNELL and Mr. LUGAR):

S. Con. Res. 82. Concurrent resolution urging greater progress toward democratization in Hong Kong; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 2051. A bill to amend the Internal Revenue Code of 1986 to restore the regular investment tax credit for property placed in service during a specified period, and for other purposes; to the Committee on Finance.

REINSTATEMENT OF REGULAR INVESTMENT TAX CREDIT

Mr. HEFLIN. Mr. President, I rise today to introduce the Investment Tax Credit Act of 1991. This bill would allow businesses to recognize a tax credit on the tangible personal property which they purchase.

It is no secret that the economy is at a standstill. Our goal, as the body responsible for this Nation's laws, should be to provide some incentives to American businesses, in order to get the Nation's economy back on track. The investment tax credit, before its repeal in 1986, proved to be one of the most effective incentives to business.

For example, if credit is put in place a business considering buying new equipment or vehicles for its operations would see the new equipment as an investment with immediate as well as long range returns. Mr. President, it is only with this type of stimulation that I believe the American economy can experience a turn for the better in the next year.

Our fellow countrymen are looking toward Washington for leadership in the economy. We must turn away from the do nothing and hope policy, and look toward the real life figures. Many of the repeals of the 1986 Tax Reform Act have proven to be short-sighted although well intentioned. We must give Americans and American business a chance to get the economy back on its feet. I hope all of my colleagues will join me in support of this bill and in support of my belief that if you give Americans the freedom and incentive to operate their businesses they will be the true leaders to a better economy.

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. 2051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF REGULAR INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment in certain depreciable property), as amended by section 2, is amended by adding at the end the following new section:

"SEC. 50. REINSTATEMENT OF REGULAR INVESTMENT CREDIT.

"(a) IN GENERAL.—With respect to any property placed in service during 1992, 1993, or 1994—

"(1) section 49 shall not apply, and

"(2) the regular percentage for purposes of this subpart shall be 10 percent.

"(b) SPECIAL RULES FOR REHABILITATION, ENERGY, AND REFORESTATION CREDITS.—Notwithstanding any other provision of law, the rehabilitation credit, energy credit, and reforestation credit shall be computed in the manner provided by this subpart as in effect on the day before the date of the enactment of this section.

"(c) PROJECTS ENTERED INTO BEFORE 1955.—For purposes of subsection (a), property placed in service after December 31, 1994, shall be treated as placed in service in 1994 if—

"(1) the construction, reconstruction, or erection of the property began during 1992, 1993, or 1994, or

"(2) the property is acquired by the taxpayer after December 31, 1994, and before January 1, 2000, pursuant to a contract which on such date, and at all times thereafter, was binding on the taxpayer.

Any credit allowable by reason of this subsection shall be allowed in the taxable year in which the property is placed in service (or in which qualified progress expenditures with respect to such property are made)."

(b) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 50. Reinstatement of regular investment credit."

SEC. 2. REINSTATEMENT OF TECHNICAL PROVISIONS NECESSARY TO ALLOW INVESTMENT CREDIT.

Section 11813 of the Revenue Reconciliation Act of 1990 (Public Law 101-508) is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such section (and the amendments made by such section) had never been enacted.

By Mr. HEFLIN:

S. 2052. A bill to amend the Internal Revenue Code of 1986 to stimulate the economy by allowing a deduction for personal interest of consumers, and for other purposes; to the Committee on Finance.

DEDUCTION FOR CONSUMER INTEREST

Mr. HEFLIN. Mr. President, I rise today to introduce S. 2052, the Consumer Personal Interest Deduction Act of 1991. This legislation would allow the average American taxpayer to deduct personal interest payments from his or her Federal income tax.

The financial experts tell us that the outlook for the American economy is bleak and that consumers are simply not purchasing items such as new automobiles and appliances; the very items that spur our economy in innumerable ways. Before we can see some improvement in consumer spending, however, we must stop blaming middle America and start providing some incentives that will give the average American the desire and confidence to buy new products. It appears to me that the challenge before this Congress is to provide incentives that will prove to be wise over the long run as well as the short run. In my opinion, a change in the tax law that would again allow the taxpayer to deduct the personal interest he or she pays would meet both of these objectives.

Prior to the 1986 tax reform, all consumer interest was deductible. This deduction has been phased out over the past several years. It now seems apparent that this change in the Tax Code has not only phased out deductions, but has also phased out consumer spending. The time has come to reinstate this deduction and give Americans back their confidence to purchase.

Restoring this confidence will have far reaching positive effects on the economy as a whole. For in real terms, what this deduction means is that the family down the street which has been looking at that more up to date car but, has hesitated to borrow the money necessary to buy it, will now look at borrowing that money in a whole new light. The same scenario is true for most retail items of some significance. When we stop and consider that there are about 22 million people directly employed in the wholesale and retail industry, I hope we are able to see the importance of bringing middle America back to the marketplace.

Mr. President, I keep emphasizing middle America because my bill is aimed at the average taxpayer. This bill has a cap on the amount of personal interest that may be deducted. Thus, this bill does not provide a haven for the wealthy to avoid taxes; this bill simply provides a break to those who buy those items that are common to mainstream America. We must encourage Americans to return to the marketplace. I cannot think of a better way to do this than with an incentive that has proved to be effective in the past. Please join me in phasing back in the personal interest deduction and bringing back the American consumer to the American economy.

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. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION ALLOWED FOR CERTAIN PERSONAL INTEREST.

(a) IN GENERAL.—Paragraph (1) of section 163(h) of the Internal Revenue Code of 1986 (relating to disallowance of deduction for personal interest) is amended to read as follows:

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no deduction shall be allowed under this chapter for personal interest paid or accrued during the taxable year to the extent that the amount of such interest exceeds the applicable limit."

(b) APPLICABLE LIMIT.—Paragraph (5) of section 163(h) (relating to the phase-in) is amended to read as follows:

"(5) APPLICABLE LIMIT.—For purposes of paragraph (1), the term 'applicable limit' means—

"(A) in the case of a taxpayer filing a joint return, $6,000,

"(B) in the case of a married individual filing a separate return, $3,000, and

"(C) in the case of any other taxpayer, $4,000."

(c) CONFORMING AMENDMENT.—The heading for section 163(h) of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) LIMITATION ON DEDUCTION FOR PERSONAL INTEREST.—".

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest on any indebtedness which was incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to any indebtedness incurred on or after such date to the extent such indebtedness is to refinance indebtedness incurred before such date.

By Mr. HATCH:

S. 2053. A bill to amend section 1977A of the Revised Statutes to modify the remedies available to victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYEE EQUITY AND JOB PRESERVATION ACT OF 1991

• Mr. HATCH. Mr. President, I am today introducing a bill titled the "Employee Equity and Job Preservation Act of 1991." It is a simple and straightforward measure, amending the Civil Rights Act of 1991 that was signed into law by President Bush last week. That legislation, in my view, represented a major step forward in protecting women in this country from discrimination in the workplace by permitting them, for the first time, to seek compensatory and punitive damages in cases of intentional employment discrimination under a new section 1981A.

In contrast to racial and ethnic minorities, who have long been able to recover such damages under a Reconstruction-era statute, section 1981, women, persons with disabilities, and others covered by title VII of the Civil Rights Act of 1964 had previously only been able to recover backpay and other make-whole remedies. The need for such additional relief for intentional discrimination was most apparent in cases of sexual harassment. In many of these cases, the failure of a woman to prove any tangible loss of wages and other benefits precluded any relief for her as well as any effective deterrent against an offending employer.

As a number of my colleagues pointed out during the recent debate on the Civil Rights Act, the final product, while a major step forward for those covered by title VII, failed to achieve total parity between the damages available to them and the damages available to those covered under section 1981. The reason is that the new legislation's section 1981A caps damages under a four-tier system based on the size of the employer. The damage caps range from $50,000 for an employer with fewer than 101 employees to $300,000 for employers with more than 500 employees. These caps were included as part of the compromise package.

Mr. President, Congress urgently needs to review the extent to which litigation in this country, featuring unlimited damage awards, among other things, has inhibited our country's economic growth as well as the expeditious and informal resolution of complaints. For example, citizens in my own State of Utah, who fare better than citizens of many other States, must wait an average of 14 months to have their cases heard in Federal court. The United States reportedly has 30 times the number of lawsuits per person than Japan and 20 times the number of lawyers as Japan per 100,000 population. it has become increasingly clear that the only real beneficiary of our current system is the legal profession.

However, Mr. President, until Congress is willing and able to undertake much needed broader reform, we are given the system as it exists today. And, I have been troubled by the double standard that the existing system applies in terms of the relief available to different persons protected by title VII. Unfortunately, this is but one of the many double standards that women in this country confront daily.

The purpose of the bill that I am introducing today is to eliminate this double standard for women, persons with disabilities, and victims of religious discrimination by removing the caps on punitive and compensatory damages for intentional discrimination under title VII. Under this bill, the only exception would be for cases brought against small employers with fewer than 50 employees. Punitive and compensatory damages would be available for employees of these smallest employers, but they would not be unlimited.

Notably, this exception builds on the carveout for a more limited category of small employers with fewer than 15 employees that has always existed under title VII, but not under section 1981, and that no one that I am aware of has ever advocated eliminating. Further, it parallels other efforts by prior Congresses to provide a small employer exception under laws such as the Fair Labor Standards Act. More recently, in fact, it parallels the willingness of many Members of the 102d Congress not only to limit the damages awarded against employers with fewer than 50 employees, as I suggest here, but also to exempt them entirely from the Family and Medical Leave Act. This is an obvious recognition that small employers can be severely affected by Federal legislation.

Mr. President, my bill does not exempt small businesses with between 15 and 50 employees from the law. In fact, their employees would be eligible for backpay and additional make-whole relief as well as for up to $50,000 in damages. That is more than any person employed in any size firm was ever allowed to recover under title VII until just last week and similar to what is available under the new law.

What I have sought to do by retaining this much more limited cap on damage awards is to deal with a larger and compelling problem. That problem is the devastating impact that unlimited jury awards for each plaintiff, in each case, brought against small employers, might have on their growth and economic viability. The question is quite simple, Mr. President. Are the interests of women employed by small businesses served when a jury award for damages is so large that it could potentially force that employer out of business and cost all of its employees their jobs?

Let me conclude, Mr. President, by acknowledging what many women have mentioned to me. This or any other effort to lift the caps on punitive and compensatory damages for cases of sexual discrimination is by no stretch of the imagination the principal answer to the difficult challenges that women in today's work force face. Working to eradicate discrimination is a necessary part of the answer, as is the precise amount of damages one can receive in such cases, but it is only part of the answer.

All of the remedies in the world for such cases will not help all of the women who want and need to work but cannot find jobs either because the jobs are not there or because they lack suitable skills and training. Nor will these remedies help women who cannot work because they cannot find adequate child care for their children or because the opportunity to return to their old jobs may not exist if they have taken several years off to raise their children.

Mr. President, I have devoted much of my time in recent years to efforts to deal with these issues as well, and I intend to continue those efforts in the coming session of Congress.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2054. A bill to confer jurisdiction on the U.S. Claims Court with respect to land claims of the Pueblo of Isleta Indian Tribe; to the Committee on the Judiciary.

LAND CLAIMS OF THE PUEBLO OF ISLETA INDIAN TRIBE ACT OF 1991

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill which will give the Pueblo of Isleta an opportunity to have their claims regarding aboriginal land title heard before the U.S. Claims Court. I am pleased that my colleague, Senator DOMENICI, joins with me in cosponsoring this bill.

The Pueblo of Isleta received erroneous advice from the Bureau of Indian Affairs about their rights under the Indian Claims Commission Act concerning claims to aboriginal land. They were told that without documentation they would have no valid claim against the United States; this was at a time when they were completely dependent upon the Bureau of Indian Affairs for advice and assistance in the matter of claims to land. The Isleta leaders at the time were not organized to address this issue of claims; they dealt primarily in internal matters and rarely became involved in matters outside the reservation boundaries, and they had no employees or staff of their own or legal counsel. As a result, they filed a very limited claim under the Indian Claims Commission Act in 1951, seeking recompense only for the taking of lands involved in Spanish land grants which they believed to be adequately documented.

Pueblo leaders were informed—late, and hastily—by the Bureau of Indian Affairs, that the Indian Claims Commission Act of 1946 permitted a claim to lands only if it were supported with documented evidence. Pueblo spokesmen tell me also that earlier leaders were informed that the Pueblo was not even permitted to make a claim based on aboriginal use and occupancy of tribal lands. As a result, no claim based on aboriginal use and occupancy was ever filed on behalf of Isleta. In fact, aboriginal use and occupancy was the basis for many Indian tribal claims under the Indian Claims Commission Act of 1946, which, if proved, resulted in considerable monetary recovery for the tribes.

This bill promises nothing to the Pueblo of Isleta people but an opportunity to submit their claim based on aboriginal use and occupancy pursuant to the Indian Claims Commission Act to the U.S. Claims Court in the same manner the Pueblo of Isleta would have years ago, had tribal officials had a clearer understanding of the issue. If, as a result of the fair hearing this bill provides, the Pueblo of Isleta proves that indeed it has a credible claim of aboriginal land use and occupancy, then appropriate monetary compensation would be determined by the court. The people of the Pueblo of Isleta are entitled to their day in court and this bill gives them that.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

(a) IN GENERAL.—Notwithstanding sections 2401 and 2501 of title 28, United States Code, section 12 of the Act of August 13, 1946 (60 Stat. 1052), and any other law that would interpose or support a defense of untimeliness, jurisdiction is conferred upon the United States Claims Court to hear, determine, and render judgment on any claim by the Pueblo of Isleta Indian Tribe of New Mexico (hereafter in this Act referred to as the "Tribe") against the United States with respect to any lands or interests that the Tribe held by aboriginal title or otherwise and that were acquired from the Tribe without payment of adequate compensation by the United States.

(b) COMPENSATION.—The United States Claims Court, consistent with applicable law, may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests were acquired from the Tribe by the United States.

(c) LIMITATIONS.—Jurisdiction is conferred only with respect to claims that—

(1) accrued on or before August 13, 1946; and

(2) are filed within 3 years after the date of enactment of this Act.

(d) EXHAUSTION NOT REQUIRED.—Jurisdiction is conferred notwithstanding any failure of the Tribe to exhaust any available administrative remedy.

(e) COSTS OF SUIT AND ATTORNEY'S FEES.—

(1) IN GENERAL.—The United States Claims Court may award to any prevailing party,

other than the United States, in any action under this Act, the costs and reasonable attorney's fees incurred by the party prosecuting the claim. The United States Claims Court shall determine the amount of reasonable attorney's fees in accordance with paragraph (2) for all services rendered in prosecuting a claim, whether before the court or otherwise, unless the amount of the fees has been stipulated in an approved contract between the attorneys and the claimant.

(2) STANDARD.—The court shall fix an amount for the reasonable attorney's fees that is—

(A) comparable to reasonable attorney's fees for prosecuting similar contingent claims in courts of law; and

(B) adequate compensation for the services rendered and the results obtained;

plus all reasonable expenses incurred in the prosecution of the claim.

(3) LIMITATION.—The amount fixed by the court pursuant to paragraph (2), exclusive of reimbursements for reasonable expenses, shall not exceed 10 percent of the amount recovered in such case.

(f) CERTAIN DEFENSES NOT APPLICABLE.—Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before or after the date of the enactment of this Act, pursuant to any judgment of the Indian Claims Commission or any other authority, relating to lands that are subject of a claim submitted by the Tribe under subsection (a), shall not be considered a defense, estoppel, or set-off to a claim by the Tribe, and shall not affect the entitlement to, or amount of, any relief stemming from such claim.

Mr. DOMENICI. Mr. President, the Isleta Pueblo in New Mexico, like the Zuni Pueblo before them, was apparently misinformed about their right to file a claim for damages for the loss of their aboriginal lands. In May 1978, the President signed Public Law 95-280. This law enabled the Zuni Pueblo to be heard before the U.S. Court of Claims. In the Zuni case, the court ultimately awarded $25,000,000 in monetary damages for the taking of Zuni aboriginal lands by the United States without compensation.

By introducing this bill for the Isleta Pueblo, I do not believe we are drawing any conclusions about the final outcome of any U.S. Court of Claims action. We are simply acknowledging the facts as they have been presented to us. In summary, the Isleta leaders have told me that their case was not heard by the relevant court because of poor advice given to the tribe by the Bureau of Indian Affairs. This parallels the Zuni case.

If these facts prove to be true, then the Isleta case deserves to be heard on its own merits. Today, we are asking our colleagues to consider the circumstances surrounding the Isleta Pueblo's right to file a claim in the U.S. Claims Court pursuant to the Indian Claims Commission Act. Obviously, the time for filing such a claim has run, therefore the provisions of this bill allow the Pueblo to have access to the U.S. Claims Court if we in the Congress find that there is sufficient evidence to reopen the court for a new hearing on the merits.

Like the Zuni case, we will have to review the 1951 records for evidence that the Isleta Pueblo leaders were truly deprived of their rights under the relevant statutes. I look forward to the hearing process so that the Isleta Pueblo will be able to make its case before the Congress for again having access to the U.S. Court of Claims.

By Mr. SIMON (for himself, Mr. KENNEDY, and Mr. THURMOND):

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the act, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING AND BASIC SKILLS ACT

• Mr. SIMON. Mr. President, today I am introducing a bill to amend the Job Training Partnership Act [JTPA] to strengthen employment and training assistance programs and to improve the targeting of services to economically disadvantaged adults and youth. I want to thank my good friends and colleagues, Senators KENNEDY and THURMOND, for cosponsoring this bill and for their help in drafting its provisions. I also want to express my appreciation to Chairman FORD, of the House Education and Labor Committee, and Representatives PERKINS, GOODLING, and GUNDERSON who were instrumental in passing similar amendments in the House of Representatives. Those amendments, embodied in H.R. 3033, passed the House of Representatives on October 9, 1991, by a vote of 420 to 6.

We are introducing this bill because our Nation today is facing the one enemy no peacetime economy has defeated—unemployment. Achieving full employment is the next logical step for a humane society and a society that intends to squarely confront the issue of global competitiveness and productivity. We cannot be competitive or productive when millions of Americans are out of work. We must meet the challenge to put America back to work for a simple reason. As I have said in the past, we have two options—we can pay people to work, or we can pay them for doing nothing. Obviously, it makes a lot more sense to pay them to work.

America's economy is facing two human resource trend lines—the supply of unskilled, and often uneducated, labor is going up and the demand for unskilled labor is declining. As we move toward the 21st century, we know that employment in professional technical and managerial jobs will increase substantially relative to operative and laborer positions. We know this is the trend, yet our work force is woefully unprepared to meet this challenge. JTPA is our primary Federal Job Training Program, and we must do what we can to structure the program to meet the needs of our society.

The way JTPA is currently structured, it will not be able to meet the goal of providing a productive and skilled work force by the year 2000. A program that enrolls 37 percent of its participants in short-term training programs, and a majority of the rest of enrollees are in on-the-job training and job-service programs, will not be able to significantly improve the skilled labor shortage. Furthermore, the program will not succeed in training the hard-to-serve if there are no incentives to serve those participants most in need of training and to provide them more comprehensive training services.

JTPA's predecessor, the Comprehensive Employment and Training Act [CETA] was plagued with low placement rates and high costs per placement. In addition, CETA has weak private sector involvement in planning the local training activity. JTPA was designed to correct the concerns with CETA by providing greater decision-making power at the State and local level and increasing the role of the private sector.

JTPA has accomplished the goals of increased participation in the private sector, higher placement rates and lower costs per placement. Yet we continue to hear complaints about JTPA. Indeed, overemphasis on achieving some of the goals of the program has led to failure in other areas. For example, increased placement rates have been achieved, in part, by focusing training efforts on those who are easiest to place. Thus, to a certain extent, the effort to improve placement numbers resulted in a failure to provide training services to those most in need. In addition, while we sought to reduce the cost per placement, we have reduced the costs to levels so low that participants are often not provided with adequate training. The costs are well below what is needed to provide training in most trade and technical programs, and the training periods are increasingly shorter. Average training periods are currently less than 12 weeks, while under CETA it was 20 weeks.

These amendments are designed to address the criticisms of JTPA, while preserving the successful aspects of the program. The focus of the amendments is on targeting services to those most in need, and on improving the quality of services to those most in need, and on improving the quality of services provided to participants. The bill contains important programmatic changes that will improve services and address perception problems that have led to decreases in funding. We have provided for separate adult and youth programs, with targeting for those with multiple barriers, and out-of-school youth. We have retained the summer youth program that has provided much needed employment for impoverished young people. In addition, the bill provides for individual needs assessment and counseling for each participant, and

emphasizes the need for training to provide for long-term employability, not just placement services. The bill also seeks to address concerns about discrimination in the program. Finally, we have included a program for high risk young—the Fair Chance Youth Opportunities Program and a program to encourage the training of women in nontraditional jobs—"Nontraditional Employment for Women." We intend to move this legislation as quickly as possible to ensure the program does not suffer from additional losses in funding.

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. 2055

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 "Job Training and Basic Skills Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—ADULT AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Subtitle A—Policy, Authorization of Appropriations, and Definitions

Sec. 101. Declaration of policy and statement of purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Definitions.

Subtitle B—Job Training Partnership

Sec. 111. Private industry councils.
Sec. 112. Job training plan.
Sec. 113. Review and approval of plan.
Sec. 114. Performance standards.
Sec. 115. Selection of service providers.
Sec. 116. Limitation on certain costs.
Sec. 117. Service delivery area transfer and agreement.
Sec. 118. Governor's coordination and special services plan.
Sec. 119. State education coordination and grants.
Sec. 120. Additional requirements.
Sec. 121. State labor market information programs.
Sec. 122. General program requirements.
Sec. 123. Advance payment.
Sec. 124. Fiscal controls.
Sec. 125. Reports, recordkeeping, and investigations.
Sec. 126. Discrimination.

Subtitle C—Training Services for the Disadvantaged

Sec. 131. Establishment of adult opportunity program.
Sec. 132. Establishment of summer youth opportunity program.
Sec. 133. Establishment of youth opportunity program.

Subtitle D—Special Programs

Sec. 141. Employment and training assistance for dislocated workers.

Subtitle E—National Programs

Sec. 151. Native American programs.
Sec. 152. Migrant and seasonal farmworker programs.
Sec. 153. Job Corps.
Sec. 154. National activities.
Sec. 155. Cooperative labor market information program.
Sec. 156. National occupational information coordinating committee.
Sec. 157. Replication of successful programs.
Sec. 158. Fair chance youth opportunities unlimited program.

Subtitle F—General Provisions

Sec. 161. Jobs for employable dependent individuals.
Sec. 162. Effective date; transition provisions.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCILS

Sec. 201. Definition.
Sec. 202. Establishment of State human resource investment councils.
Sec. 203. Conforming and technical amendments.
Sec. 204. Effective date.

TITLE III—NONTRADITIONAL EMPLOYMENT FOR WOMEN

Sec. 301. Short title.
Sec. 302. Findings and purposes.
Sec. 303. Definition.
Sec. 304. Service delivery area job training plan.
Sec. 305. Governor's coordination and special services plan.
Sec. 306. State job training coordinating council.
Sec. 307. State education coordination and grants.
Sec. 308. Use of funds.
Sec. 309. Demonstration programs.
Sec. 310. Report and recommendations.
Sec. 311. Discrimination.
Sec. 312. Effective date.

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

TITLE I—ADULT AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Subtitle A—Policy, Authorization of Appropriations, and Definitions

SEC. 101. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

(a) DECLARATION OF POLICY.—In recognition of the training needs of low-income adults and youth, the Congress declares it to be the policy of the United States to—

(1) provide financial assistance to States and local service delivery areas to meet the training needs of such low-income adults and youth, and to assist such adults and youth in obtaining unsubsidized employment;

(2) increase the funds available for programs established under title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.) by not less than 10 percent of the baseline each fiscal year, to provide for growth in the percentage of eligible adults and youth served, beyond the 5 percent of the eligible population in need of the programs that is currently served, under the programs; and

(3) encourage the provision of longer, more comprehensive education, training, and employment services to the eligible population, which also requires increased funding in order to maintain current service levels.

(b) STATEMENT OF PURPOSE.—Section 2 (29 U.S.C. 1501) is amended to read as follows:

"SEC. 2. STATEMENT OF PURPOSE.

"It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the Nation.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1)(A) There are authorized to be appropriated to carry out parts A and C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.

"(B) Of the sums appropriated to carry out parts A and C of title II for each fiscal year, not less than 40 percent shall be made available to carry out part C of such title.

"(2) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b);

(3) by inserting after such subsection (b) the following:

"(c)(1) There are authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to 7 percent of the sum of the amounts appropriated for parts A and C of title II for such fiscal year.

"(2) The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV; and

"(B) $2,000,000 to carry out part F of title IV.

"(3) There are authorized to be appropriated to carry out part H of title IV $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the subsequent fiscal years.

"(4) There are authorized to be appropriated to carry out part I of title IV $25,000,000 for fiscal year 1993 and $50,000,000 for each of the fiscal years 1994 through 1996."; and

(4) in subsection (e)—

(A) by striking "(e)(1) Subject to paragraph (2), there" and inserting "(e) There"; and

(B) by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—

(1) Subsections (a) and (e) of section 302, and section 326(h) (29 U.S.C. 1652 (a) and (e) and 1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

(2) Section 326(h) (29 U.S.C. 1662e(h)) is amended by striking "3(c)" and inserting "3(b)".

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 4 (29 U.S.C. 1503) is amended—

(1) in paragraph (5), by inserting "Association of Farmworkers Opportunity Programs, literacy organizations, agencies or organizations serving older individuals," after "United Way of America,";

(2) in paragraph (8)—

(A) in subparagraph (B)(i), by striking "poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Rec-

onciliation Act of 1981 (42 U.S.C. 9902(2))"; and

(B) in subparagraph (D), by inserting "subsections (a) and (c) of" after "under"; and

(3) in paragraph (10), by striking "handicapped individual" and inserting "individual with a disability";

(4) in paragraph (22), by striking "and Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau";

(5) in the second sentence of paragraph (24), by—

(A) inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,"; and

(B) striking "materials for the handicapped," and inserting "materials for individuals with disabilities, job coaches,";

(6) by striking paragraph (29) and inserting the following new paragraph:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (relating to the aid to families with dependent children program); or

"(ii) on the income of another family member but is no longer supported by that income; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(7) by adding at the end the following new paragraphs:

"(30) The term 'basic skills deficient' means English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(31) The term 'case management' means the provision, in the delivery of a service, of a client-centered approach designed to prepare and coordinate a comprehensive employment plan, such as a service strategy, for a participant to—

"(A) ensure access to a necessary training and support service; and

"(B) provide job and career counseling during program participation and after job placement.

"(32) The term 'educational agency' means—

"(A) a public local school authority having administrative control of elementary, middle, or secondary schools or providing adult education;

"(B) a public or private institution that provides alternative middle or high school education;

"(C) a public education institution or agency having administrative control of secondary or postsecondary vocational education programs;

"(D) a postsecondary institution; or

"(E) a postsecondary educational institution operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.).

"(33) The term 'family' means two or more persons living in a single residence, including—

"(A) a husband, wife, and dependent children;

"(B) a parent and dependent children; or

"(C) a husband and wife.

"(34) The term 'hard-to-serve individual' means an individual who is included in at least two of the following categories:

"(A) Long-term recipients.

"(B) School dropouts.

"(C) Individuals unemployed for 6 months or longer.

"(D) Individuals with a disability.

"(E) Offenders.

"(F) Displaced homemakers.

"(G) Homeless.

"(H) Older individuals.

"(35) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(36)(A) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.

"(B) For purposes of determining whether an individual is a participant, participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant begins receiving subsidized employment, training, or services funded under this Act.

"(37) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(38) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized and funded by this Act.".

(b) CONFORMING AMENDMENTS.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with a disability"; and

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability";

(2) in the second section 172(b) (as added by Public Law 100-628) (29 U.S.C. 1583(b)), by striking "handicapped individuals" and inserting "individuals with a disability"; and

(3) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability".

Subtitle B—Job Training Partnership

SEC. 111. PRIVATE INDUSTRY COUNCILS.

(a) COMPOSITION.—

(1) MEMBERSHIP.—Section 102(a) (29 U.S.C. 1512(a)) is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following:

"(2) representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

"(3) representatives of—

"(A) educational agencies (which agencies shall be representative of all educational agencies in the service delivery area);

"(B) vocational rehabilitation agencies;

"(C) public assistance agencies;

"(D) economic development agencies;

"(E) the public employment service; and

"(F) local welfare agencies.".

(2) NOMINATION.—Section 102(c)(2) (29 U.S.C. 1512(c)(2)) is amended to read as follows:

"(2) Education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including entities offering adult education) or general organizations of such schools and institutions, within the service delivery area.".

(3) RECOMMENDATIONS.—Section 102(c)(3) (29 U.S.C. 1512(c)(3)) is amended to read as follows:

"(3) The labor representatives on the council shall be selected from individuals recommended by recognized State and local labor organizations. If the State or local labor organization cannot adequately meet the labor representation on the private industry council, individual workers may be included on the council to complete the labor representation.".

(4) ADDITIONAL REPRESENTATIVES.—Section 102(c) (20 U.S.C. 1512(c)) is amended by adding at the end the following new paragraph:

"(4) The remaining members of the council shall include additional representatives from all sectors described in subsection (a)(3) and individuals recommended by interested organizations.".

(b) EFFECTIVE DATE.—No private industry council shall be considered to be in violation of the amendments made by subsection (a) of this section until the date 3 years after the date of enactment of this Act.

SEC. 112. JOB TRAINING PLAN.

(a) IN GENERAL.—Section 104(a) (29 U.S.C. 1514(a)) is amended by inserting "under title II" after "appropriated".

(b) CONTENTS.—Section 104(b) is amended to read as follows:

"(b) Each job training plan for the programs conducted under part A of title II (regarding adult programs) and under parts B and C of title II (regarding youth programs) shall contain—

"(1) information identifying the entity that will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

"(4) a description of linkages, established in accordance with sections 205 and 265, designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with educational agencies;

"(B) arrangements with other education, training, and employment programs serving the disadvantaged that are authorized by Federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination

with local welfare agencies, other local agencies, community-based organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including—

"(A) a description of the manner in which the program will contribute to the economic self-sufficiency of participants, and the productivity of the local area and the Nation; and

"(B) performance goals established in accordance with standards prescribed under section 106;

"(6) goals for the training and placement of targeted populations, and a description of efforts to be undertaken to accomplish such goals, including—

"(A) efforts to expand outreach to targeted populations who may be eligible for services under this Act;

"(B) efforts to expand awareness of training and placement opportunities for targeted populations; and

"(C) types of services to be provided to address the special needs of targeted populations;

"(7) adult and youth budgets for two program years and any proposed expenditures for the succeeding 2 program years, in such detail as is determined necessary, by the entity selected to administer the portion of the plan corresponding to the budgets in accordance with section 103(b)(1)(B), to meet the requirements of section 108;

"(8) procedures for identifying and selecting participants, procedures for determining eligibility, and methods used to verify eligibility;

"(9) a description of—

"(A) the assessment process that will identify the skill level and service needs of each participant;

"(B) the competency levels to be achieved by participants as a result of program participation;

"(C) the services to be provided, including the estimated duration of service and the estimated training cost per participant; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(10) a description of the procedures and methods used in carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(11) fiscal control (including procurement, monitoring, and management information systems requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor, which report shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which applicable performance standards have been met.".

SEC. 113. REVIEW AND APPROVAL OF PLAN.

Section 105(a)(1)(B)(ii) (29 U.S.C. 1515(a)(1)(B)(ii)) is amended by inserting "community-based organizations and" after "appropriate".

SEC. 114. PERFORMANCE STANDARDS.

(a) IN GENERAL.—Section 106 (29 U.S.C. 1516) is amended to read as follows:

"SEC. 106. PERFORMANCE STANDARDS.

"(a) CONGRESSIONAL FINDINGS.—Congress finds that—

"(1) job training is an investment in human capital and not an expense; and

"(2) in order to determine whether that investment has been productive—

"(A) it is essential that criteria for measuring the return on the investment be developed; and

"(B) the criteria should include basic measures of long-term economic self-sufficiency, including measures of increased educational attainment and occupational skills, increased employment and earnings, and reduced welfare dependency.

"(b) PERFORMANCE STANDARDS.—

"(1) ACHIEVEMENT OF BASIC MEASURES.—In order to determine whether the basic measures described in subsection (a)(2)(B) have been achieved by programs under parts A and C of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards for the programs.

"(2) HARD-TO-SERVE INDIVIDUALS.—In prescribing performance standards for programs under parts A and C of title II, the Secretary shall ensure that States and service delivery areas will make efforts to increase services and positive outcomes for hard-to-serve individuals.

"(3) FACTORS FOR ADULT STANDARDS.—The Secretary shall base the performance standards for adult programs under part A of title II on appropriate factors, which may include—

"(A) placement in unsubsidized employment;

"(B) retention for more than 6 months in unsubsidized employment;

"(C) increase in earnings, including hourly wages;

"(D) reduction in welfare dependency; and

"(E)(i) acquisition of skills, including basic skills, required to promote continued employability in the local labor market (including attainment of the competency levels described in paragraph (5)), or acquisition of a high school diploma or the equivalent of the diploma; and

"(ii) one or more of the factors described in subparagraphs (A) through (D).

"(4) FACTORS FOR YOUTH STANDARDS.—

"(A) IN GENERAL.—The Secretary shall base the performance standards for youth programs under part C of title II on appropriate factors described in paragraph (3), and on factors including—

"(i) attainment of employment competencies (including attainment of the competency levels described in paragraph (5));

"(ii) dropout prevention and recovery;

"(iii) secondary and postsecondary school completion or the equivalent of such completion; and

"(iv) enrollment in other training programs, apprenticeships, or postsecondary education, or enlistment in the Armed Forces.

"(B) VARIATIONS.—The Secretary may prescribe variations in the standards described in subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(5) COMPETENCY LEVELS.—The private industry councils, in consultation with educational agencies, community-based organizations, and the private sector, shall establish youth and adult competency levels, based on such factors as attainment of entry skill levels and other hiring requirements.

"(6) REQUIREMENTS.—The performance standards described in paragraphs (3) through (5) shall include provisions governing—

"(A) the base period prior to program participation that will be used for measurement of the factors described in paragraphs (3) through (5), as appropriate;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as is necessary to carry out this subsection, which methods—

"(i) notwithstanding any other provision of law, may include access to—

"(I) earnings records;

"(II) State employment security records;

"(III) records collected under the Federal Insurance Contributions Act, chapter 21 of the Internal Revenue Code of 1986;

"(IV) records regarding State aid to families with dependent children;

"(V) statistical sampling techniques; and

"(VI) records or techniques similar to the records and techniques described in subclauses (I) through (V); and

"(ii) shall include appropriate safeguards to protect the confidentiality of the data obtained.

"(7) GROSS PROGRAM EXPENDITURES.—The Secretary shall prescribe performance standards for programs under parts A and C of title II relating gross program expenditures to various performance measures. The Governors shall not take performance standards prescribed under this paragraph into consideration in awarding grants under paragraph (8).

"(8) INCENTIVE GRANTS.—From funds available under section 202(c)(2)(C), and under section 262(c)(1) for providing incentive grants under this paragraph, each Governor shall award incentive grants to service delivery areas conducting programs under parts A and C of title II that—

"(A)(i) meet the performance standards established by the Secretary under this subsection (except for the standards established pursuant to paragraph (7)) with respect to services to all participants;

"(ii) serve more than the minimum percentage of out-of-school youth required by section 263(f); and

"(iii) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (7)) with respect to services to hard-to-serve populations, such as the target groups listed in sections 203(a)(2) and 263 (b) and (d);

"(B) place participants in employment that provides wages at placement that exceed the appropriate performance criteria;

"(C) meet the performance standards established by the Governor for programs under title II pursuant to subsection (e), except that not more than 25 percent of the incentive grants shall be awarded on performance standards established pursuant to subsection (e); and

"(D) establish effective linkages with other programs to avoid duplication and enhance the delivery of services.

"(c) EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.—

"(1) PERFORMANCE STANDARDS.—The Secretary shall prescribe performance standards for programs under title III based on participant placement and retention in unsubsidized employment.

"(2) NEEDS-RELATED PAYMENTS.—In prescribing performance standards under paragraph (1) for programs under title III, the Secretary shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(d) VARIATIONS.—

"(1) AUTHORITY OF GOVERNORS.—Each Governor of a State participating in a program governed by standards issued under subsection (b) or (c) shall prescribe, within parameters established by the Secretary, variations in the standards for the State, based on—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State;

"(B) the characteristics of the population to be served;

"(C) the demonstrated difficulties in serving the population; and

"(D) the type of services to be provided.

"(2) SECRETARY'S RESPONSIBILITIES.—The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals and long-term welfare dependency;

"(C) provide guidance on setting performance goals at the service provider level that encourage increased service to hard-to-serve individuals, particularly long-term welfare recipients; and

"(D) review performance standards to ensure that such standards provide maximum incentive in serving hard-to-serve individuals, particularly long-term welfare recipients, including individuals receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (relating to the aid to families with dependent children program) and title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to the supplemental security income programs).

"(e) ADDITIONAL PERFORMANCE STANDARDS BY GOVERNORS.—A Governor of a State participating in a program under title II or III may prescribe performance standards for the program in addition to standards established by the Secretary under subsections (b) and (c).

"(f) NATIVE AMERICAN AND JOB CORPS PROGRAMS.—The Secretary shall prescribe performance standards for programs under parts A and B of title IV, and for programs under title V.

"(g) SYSTEM FOR ADJUSTMENTS.—The Secretary shall prescribe a system for adjustments in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina theater between August 5, 1964, and May 7, 1975, offenders, and displaced homemakers, taking into account their special circumstances.

"(h) MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary may modify the performance standards under this section not more often than once every 2 program years and such modifications shall not be retroactive.

"(2) JOB CORPS.—Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part B of title IV each program year.

"(i) NATIONAL COMMISSION ON EMPLOYMENT POLICY.—The National Commission on Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (d);

"(2) evaluate the usefulness of such standards as measures of desired performance; and

"(3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served in service delivery areas, what services are provided, and the costs of such services in service delivery areas.

"(j) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Governor of a State participating in a program governed by performance standards issued under this section shall provide technical assistance to service delivery areas and substate areas within the State that do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers, or make such other changes as the Governor determines to be necessary to improve performance. The Governor may also select an alternate administrative entity to administer the program for the service delivery area or substate area.

"(2) ALTERNATE ADMINISTRATIVE ENTITY.—The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) HEARING.—No change may be made under this subsection without providing to affected parties notice and an opportunity for a hearing before a hearing officer.

"(4) APPEAL.—The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.

"(k) CLARIFICATION OR REFERENCE.—For the purposes of this section, the term 'employment' means employment for more than 20 hours per week.".

(b) CONFORMING AMENDMENT.—Sections 311(a), 311(b)(8), and 322(a)(4) (29 U.S.C. 1661(a), 1661(b)(8), and 1662a(a)(4)) are each amended by striking "106(g)" and inserting "106(c)".

SEC. 115. SELECTION OF SERVICE PROVIDERS.

(a) CHILD CARE.—Section 107(a) (29 U.S.C. 1517(a)) is amended by adding at the end the following: "In addition, consideration shall be given to provision of appropriate supportive services, including child care.".

(b) SELECTION OF SERVICE PROVIDERS.—Section 107 is amended by adding at the end the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis, to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.".

SEC. 116. LIMITATION ON CERTAIN COSTS.

(a) APPLICATION OF COST LIMITATIONS.—Section 108(a) (29 U.S.C. 1518(a)) is amended to read as follows:

"(a) Except as provided in subparagraphs (A), (B), and (C) of section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) COST CATEGORIES AND LIMITATIONS.—Section 108(b) is amended to read as follows:

"(b)(1) The cost limitations contained in this section shall apply separately to the funds allocated for programs under part A of title II, and to the funds allocated for programs under part C of such title.

"(2) Funds expended under parts A and C of title II shall be charged to one of the following categories:

"(A) Administration.

"(B) Training-related and supportive services.

"(C) Direct training services.

"(3) The Secretary shall, in accordance with sections 204(b) and 264(c), define by regulation the cost categories specified in paragraph (2).

"(4) Of the funds allocated to a service delivery area for any program year under part A or C of title II—

"(A) not more than 20 percent shall be expended for the costs of administration; and

"(B) not less than 50 percent shall be expended for direct training services.

"(5) Each service delivery area shall ensure that all contracts, grants, or other agreements with a service provider, for services provided to participants, shall include appropriate amounts necessary for administrative costs and supportive services.".

(c) REFERENCE TO TITLE III LIMITATIONS.—Section 108 is further amended—

(1) by striking subsection (c);

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) by adding at the end the following new subsection:

"(e) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 117. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

(a) IN GENERAL.—Part A of title I is amended (29 U.S.C. 1511 et seq.) by adding at the end the following new sections:

"SEC. 109. SERVICE DELIVERY AREA TRANSFER AND AGREEMENT.

"(a) IN GENERAL.—Any service delivery area may enter into an agreement with another service delivery area to share the cost of educating, training, and placing individuals participating in programs assisted under this Act, including the provision of supportive services. Such agreement shall be approved by an individual representing each private industry council providing guidance to the service delivery area.

"(b) APPLICATION OF APPROPRIATE PERFORMANCE STANDARDS.—Each service delivery area entering into a service delivery area agreement pursuant to this section shall be credited under the appropriate performance standards.

"SEC. 110. REALLOTMENT.

"(a) REALLOTMENT AUTHORIZED.—The Secretary may reallot among States any amounts allotted under parts A and C of title II to the extent that the Secretary determines that a State or one of the service delivery areas of a State will not be able to spend such amounts within a reasonable period of time.

"(b) ADVANCE NOTICE REQUIRED.—

"(1) IN GENERAL.—The Secretary shall provide 30 days advance notice of any reallotment under subsection (a) to the Governor of an affected State and to the general public. During such period comments may be submitted to the Secretary.

"(2) NOTIFICATION AND PUBLICATION.—After considering any comments submitted during such period, the Secretary shall notify the Governor of any decision to reallot funds, and shall publish such decision in the Federal Register.

"(3) PRIORITY.—In reallotting any funds the Secretary shall give priority to States and service delivery areas that have satisfactorily spent an allotment for the previous fiscal year and that have experienced high

rates of unemployment for an extended period of time.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title I is amended by adding after the item relating to section 108 the following:

"Sec. 109. Service delivery area transfer and agreement.
"Sec. 110. Reallotment.".

SEC. 118. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b) (29 U.S.C. 1531(b)) is amended—

(1) in paragraph (1), by striking "Such criteria" and inserting: "The plan shall also include criteria for coordinating activities under this Act with programs and services provided by State and local agencies on aging, and programs operated under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.). The criteria described in each of the two preceding sentences";

(2) by amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication of programs between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in the plan and shall identify the procedures developed to provide for the review of the JOBS plan by the State job training coordinating council.";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(4) by inserting the following new paragraph after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, program administration, program financial management, capacity building, priorities and criteria for State incentive grants, and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for research and demonstration projects, technical assistance for service delivery areas and service providers, interstate technical assistance and training arrangements, and other coordinated technical assistance arrangements for service delivery areas and service providers pursuant to the direction of the Secretary."; and

(5) in paragraph (4) (as redesignated in paragraph (2)) by—

(A) striking "and" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting a semicolon and "and"; and

(C) inserting at the end the following new subparagraph (C):

"(C) services to older workers, including plans for facilitating the provision of services across service delivery areas within the State, as provided in section 104(b)(2).".

(b) COORDINATION AND SPECIAL SERVICES ACTIVITIES.—Section 121(c) is amended—

(1) in paragraph (7), by inserting after the paragraph designation the following: "coordination of activities relating to part A of title II with";

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and "and"; and

(4) by adding at the end the following new paragraph:

"(11) initiatives undertaken pursuant to the State innovation and coordination program described in section 123.".

SEC. 119. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 (29 U.S.C. 1533) is amended to read as follows:

"SEC. 123. STATE EDUCATION COORDINATION AND GRANTS.

"(a) ALLOTMENT.—

"(1) IN GENERAL.—The Secretary shall allot the funds made available to carry out this section under section 202(c)(2)(D) and under section 262(c)(1) to the Governors for allocation to State educational agencies to pay for the Federal share of carrying out the projects described in paragraph (2).

"(2) PROJECTS.—Funds allocated under paragraph (1) may be used to pay for the Federal share of carrying out projects (in accordance with agreements under subsection (b)) that—

"(A) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, or completion of the recognized equivalent of such graduation, including services that increase the rate at which dropouts return to regular or alternative schooling and obtain a high school degree or equivalent;

"(B) provide literacy and lifelong learning opportunities and services of demonstrated effectiveness that—

"(i) enhance the knowledge and skills of educationally and economically disadvantaged individuals; and

"(ii) result in increasing the employment and earnings of such individuals; and

"(C) facilitate coordination of education and training services for eligible participants in projects described in subparagraphs (A) and (B), including activities pertaining to the establishment and operation of a State human resource investment council that meets the requirements of section 202 of the Job Training and Basic Skills Act of 1991.

"(3) ALLOCATION.—In allocating the funds described in subsection (a)(1) to a State educational agency, a Governor shall not establish requirements governing the distribution of the funds.

"(4) FEDERAL SHARE.—The Federal share of the cost of carrying out the projects described in paragraph (2) shall be 50 percent.

"(b) AGREEMENTS REQUIRED.—

"(1) PARTIES TO AGREEMENTS.—The projects described in subsection (a)(2) shall be conducted within a State in accordance with agreements between the State educational agency, administrative entities in service delivery areas in the State, and other entities such as other State agencies, local educational agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) CONTENTS OF AGREEMENTS.—

"(A) CONTRIBUTION.—The agreements described in paragraph (1) shall provide for the contribution by the State, from funds other than the funds made available under this Act, of a total amount equal to the funds allotted under this section.

"(B) DIRECT COST OF SERVICES.—Such amount may include the direct cost of employment or training services—

"(i) provided by State or local programs or agencies; or

"(ii) provided by other Federal programs or agencies in accordance with applicable Federal law.

"(c) GOVERNOR'S PLAN REQUIREMENTS.—Any Governor receiving assistance under this section shall include in the Governor's coordination and special services plan, in accordance with section 121, a description developed by the State educational agency of—

"(1) the goals to be achieved and services to be provided by the school-to-work transition programs specified in subsection (a)(2)(A) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent;

"(B) the work-based curriculum that will link classroom learning to worksite experience and address the practical and theoretical aspects of work;

"(C) the opportunities that will be made available to participants to obtain career-path employment and postsecondary education;

"(D) the integration to be achieved, where appropriate, in the delivery of services between State and local educational agencies and alternative service providers, such as community-based and nonprofit organizations; and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) title II and part B of title IV of this Act;

"(ii) the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.);

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iv) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(v) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(vi) the JOBS program; and

"(vii) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482);

"(2) the goals to be achieved and services to be provided by literacy and lifelong learning programs specified in subsection (a)(2)(B) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the 4-year State plan (and related needs assessment carried out for the plan) developed in accordance with section 342 of the Adult Education Act (20 U.S.C. 1206a);

"(C) the variety of settings, including workplace settings, in which literacy training and learning opportunities will be provided; and

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II and III of this Act;

"(ii) the Adult Education Act;

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(iv) the Stewart B. McKinney Homeless Assistance Act;

"(v) the JOBS program;

"(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(vii) the National Literacy Act of 1991 (Public Law 102-73); and

"(viii) the Emergency Immigrant Education Act of 1984 (20 U.S.C. 3121 et seq.); and

"(3) the proportion of funds received under this section that will be used to carry out the program described in paragraph (1) and the proportion that will be used to carry out the program described in paragraph (2).

"(d) SERVICE REQUIREMENTS.—

"(1) PERMITTED SERVICES.—Services funded under this section to carry out the projects described in subsection (a)(2) may include education and training, vocational education services, and related services, provided to participants under title II. In addition, services funded under this section may include services for offenders, veterans, and other individuals who the Governor determines require special assistance.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) COORDINATION OF SERVICES.—Not more than 20 percent of the funds allocated under this section may be expended to pay for the Federal share of projects at the State and local levels described in subsection (a)(2)(C).

"(B) SCHOOL-TO-WORK SERVICES; LITERACY AND LIFELONG LEARNING SERVICES.—Not less than 80 percent of the funds allocated under this section shall be expended to pay for the Federal share of projects conducted in accordance with subparagraphs (A) and (B) of subsection (a)(2).

"(C) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Not less than 75 percent of the funds allocated for projects under subparagraphs (A) and (B) of subsection (a)(2) shall be expended for projects for economically disadvantaged individuals who experience other barriers to employment. Priority for funds not expended for the economically disadvantaged shall be given to title III participants and persons with other barriers to employment.

"(e) DISTRIBUTION OF FUNDS IN ABSENCE OF AGREEMENT.—If no agreement is reached in accordance with subsection (b) on the use of funds under this section, the Governor shall notify the Secretary and shall distribute the funds to service delivery areas in accordance with section 106(b)(8).

"(f) REPORTS AND RECORDS.—

"(1) REPORTS BY GOVERNORS.—The Governor shall prepare reports on the projects funded under this section, including such information as the Secretary may require to determine the extent to which the projects supported under this section result in achieving the goals specified in paragraphs (1) and (2) of subsection (c). The Governor shall submit the reports to the Secretary at such intervals as shall be determined by the Secretary.

"(2) RECORDS AND REPORTS OF RECIPIENTS.—Each direct or indirect recipient of funds under this section shall keep records that are sufficient to permit the preparation of reports. Each recipient shall submit such reports to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 120. ADDITIONAL REQUIREMENTS.

(a) IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.—Section 124 (29 U.S.C. 1534) is amended to read as follows:

"SEC. 124. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

"If a State or service delivery area imposes a requirement, including a rule, regulation, policy, or performance standard, relating to the administration and operation of programs funded by this Act (including requirements based on State or service delivery area interpretation of any Federal law, regulation, or guideline) the State or area shall identify the requirement as a State- or service delivery area-imposed requirement.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part B of title I is amended by striking the item relating to section 124 and inserting the following:

"Sec. 124. Identification of additional imposed requirements.".

SEC. 121. STATE LABOR MARKET INFORMATION PROGRAMS.

Section 125(a) (29 U.S.C. 1535(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) provide training and technical assistance to support comprehensive career guidance and participant outcome activities for local programs assisted under this Act.".

SEC. 122. GENERAL PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Section 141(d)(3) (29 U.S.C. 1551(d)(3)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postsecondary institution that are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.

"(C) In the case of any service provider (with the exception of a State or local agency) receiving funds to provide services under part A or C of title II, which provider expends not less than 90 percent of such funds for direct training and training-related and supportive services for any fiscal year, the funds expended for the costs of administering such services shall not be subject to the limitation under section 108(b)(4)(A), if the service delivery area otherwise complies with the requirements of such section 108(b).".

(b) LIMITATION.—Section 141(g) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraphs:

"(2) On-the-job training authorized under this Act for a participant with respect to a position shall be limited in duration to a period not in excess of the period generally required for acquisition of skills needed for the position within a particular occupation. In no event shall the training exceed 6 months unless the total number of hours of such training is less than 500 hours. In determining the period generally required for acquisition of the skills, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the training of the participant, and the service strategy of the participant.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training to be developed and other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer (but instead is contracted through an intermediary brokering contractor), shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within the organization of the contractor, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) If a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(c) DISPOSAL OF ASSETS.—Section 141(k) is amended to read as follows:

"(k) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

(d) PROGRAM INCOME.—Section 141 is further amended by—

(1) striking subsection (m); and

(2) redesignating subsections (n), (o), and (p) as subsections (m), (n), and (o), respectively.

(e) PUBLIC SERVICE EMPLOYMENT.—Section 141(o) (as redesignated by subsection (d)(2) of this section) is further amended by striking "part B of this title or part A of".

SEC. 123. ADVANCE PAYMENT.

Section 162 is amended (29 U.S.C. 1572) by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, and service delivery areas may use advance payment method systems, except that such advance payments shall be based on financial need of such organizations and shall not exceed 20 percent of the total contract amount.".

SEC. 124. FISCAL CONTROLS.

(a) PROCUREMENT.—Section 164(a) (29 U.S.C. 1574(a)) is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with generally accepted accounting principles.

"(2) The Governor shall prescribe and implement uniform procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this Act. Such standards shall include provisions to ensure that, for the State, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed;

"(ii) the risk borne by the contractor; and

"(iii) market conditions in the surrounding geographic area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee, or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions described in subsections (c) and (e) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary the procurement standards established pursuant to paragraph (2), and shall annually certify to the Secretary that—

"(A) the State procurement standards fully satisfy the requirements described in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall annually review the procurement standards established pursuant to paragraph (2) and shall annually notify the appropriate committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that a Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided pursuant to subsection (g) in the event of failure of the Governor to take the required corrective action.

"(8) The Secretary, in consultation with the Inspector General, shall review the implementation of this subsection and submit a report to the appropriate committees of the Congress, not later than October 1, 1992, evaluating the effectiveness of the subsection in ensuring fiscal accountability and containing such recommendations as the Secretary determines to be appropriate.".

(b) PROGRAM INCOME.—Section 164 is further amended by adding at the end the following new subsection:

"(i)(1) A public or private nonprofit entity administering a program under this Act may retain income under the program if the entity uses such income to continue to carry out such program, and may use the income for such purposes notwithstanding the expiration of financial assistance for such program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services provided as a result of activity funded under this Act; and

"(B) funds provided to a service provider under this Act that are in excess of the costs associated with the services provided.

"(3) For the purposes of this subsection, each public or private nonprofit entity receiving financial assistance under this Act shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

SEC. 125. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) RECORDS.—Section 165(a) (29 U.S.C. 1575(a)) is amended by adding at the end the following new paragraph:

"(3) In order to allow for the preparation of estimates necessary to meet the requirements of subsection (d), recipients shall maintain standardized records for all individual participants, and provide to the Secretary a sufficient number of such records to provide an adequate random sample.".

(b) AUDITS.—Section 165(b) is amended by adding at the end the following new paragraph:

"(3)(A) In carrying out any audit under this Act (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through a grant or contract, the Secretary, the Inspector General, or the Comptroller General shall furnish to the State, administrative entity, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not fewer than 14 days (or as soon as practicable) prior to the commencement of the audit.

"(B) If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

"(C) The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding.

"(D) Nothing contained in this Act shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General.".

(c) MONITORING.—Section 165(c) is amended by—

(1) striking ", and" at the end of paragraph (1), and inserting a semicolon;

(2) striking paragraph (2); and

(3) adding at the end the following new paragraphs:

"(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 167; and

"(3) monitor the performance of service providers in complying with the terms of grants, contracts, or other agreements made pursuant to this Act.".

(d) RETENTION OF RECORDS.—Section 165 is further amended by inserting at the end the following new subsections:

"(d) Each Governor of a State participating in a program under this Act shall ensure that procedures are developed for retention of all records pertinent to all grants and agreements made pursuant to this Act, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records must be retained for 2 years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of 3 years after final disposition of the property.

"(e) The reports required in subsection (c) shall include information, in such form as to permit cross-tabulation, pertaining to—

"(1) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information about enrollees and participants;

"(2) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(3) program outcomes, including occupations, for participants;

"(4) specified program costs; and

"(5) information necessary to prepare reports to comply with section 167 of this Act.

"(f) The Secretary shall ensure that all elements required for the reports described in subsection (d) are defined and reported uniformly.".

SEC. 126. DISCRIMINATION.

Section 167 (29 U.S.C. 1577) is amended by adding at the end the following new subsections:

"(e)(1) The head of the office of the Department of Labor referred to as the 'Directorate for Civil Rights' shall annually prepare a report on the administration and enforcement of this section.

"(2) The report required by paragraph (1) shall include—

"(A) an identification of the service delivery areas and States that have determined, during the preceding program year, not to be in compliance with this section;

"(B) for each such identification, the date on which the inquiry was begun and whether the inquiry was initiated on the basis of a complaint or at the initiative of the Department;

"(C) an identification of the service delivery areas and States awaiting findings by the Directorate;

"(D) the number of service delivery areas and States that, during the preceding year, were determined not to be in compliance with this section, and the number for which insufficient data prevented the making of such a determination, and information identifying the type of data that is missing or inadequate;

"(E) a statistical summary, broken down by race, sex, national origin, disability, or age, of the number of inquiries undertaken and the outcomes of the inquiries;

"(F) an identification of any service delivery area or State that has been determined, during the preceding year, to have failed to conduct objective assessments as required by sections 204 and 274 on a nondiscriminatory basis;

"(G)(i) the amount expended by the Department for the administration and enforcement by the Directorate of this section; and

"(ii) the number and percentage of full-time employees, and the full-time equivalent of the part-time employees, engaged in such administration and enforcement;

"(H) the number of onsite visits conducted each year, and whether the visits were initiated by the Department or by complaint;

"(I) the number of cases referred to the Attorney General, and for such cases—

"(i) the civil actions taken by the Attorney General on the cases;

"(ii) the use, by the Secretary, of the authority of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (29 U.S.C. 621 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

"(J) a description of any other actions taken by the Secretary under, or related to the administration and enforcement of, this section.

"(3) The report required by this subsection shall be submitted to the Congress as part of the annual report of the Secretary under section 169(d).

"(f) In addition to any other sums authorized to be appropriated, there are authorized to be appropriated for the operations and expenses of the Directorate such sums as may be necessary for the purpose of increasing the number of full-time equivalent personnel available to the Directorate in order to comply with the requirements of this section.".

Subtitle C—Training Services for the Disadvantaged

SEC. 131. ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Part A of title II (29 U.S.C. 1601 et seq.) is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"SEC. 201. STATEMENT OF PURPOSE.

"It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing occupational and educational skills resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), of the remainder described in subparagraph (A) for each fiscal year—

"(i) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(ii) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(iii)(I) except as provided in subclause (II), 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within each State as compared to the total number of economically disadvantaged individuals in all States; or

"(II) for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(3) LIMITATIONS ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No State shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to this subsection.

"(ii) FISCAL YEAR 1992.—For the purposes of this paragraph, for fiscal year 1992, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to section 201 as in effect on the day before the date of the enactment of this section.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) IN GENERAL.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate 77 percent in accordance with this subsection and 23 percent in accordance with subsection (c). Of such 77 percent—

"(A) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C)(i) except as provided in clause (ii), 33⅓ percent shall be allocated among service delivery areas within the State on the basis of the relative number of economically disadvantaged individuals within each service delivery area as compared to the total number of economically disadvantaged individuals in the State; or

"(ii) for any service delivery area described in section 101(a)(4)(A)(iii), 33⅓ percent shall be allotted on the basis of the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(2) SPECIAL RULE.—The private industry council in each service delivery area may reserve not more than 10 percent of the funds received under this part for experimental programming for hard-to-serve individuals. The Comptroller General shall conduct a study to review and assess such experimental programs and postprogram results and shall submit the findings to the appropriate committees of Congress not later than September 30, 1994.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate 23 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in paragraph (2).

"(2) USES.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year—

"(A)(i) except as provided in clause (ii), 5 percent shall be available for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122; and

"(ii) the Secretary shall ensure that the amount available to carry out the activities described in clause (i) is not less than $500,000 by—

"(I) ratably reducing, by an amount necessary to meet the requirement of subclause (II), the amounts available under clause (i) for the States that have amounts available in excess of $500,000; and

"(II) allotting the funds available pursuant to subclause (I) to the States that would otherwise have amounts available under clause (i) that are less than $500,000 in amounts necessary to ensure that such States have an amount equal to $500,000 to carry out the activities described in clause (i);

"(B) 2 percent shall be available for technical assistance and capacity building in developing the overall capability of the job training system within the State, including the development and training of State and local service delivery area staff, service provider staff, the development of information and exemplary program activities, and the conduct of research and other activities designed to improve the level, degree, and goals of programs conducted under this Act;

"(C) 3 percent shall be available to provide incentive grants authorized under section 106(b)(8);

"(D) 8 percent shall be available to carry out section 123; and

"(E) 5 percent shall be available to carry out section 204(d).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term 'economically disadvantaged individual' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) the number that represents the number of unemployed individuals age 22 through 72 in excess of 4.5 percent of the civilian labor force in the State; or

"(ii) the number that represents the number of such unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practical, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged individuals.

"SEC. 203. ELIGIBILITY FOR SERVICES.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An individual shall be eligible to participate in the program assisted under this part if such individual is—

"(A) 22 years of age or older; and

"(B) economically disadvantaged.

"(2) MINIMUM REQUIREMENT.—Not less than 65 percent of the participants in a program assisted under this part in each service delivery area shall be individuals who, in addition to meeting the requirements of paragraph (1), are included in one or more of the following categories:

"(A) Individuals who are basic skills deficient.

"(B) Individuals who are school dropouts.

"(C) Individuals who are recipients of aid to families with dependent children who either meet the requirements of section 403(1)(2)(B) of the Social Security Act (42 U.S.C. 603(1)(2)(B)) or have been provided an employability plan in accordance with section 482(b) of the Social Security Act (42 U.S.C. 682(b)).

"(D) Individuals with a disability.

"(E) Individuals who are homeless, as defined by subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(F) Individuals who are unemployed for the previous 6 months or longer.

"(G) Offenders.

"(H) Individuals who are limited-English proficient.

"(I) Individuals who are in a category established pursuant to subsection (b).

"(3) SPECIAL RULE.—Not more than 10 percent of all participants in a program assisted under this part in each service delivery area shall be individuals who are not economically disadvantaged if such individuals are age 22 or older and within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in paragraph (2), or categories such as displaced homemakers, older workers, veterans, alcoholics, or addicts.

"(b) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of individuals who face serious barriers to employment to the categories of eligible individuals described in subsection (a)(2) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"(c) TRANSFER OF FUNDS.—A service delivery area may transfer not more than 10 percent of the funds provided under this part to carry out part B for youth programs if a description of such transfer is included in the job training plan pursuant to section 104 and the Governor approves the transfer pursuant to section 105.

"SEC. 204. PROGRAM DESIGN.

"(a) IN GENERAL.—

"(1) PROGRAM REQUIREMENTS.—Each program assisted under this part shall include—

"(A) an assessment, which shall comply with the requirements of section 167, of the skill levels and service needs of each participant, including such factors as basic skills, occupational skills, prior work experience, and supportive service needs, except that a new assessment of a participant is not required if the program determines that a recent assessment of the participant conducted pursuant to another education or training program, such as the JOBS program, is an appropriate assessment;

"(B) development of service strategies that shall identify the employment goal, the appropriate achievement objectives, and the appropriate sequence of services for participants, taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines a recent service strategy developed for the participant under another education or training program (such as the JOBS program) is an appropriate service strategy;

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) basic skills training and occupational skills training if the assessment and the service strategy indicate such training is appropriate.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services available by the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and referrals to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(b) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare individuals for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training, such as training activities for microenterprises;

"(O) vocational exploration;

"(P) training programs to develop work habits to help individuals obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals and individuals with disabilities;

"(C) specialized surveys not available through other labor market information sources;

"(D) dissemination of information on program activities to employers;

"(E) development of job openings;

"(F) programs coordinated with other Federal employment-related activities;

"(G) supportive services, necessary to enable individuals to participate in the program, and to assist the individuals, for a period not to exceed 12 months following completion of training, to retain employment;

"(H) needs-based payments necessary to participate in accordance with a locally developed formula or procedure;

"(I) followup services with participants placed in unsubsidized employment; and

"(J) services to obtain job placements for individual participants.

"(c) SPECIAL RULES.—

"(1) WORKPLACE CONTEXT AND INTEGRATION.—Basic skills training provided under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2) BASIC EDUCATION OR OCCUPATIONAL SKILLS.—

"(A) ADDITIONAL SERVICES.—Except as provided in subparagraph (B), job search, job search skills training, job clubs, and work experience provided under this part shall be accompanied by other services designed to increase the basic education or occupational skills of a participant.

"(B) LACK OF APPROPRIATENESS OR AVAILABILITY.—Each program assisted under this part may provide job search, job search skills training, and job clubs activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) NEEDS-BASED PAYMENTS.—Needs-based payments provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the participant's completion of the program.

"(5) SERVICE STRATEGY.—The service strategy developed pursuant to subsection (a)(2) shall not be considered a contract.

"(d) TRAINING PROGRAMS FOR OLDER INDIVIDUALS.—

"(1) IN GENERAL.—The Governor is authorized to provide for job training programs that are developed in conjunction with service delivery areas within the State and that are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

"(2) AGREEMENTS.—In carrying out this subsection, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, including veterans organizations, and private business concerns.

"(3) CONSIDERATIONS.—The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

"(4) COORDINATION.—In providing the services required by this subsection, the Governor shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(5) SERVICE PROVIDER SELECTION.—In the selection of service providers to serve older individuals under this subsection, the Governor shall give priority to national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"(6) ELIGIBILITY.—An individual shall be eligible to participate in a job training program under this subsection only if the individual is economically disadvantaged and has attained 55 years of age.

"SEC. 205. LINKAGES.

"(a) IN GENERAL.—In conducting the program assisted under this part, the service delivery area shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established pursuant to section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482).

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate cooperative arrangements to enhance the provision of services under this part. Such cooperative arrangements may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, literacy organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"SEC. 206. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the programs under parts B and C if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.

"SEC. 207. STUDIES RELATING TO PLACEMENT AND TARGET POPULATIONS.

"The Comptroller General of the United States shall conduct a study to determine the number and percentage of adults assisted under this part that remain employed for at least 9 months after receiving assistance under this part. The Comptroller General shall submit a report containing the findings resulting from the study to the appropriate committees of Congress not later than 3 years after the date of enactment of this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part A of title II is amended to read as follows:

"Sec. 201. Statement of purpose.
"Sec. 202. Allotment and allocation.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Cooperative arrangements.
"Sec. 206. Transfer of funds.
"Sec. 207. Studies relating to placement and target populations.".

(c) CONFORMING AMENDMENTS.—

(1) Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking "section 204(5)" and inserting "section 204(b)(1)(C)".

(2) Section 122 (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking "section 202(b)(4)" and "sections 202(c)(2)(A) and 262(c)(1)"; and

(B) in subsection (b)(2), by striking "section 202(a)" and inserting "section 202(b)".

(3) Section 125(a) (29 U.S.C. 1535(a)) is amended by striking "section 202(b)(4) and".

SEC. 132. ESTABLISHMENT OF SUMMER YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Part B of title II (29 U.S.C. 1631 et seq.) is amended to read as follows:

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 251. PURPOSE.

"It is the purpose of programs assisted under this part—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion, or enrollment in supplementary or alternative school programs; and

"(3) to provide eligible youth with exposure to the world of work.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of funds appropriated under section 3(a)(2) shall, for each fiscal year, be allotted among States on the basis of the formula specified in section 202(a)(2)(B) and allocated among service delivery areas on the basis of the formula specified in section 202(b)(1). For purposes of the application of the formulas under this subsection, the term "economically disadvantaged individual" means an economically disadvantaged youth, as defined in section 262(d)(1)(A).

"SEC. 253. USE OF FUNDS.

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

"(b) BASIC AND REMEDIAL EDUCATION.—

"(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education as described in the job training plan under section 104.

"(2) EDUCATION OR TRAINING.—The education authorized by paragraph (1) may be provided by—

"(A) the year-round program under this part;

"(B) the Job Corps;

"(C) the JOBS program;

"(D) alternative or secondary schools; or

"(E) other education and training programs.

"(c) ASSESSMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each participant under this part shall be provided with an objective assessment of the skill levels and service needs of the participant, which assessment may include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs.

"(2) RECENT ASSESSMENTS.—The assessment described in paragraph (1), or a factor of such assessment is not required under a program under this part if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program).

"(3) SERVICE STRATEGY.—The service delivery area shall develop a service strategy for participants that may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

"(d) FOLLOWUP SERVICES.—Service delivery areas shall make followup services available for participants for whom a service strategy is developed in accordance with this section.

"SEC. 254. LIMITATIONS.

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—

"(1) SUMMER MONTHS.—Except as provided in paragraph (2), programs under this part shall be conducted during the summer months.

"(2) VACATION PERIOD.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) CONCURRENT ENROLLMENT.—

"(1) IN GENERAL.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part C. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under section 106(b)(4)(A) (i) and (ii) and 106(b)(5) shall be made to reflect the limited period of participation.

"(2) CONCURRENT ENROLLMENT AND TRANSFERS.—Youth being served under this part or part C youth programs do not need to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and C of title II.

"(b) PROGRAM GOALS AND OBJECTIVES.—In accordance with subsection (a), each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.

"SEC. 256. DEFINITION.

"As used in this part, the term 'youth' means an individual who is age 14 through 21.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part B of title II is amended to read as follows:

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.
"Sec. 256. Definition.

SEC. 133. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

(a) IN GENERAL.—Title II (29 U.S.C. 1601 et seq.) is amended by adding at the end the following new part:

"PART C—YOUTH PROGRAM

"SEC. 261. STATEMENT OF PURPOSE.

"It is the purpose of the programs assisted under this part to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational and occupational skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Freely Associated States, and the Republic of Palau.

"(2) ALLOTMENT TO STATES.—

"(A) IN GENERAL.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot the remainder to the States in accordance with subparagraph (B) for allocation to service delivery areas within each State in accordance with subsections (b) and (c).

"(B) BASIS.—Subject to paragraph (3), the remainder described in subparagraph (A) shall be allotted, for each fiscal year, on the basis of the formula specified in section 202(a)(2)(B). For purposes of the application of the formula under this subparagraph, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(3) LIMITATION ON ALLOTMENTS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amount available for allotment to the States under this subsection from the remainder described in paragraph (2)(A) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(C) MAXIMUM PERCENTAGE.—No service delivery area shall be allotted more than 130 percent of the allotment percentage of the State for the fiscal year preceding the fiscal year for which the determination is made.

"(D) TOTAL ALLOTMENT.—Notwithstanding subparagraphs (A) through (C), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allotted to all service delivery areas in all States.

"(E) ALLOTMENT PERCENTAGE.—

"(i) For the purposes of this paragraph, the allotment percentage of a State shall be the percentage that the State received of all allotments pursuant to this subsection.

"(ii) FISCAL YEAR 1992.—For the purposes of this paragraph, the allotment percentage of a State for fiscal year 1992 shall be the percentage of the funds allocated for youth programs (as determined by the Secretary) under title II to the State during the preceding fiscal year.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—Of the amounts allotted to each State under subsection (a)(2)(B) for each fiscal year, the Governor shall allocate 82 percent on the basis of the formula specified in section 202(b)(1) and 18 percent in accordance with subsection (c). For purposes of the application of the formula under this subsection, the term 'economically disadvantaged individual' means an economically disadvantaged youth.

"(c) STATE ACTIVITIES.—

"(1) IN GENERAL.—The Governor shall allocate 18 percent of the amounts allotted to each State under subsection (a)(2)(B) for the activities described in subparagraphs (A), (B), (C), and (D) of section 202(c)(2).

"(2) INCENTIVE GRANT ALLOTMENT.—The amount reserved under paragraph (1) for the activities described in section 202(c)(2)(C) shall be used by the Governor to provide incentive grants under section 106(b)(8). The incentive grants made under this paragraph shall be distributed among not more than three-fourths of such eligible service delivery areas within the State in proportion to the extent to which the service delivery area fulfills the requirements of section 106(b)(8).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

"(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"SEC. 263. ELIGIBILITY FOR SERVICES.

"(a) IN-SCHOOL YOUTH.—An individual who is in school shall be eligible to participate in the program under this part if such individual is—

"(1)(A) age 16 through 21; or

"(B) if provided in the job training plan, age 14 through 21; and

"(2) economically disadvantaged, or participates in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) TARGETED GROUPS OF IN-SCHOOL YOUTH.—Not less than 70 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the require-

ments of subsection (a), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals exhibiting a pattern of disruptive behavior or disciplinary problems.

"(6) Individuals who are limited-English proficient.

"(7) Individuals who are homeless or runaway youth.

"(8) Offenders.

"(9) Individuals within a category established pursuant to subsection (h).

"(c) OUT-OF-SCHOOL YOUTH.—An individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) TARGETED GROUPS OF OUT-OF-SCHOOL YOUTH.—Not less than 70 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Homeless or run-away youth.

"(6) Offenders.

"(7) Individuals who are limited-English proficient.

"(8) Individuals in a category established pursuant to subsection (h).

"(e) EXCEPTIONS.—Not more than 10 percent of participants in the program assisted under this part in each service delivery area shall be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) RATIO OF OUT-OF-SCHOOL TO IN-SCHOOL YOUTH.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(g) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—

"(1) IN GENERAL.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

"(A) that is located in a poverty area;

"(B) that is served by a local educational agency that is eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(C) in which not less than 75 percent of the students enrolled are included in the categories described in subsection (b); and

"(D) that conducts a program pursuant to a cooperative arrangement that meets the requirements of section 265(d).

"(2) DEFINITION.—For the purposes of paragraph (1), the term 'poverty area' means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the Governor approves the request submitted pursuant to paragraph (1) and transmits the request to the Secretary; and

"(3) the Secretary approves the request submitted pursuant to paragraph (2).

"SEC. 264. PROGRAM DESIGN.

"(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis.

"(b) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify achievement objectives, appropriate employment goals (including, where appropriate, nontraditional employment) and appropriate services for participants, taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) the following services, which shall be provided either directly or through arrangement with other programs to a participant if the assessment and service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Preemployment and work maturity skills training.

"(iv) Work experience combined with skills training.

"(v) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) MINIMUM INCOME PARTICIPANTS AND APPLICANTS.—Each service delivery area participating in a program assisted under this part shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services available by the service delivery area or other service providers, including providers receiving funds under this Act; and

"(ii) referral to other appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program of the provider shall be referred to the service delivery area for further assessment, as necessary, and to appropriate programs to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i) and shall maintain records on the referrals and the reasons for which applicants are referred.

"(c) AUTHORIZED SERVICES.—Services which may be made available to youth with funds provided under this part may include—

"(1) the direct training services described in section 204(b)(1) in addition to—

"(A) tutoring and study skills training;

"(B) alternative high school services within programs that meet the requirements of section 141(n)(1);

"(C) instruction leading to high school completion or the equivalent;

"(D) mentoring;

"(E) case management services;

"(F) counseling, such as job counseling and career counseling;

"(G) limited internships in the private sector;

"(H) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations;

"(I) entry employment experience programs;

"(J) school-to-work transition services;

"(K) school-to-postsecondary education transition services; and

"(L) school-to-apprenticeship transition services; and

"(2) the training-related and supportive services described in section 204(b)(2), in addition to—

"(A) drug and alcohol abuse counseling and referral;

"(B) needs-based payments;

"(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

"(D) cash incentives and bonuses based on attendance and performance in a program.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) STRATEGIES AND SERVICES.—In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) SCHOOL DROPOUTS.—In order to participate in a program assisted under this part, an individual who is under the age of 18 and a school dropout shall—

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternative high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) SKILLS TRAINING.—

"(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work

maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic educational or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) NEEDS-BASED PAYMENTS.—Needs-based payments authorized under this part shall be limited to payments necessary to permit participation in the program in accordance with a locally developed formula or procedure.

"(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to 1 year after termination from the program.

"(6) NONCONTRACT TREATMENT.—The service strategy developed pursuant to subsection (b)(1)(B) shall not be considered a contract.

"SEC. 265. LINKAGES.

"(a) EDUCATIONAL LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV (the Job Corps);

"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482); and

"(10) any provisions of this Act.

"(c) OTHER PROGRAMS.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

"SEC. 266. TRANSFER OF FUNDS.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part A if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

(b) TECHNICAL AMENDMENT.—The table of contents in title II is amended by adding after the item relating to section 256 the following:

"PART C—YOUTH PROGRAM

"Sec. 261. Statement of purpose.
"Sec. 262. Allotment and allocation.
"Sec. 263. Eligibility for services.
"Sec. 264. Program design.
"Sec. 265. Linkages.
"Sec. 266. Transfer of funds.".

Subtitle D—Special Programs

SEC. 141. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) (29 U.S.C. 1661c(f)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

Subtitle E—National Programs

SEC. 151. NATIVE AMERICAN PROGRAMS.

(a) IN GENERAL.—Section 401 (29 U.S.C. 1671) is amended—

(1) in subsection (a), by striking "Alaskan Native" and inserting "Alaska Native, American Samoan,";

(2) in subsection (b)(2)—

(A) by striking "and groups and" and "and groups,"; and

(B) by inserting ", and to American Samoans residing in the United States" after "descent";

(3) in subsection (c)(1)(B)—

(A) by striking "natives" and inserting "Natives and American Samoans residing in the United States";

(B) by inserting "and State agencies" after "organizations"; and

(C) by striking "their needs" and inserting "the needs of the Hawaiian Natives and American Samoans";

(4) in subsection (e)—

(A) by inserting "(1)" after the subsection designation;

(B) by inserting "and American Samoan" after "Native American"; and

(C) by adding at the end the following new paragraph:

"(2) Such procedures and machinery shall include—

"(A) the designation by the Secretary of a single organizational unit that shall have the principal responsibility for the development, coordination, and oversight of all policies (except audit, procurement and debt collection policies) under which the Secretary regulates or influences the operation of Native American Indian programs under this section; and

"(B) a special effort to recruit Indians, Alaska Natives, American Samoans, and Hawaiian Natives for employment in the organizational unit identified in subparagraph (A)"; and

(5) in subsection (h)—

(A) by striking "representatives of Indians and other Native Americans" and inserting "the Advisory Council on Native American Indian Job Training Programs";

(B) by inserting "Indian and American Samoan" after "Native American"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall establish an Advisory Council on Native American Indian Job Training Programs (referred to in this section as the 'Council'), which shall consist of not fewer than 15 Native American Indians, Alaska Natives, American Samoans, or Hawaiian Natives appointed by the Secretary from among individuals nominated by Native American Indian tribes or Native American Indian, Alaska Native, American Samoan, or Hawaiian Native organizations. The membership of the Council membership shall represent diverse geographic areas and include representatives of tribal governments and of nonreservation Native American Indian organizations.

"(B) Each Council member may serve for a term of 2 years, and may be reappointed.

"(C) The Council shall be chaired by a Native American Indian, Alaska Native, or Hawaiian Native Council member elected by a majority of the membership of the Council and shall meet not less than twice each program year.

"(D) The Council shall—

"(i) solicit the views of a wide variety of tribes and Native American Indian and American Samoan groups, including groups operating employment and training programs funded under this section, on issues

affecting the operation and administration of such programs;

"(ii) advise the Secretary with respect to all matters concerning the implementation of programs under this section and other programs providing services to Native American Indian youth and adults under this Act;

"(iii) advise the Secretary with respect to the design of all aspects of the system of performance standards developed under this section;

"(iv) advise the Secretary with respect to services obtained by the Department of Labor through contracts or arrangements with non-Federal agencies or entities, which services involve the provision of technical assistance to, or evaluation of, the programs authorized by this section;

"(v) assess the effectiveness of Native American Indian job training programs and make recommendations with respect to the improvement of such programs;

"(vi) advise the Secretary with regard to the recruitment of, identification of, and selection criteria for, candidates for the position of chief of the organizational unit described in subsection (e)(2)(A) whenever a vacancy in such position occurs; and

"(vii) submit a report to the Congress not later than January 1 of each year on the progress of Native American Indian job training programs and recommendations for improving the effectiveness of the programs.

"(E) From amounts appropriated to carry out this section, the Secretary shall make available to the Council such sums as may be necessary to carry out the functions of the Council.".

(b) RESERVATION.—Section 401(j) is amended to read as follows:

"(j) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for carrying out this title (other than part B) for the fiscal year, an amount not less than 3.1 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.".

(c) COMPETITION GRANTS.—Section 401 is amended by adding at the end the following new subsection:

"(k) The competition for grants under this section shall be conducted every 2 years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the grantee of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

SEC. 152. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

(a) RESERVATION.—Section 402(f) (29 U.S.C. 1672(f)) is amended to read as follows:

"(f) For the purposes of carrying out this section, the Secretary shall reserve, from funds available for carrying out this title (other than part B) for any fiscal year, an amount not less than 2.76 percent of the total amount of funds appropriated to carry out parts A and C of title II of this Act for such fiscal year.".

(b) COMPETITION FOR GRANTS.—Section 402 is amended by adding at the end the following new subsection:

"(g) The competition for grants under this section shall be conducted every 2 years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the grantee of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

SEC. 153. JOB CORPS.

Section 427(a)(2) (29 U.S.C. 1697(a)(2)) is amended—

(1) by striking "10 percent" and inserting "20 percent"; and

(2) by adding at the end the following new sentence: "The Secretary shall not reduce the number of residential participants in Job Corps programs under this part during any program year below the number of residential participants during program year 1989 in order to increase the number of individuals who are nonresidential participants in the Job Corps.".

SEC. 154. NATIONAL ACTIVITIES.

(a) IN GENERAL.—Part D of title IV (29 U.S.C. 1731 et seq.) is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"SEC. 451. TRAINING AND INFORMATION PROGRAMS.

"(a) STAFF TRAINING.—The Secretary, directly or through grants, contracts or other arrangements, shall—

"(1) develop curricula and provide appropriate training, technical assistance, staff development and other activities at the national, regional, State, and local levels that will—

"(A) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers;

"(B) improve the quality of services provided to individuals under this Act and other Federal employment and training programs and encourage integrated service delivery;

"(C) improve the planning, procurement, and contracting practices in accordance with this Act; and

"(D) provide broad human services policy and planning training to private industry council volunteers and members of State human investment coordinating councils;

"(2) prepare and disseminate training curricula and materials for employment and training professionals and support staff, which curricula and materials focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations; and

"(3) disseminate innovative and successful models, materials, methods, and program information and provide training in the techniques learned from the sources to foster improved program quality and professional growth among managers, service delivery providers, and administrators, involved in the delivery of employment and training services.

"(b) CLEARINGHOUSE.—The Secretary is authorized to establish a clearinghouse to—

"(1) regularly identify, develop, and disseminate innovative materials that enhance the knowledge and quality of performance of employment and training personnel;

"(2) facilitate effective communications and coordination among employment and training personnel;

"(3) establish a computer communications network to share information among employment and training personnel and institutions; and

"(4) establish linkages with existing human resources clearinghouses, including the Education Research Information Centers and the National Network for Curriculum Coordination in Vocational and Technical Education.

"(c) CONSULTATION.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate activities under this section with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to part D of title IV is amended to read as follows:

"PART D—NATIONAL ACTIVITIES

"Sec. 451. Training and information programs.".

(c) CONFORMING AMENDMENTS.—

(1) Section 161(b)(2) (29 U.S.C. 1571(b)(2)) is amended by striking "452 through 455" and inserting "451 and 452".

(2) Section 433(c)(1) (29 U.S.C. 1703(c)(1)) is amended by striking "452 and 455" and inserting "451".

SEC. 155. COOPERATIVE LABOR MARKET INFORMATION PROGRAM.

Section 462 (29 U.S.C. 1752) is amended by adding at the end the following new subsection:

"(g)(1) The Secretary may engage in research, demonstration, or other activities, including activities that may be carried out by States, designed to determine the feasibility of various methods of organizing and making accessible nationwide information on the quarterly earnings for all individuals for whom such information is collected by the States.

"(2) The Secretary shall submit a report to Congress based on the findings resulting from the activities described in paragraph (1) concerning the costs and benefits of establishing and maintaining a national longitudinal data base utilizing unemployment insurance wage records. Such report shall also address the feasibility of establishing appropriate safeguards for maintaining the confidentiality of information and privacy of individuals.".

SEC. 156. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

Section 464(a)(1) (29 U.S.C. 1754(a)(1)) is amended by striking "not more than $5,000,000" and inserting "$6,000,000".

SEC. 157. REPLICATION OF SUCCESSFUL PROGRAMS.

(a) IN GENERAL.—Title IV (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"SEC. 485. REPLICATION.

"(a) REPLICATION PROGRAM AUTHORIZED.—The Secretary shall make competitive grants to public or private nonprofit organizations for technical assistance, and to States and service delivery areas for planning and program development, associated with the replication of successful programs pursuant to the provisions of this part.

"(b) AWARDS.—

"(1) FACTORS.—In awarding grants for replication of successful programs to public or private nonprofit organizations, States, or service delivery areas under this part, the Secretary shall select programs that are likely to be successful in improving the employment prospects of economically disadvantaged youths and adults and are replicable on a large scale.

"(2) CONSIDERATIONS.—In selecting such programs the Secretary shall consider—

"(A) the size and scope of the program;

"(B) the length of time that the program has been operating;

"(C) the nature and reliability of measurable outcomes for the program;

"(D) the capacity of the sponsoring organization to provide the technical assistance

necessary for States and service-delivery areas to replicate the program; and

"(E) the likelihood that the program will be successful in diverse economic, geographic, and cultural environments.

"(c) APPLICATIONS.—

"(1) NONPROFIT ORGANIZATION.—Any public or private nonprofit organization with the capacity to provide the technical assistance necessary for program replication may submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall describe the program proposed for replication and available evidence of the success of the program in improving the employment prospects of economically disadvantaged youths and adults.

"(2) STATE; SERVICE DELIVERY AREA.—Any State or service delivery area desiring a grant to participate in a replication effort shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) GRANT LIMITATIONS.—

"(1) LIMITATION.—In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During this 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years.

"(2) WAIVER.—The Secretary may waive the limitation set forth in paragraph (1) for a program if immediate replication efforts on a larger scale are warranted by extensive evaluation of the program prior to designation as a model program pursuant to the provisions of this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title IV is amended by adding after the item relating to section 481 the following:

"PART H—REPLICATION OF SUCCESSFUL PROGRAMS

"Sec. 485. Replication.".

SEC. 158. FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

(a) IN GENERAL.—Title IV (29 U.S.C. 1671 et seq.) (as amended by section 157) is further amended by adding at the end the following new part:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"SEC. 491. STATEMENT OF PURPOSE.

"The purposes of this part include—

"(1) enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitating the coordination of comprehensive services to serve youth in such communities.

"SEC. 492. DEFINITIONS.

"As used in this part:

"(1) PARTICIPATING COMMUNITY.—The term 'participating community' means a city in a metropolitan statistical area, the contiguous nonmetropolitan counties in a rural area, or a Native American Indian reservation or Alaska Native village, participating in the Fair Chance Youth Opportunities Unlimited Program established under this part.

"(2) POVERTY AREA.—The term 'poverty area' means an urban census tract, a nonmetropolitan county, a Native American Indian reservation, or an Alaska Native village, with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(3) TARGET AREA.—The term 'target area' means a poverty area or set of contiguous poverty areas that will be the focus of the Fair Chance Youth Opportunities Unlimited Program in a participating community.

"SEC. 493. PROGRAM AUTHORIZED.

"(a) PROGRAM ESTABLISHED.—The Secretary may establish a national program to provide Fair Chance Youth Opportunities Unlimited grants to service delivery areas to pay for the Federal share of providing comprehensive services to youth living in poverty areas in the cities and rural areas of the Nation.

"(b) GRANTS.—

"(1) GRANT RECEIPTS.—The Secretary shall award grants under this part—

"(A) to the service delivery area (on behalf of the participating community) in which a target area is located; or

"(B) in the case of a grant and involving the target area located on a Native American Indian reservation or Alaska Native village, to the grantee designated under subsection (c) or (d) of section 401.

"(2) NUMBER.—

"(A) IN GENERAL.—The Secretary may award not more than 25 grants in the first fiscal year that the program assisted under this part is authorized, and may award not more than a total of 40 grants over the first 5 fiscal years that the program assisted under this part is authorized.

"(B) INDIAN RESERVATIONS AND ALASKA NATIVE VILLAGES.—In awarding grants under this part the Secretary shall award at least 1 grant, but not more than 3 grants, during the first 5 fiscal years that the program is assisted under this part to grantees designated under section 401 representing Native American Indian reservations and Alaska Native villages.

"(c) GRANT TERM.—

"(1) IN GENERAL.—Grants awarded under this part shall be for a 1-year period. Such a grant shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(2) EXTENSION.—The Secretary may extend the renewal period set forth in paragraph (1) for an additional 2 fiscal years on reapplication.

"(d) AWARD CRITERIA.—

"(1) CONSIDERATION.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved by the project, the likelihood of the successful implementation of the project, and the extent of community support for the project.

"(2) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to participating communities with the highest rates of poverty.

"SEC. 494. APPLICATION.

"(a) ELIGIBILITY.—Participating communities that have the highest concentrations of poverty, as determined by the Secretary based on the latest census estimates, shall be eligible to apply for Fair Chance Youth Opportunities Unlimited grants.

"(b) APPLICATION.—

"(1) IN GENERAL.—Each participating community desiring a grant under this part shall, through the individuals described in subsection (c), submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—The application described in paragraph (1) shall—

"(A) include a comprehensive plan for a Fair Chance Youth Opportunities Unlimited Program designed to achieve identifiable goals for youth in the target area;

"(B) set forth measurable program goals, which may include increasing—

"(i) the proportion of youths completing high school;

"(ii) the proportion of youths entering into community colleges or other advanced training programs; or

"(iii) the proportion of youths placed in jobs;

"(C) include information on supporting goals for the target area, such as increasing security and safety, or reducing the number of drug-related arrests;

"(D) provide assurances that the applicant will comply with the terms of the agreement described in section 495;

"(E) provide an assurance that all youth in the target areas have access to a coordinated and comprehensive range of education and training opportunities that serve the broadest range of youth interests and needs and simultaneously mobilize the diverse range of education and training providers in the participating community;

"(F) include information demonstrating the manner in which the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(G) demonstrate how the participating community will make use of the resources, expertise, and commitment of such programs and service providers as—

"(i) community-based organizations providing vocational skills, literacy skills, remedial education, and general equivalency preparation, including community-based organizations serving youth with limited-English proficiency;

"(ii) youth conservation and human service corps;

"(iii) Job Corps centers;

"(iv) apprenticeship programs; and

"(v) other projects and programs funded under this Act;

"(H) include an estimate of the expected number of youth in the target area to be served;

"(I) include a description of the resources available in the participating community from private, local government, State, and Federal sources that will be used to achieve the goals of the program;

"(J) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth in the target area who seek such opportunities; and

"(K) provide evidence of support for accomplishing the stated goals of the participating community from—

"(i) local elected officials;

"(ii) the local school board;

"(iii) applicable private industry councils;

"(iv) local community leaders;

"(v) businesses;

"(vi) labor organizations; and

"(vii) other appropriate organizations.

"(c) APPLICATION LIMITATION.—The application described in subsection (b) may only be submitted to the Secretary on behalf of a participating community by—

"(1) in the case of a community comprised of a city in a metropolitan statistical area, the mayor, after the Governor of the State in which such city is located has had an opportunity to comment on the application;

"(2) in the case of a community comprised of contiguous nonmetropolitan counties in a

rural area, the Governor of the State in which the counties are located; or

"(3) in the case of a community comprised of an Indian reservation or Alaska Native village, the grantee designated under section 401.

"SEC. 495. GRANT AGREEMENT.

"(a) IN GENERAL.—Each service delivery area receiving a grant under this part on behalf of a participating community shall enter into an agreement with the Secretary.

"(b) CONTENTS.—Each such agreement shall—

"(1) designate a target area that will be the focus of the program assisted under this part and shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined activities including—

"(i) summer remediation;

"(ii) work experience and work readiness training; and

"(iii) school-to-work, apprenticeship, or postsecondary education programs;

"(D) teen parent programs;

"(E) special programs run by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increasing rural student enrollment in postsecondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) provide that only youth who are age 14 through 21 and reside in the target area shall be eligible to participate in the program;

"(4) contain assurances that the local educational agency and any other educational agency that operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the costs of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area.

"SEC. 496. PAYMENTS; FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each service delivery area having an application approved under section 494 the Federal share of the costs of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share of the costs shall be 50 percent for each fiscal year a service delivery area receives assistance under this part.

"(c) LIMITATION.—Each service delivery area may provide not more than 25 percent of the non-Federal share of the costs from Federal sources other than funds received pursuant to this part.

"SEC. 497. REPORTING.

"The Secretary is authorized to establish such reporting procedures as are necessary to carry out the purposes of this part.

"SEC. 498. FEDERAL RESPONSIBILITIES.

"(a) IN GENERAL.—The Secretary shall provide assistance to participating communities in implementing the projects assisted under this part. The Secretary may reserve not more than 5 percent of the amounts appropriated for this part to carry out this subsection.

"(b) INDEPENDENT EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for a thorough, independent evaluation of the Fair Chance Youth Opportunities Unlimited Program to assess the outcomes of youth participating in programs assisted under this part.

"(2) EVALUATION MEASURES.—In conducting the evaluation described in paragraph (1) the Secretary may use measures including—

"(A) enrollment, retention, and completion rates;

"(B) high school graduation rates;

"(C) measures of avoidance of antisocial behavior and self-destructive behavior;

"(D) measures of subsequent employment;

"(E) measures of continued pursuit of advanced education and training;

"(F) measures of admission into four-year colleges and universities; or

"(G) measures of admission into the Armed Forces, and similar measures.

"(c) REPORT.—

"(1) IN GENERAL.—The Secretary shall develop a report detailing the results of the independent evaluation described in subsection (b) and shall submit such report to the President and appropriate committees of Congress not later than December 31, 1994, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs assisted under this part.

"(2) FINDINGS.—Such report shall summarize findings concerning—

"(A) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(B) the feasibility of extending access to comprehensive education, training, and support services and programs assisted under this part to all areas of the Nation, including possible approaches to the incremental extension of such access over time.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title IV is amended by adding after the item relating to section 485 the following:

"PART I—FAIR CHANCE YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Definitions.
"Sec. 493. Program authorized.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; Federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

Subtitle F—General Provisions

SEC. 161. JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Title V (29 U.S.C. 1791 et seq.) is amended to read as follows:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings of individuals by providing to each participating State a bonus for providing job training to—

"(1) absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), who subsequent to such training pay child support for their children; and

"(2) blind or disabled individuals receiving supplemental security income under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), who subsequent to such training are successfully placed in and retain employment.

"SEC. 502. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this title.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this title for any program year after the application of subsection (b), such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount that exceeds the amount that the State is eligible to receive under this title.

"SEC. 503. AMOUNT OF INCENTIVE BONUS.

"The amount of the incentive bonus paid to each State shall be the sum of—

"(1) an amount equal to the total of the amounts of child support paid by each individual eligible pursuant to section 506(1), for up to 2 years after the termination of the individual from activities provided under this Act; and

"(2) an amount equal to the total reduction in the Federal contribution to the amounts received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) by each individual eligible pursuant to section 506(2), for up to 2 years after the termination of the individual from activities provided under this Act.

"SEC. 504. USE OF INCENTIVE BONUS FUNDS.

"(a) IN GENERAL.—

"(1) ALLOCATION.—

"(A) ADMINISTRATIVE COSTS.—During any program year, the Governor may use an amount not to exceed 15 percent of the total bonus payments of a State for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) DISTRIBUTION OF PAYMENTS.—The amount of incentive bonus payments that remain after the deduction of administrative costs under subparagraph (A) shall be distributed to service delivery areas and Job Corps centers within the State in accordance with an agreement between the Governor and representatives of such areas and centers. Such agreement shall reflect an equitable method of distribution that is based on the degree to which the efforts of such area or center contributed to the qualification of the State for an incentive bonus payment under this title.

"(2) SPECIAL RULE.—Not more than 10 percent of the amounts received under this title in any program year by each service delivery area and Job Corps center may be used for

the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including the costs of providing incentive payments described in subsection (b), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used by each service delivery area for activities described in sections 204 and 264, and by each Job Corps center for activities authorized under part B of title IV.

"(b) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area or Job Corps center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 506.

"(c) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166 (relating to administrative adjudication) shall apply to the distribution of incentive bonus payments under this section.

"SEC. 505. NOTICE AND APPLICATION.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of the intent of the State to participate not later than 30 days before the beginning of the first program year of participation.

"(b) APPLICATION.—

"(1) IN GENERAL.—Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in order to ensure compliance with this title.

"(2) CONTENTS.—Each application shall contain, at a minimum—

"(A) a list of the eligible individuals in the State who satisfied the requirements of section 506 during the program year;

"(B) the amount of the incentive bonus attributable to each eligible individual and due the State pursuant to section 503; and

"(C) certification that documentation is available to verify the eligibility of participants and the amount of the incentive bonus claimed by the State.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall promptly inform a State after receipt of the application as to whether or not the application of the State has been approved.

"SEC. 506. ELIGIBILITY FOR INCENTIVE BONUSES.

"An individual shall be eligible to participate in a program established under this title if—

"(1) the individual—

"(A) is an absent parent of any child receiving aid to families with dependent children under part A of title IV of the Social Security Act at the time such individual was determined to be eligible to participate in activities provided under this Act;

"(B) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(C) pays child support for a child specified in subparagraph (A) following termination from activities provided under this Act; or

"(2) the individual—

"(A) is blind or disabled;

"(B) was receiving benefits pursuant to title XVI of the Social Security Act (relating to supplemental security income) at the time such individual was determined to be eligible to participate in activities under this Act;

"(C) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(D) earns from employment a wage or income.

"SEC. 507. INFORMATION AND DATA COLLECTION.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection exchange, and compilation of data and information required by this title, the Secretary is authorized to provide technical assistance to the States. Such assistance may include cost-effective methods for using State and Federal records to which the Secretary has lawful access.

"(b) JOINT REGULATIONS.—

"(1) IN GENERAL.—The Secretary and the Secretary of Health and Human Services, shall jointly issue regulations regarding the sharing among public agencies participating in the programs assisted under this title of the data and information necessary to fulfill the requirements of this title.

"(2) SUBJECTS.—Such regulations shall ensure—

"(A) the availability of information necessary to verify the eligibility of participants and the amount of the incentive bonus payable; and

"(B) the maintenance of confidentiality of the information so shared in accordance with Federal and State privacy laws.

"SEC. 508. EVALUATION AND REPORT.

"(a) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program assisted under this title.

"(2) CONSIDERATIONS.—The Secretary shall consider—

"(A) whether the program results in increased service under this Act to absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

"(B) whether the program results in increased child support payments;

"(C) whether the program is administratively feasible and cost effective;

"(D) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(E) such other factors as the Secretary determines to be appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1997, the Secretary shall submit a report to the appropriate committees of the Congress on the effectiveness of the incentive bonus program assisted pursuant to this title. Such report shall include an analysis of the costs of such program and the results of program activities.

"SEC. 509. IMPLEMENTING REGULATIONS.

"The Secretary shall promulgate regulations implementing this title not later than June 1, 1993.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to title V is amended to read as follows:

"Sec. 501. Statement of purpose.
"Sec. 502. Payments.
"Sec. 503. Amount of incentive bonus.
"Sec. 504. Use of incentive bonus funds.
"Sec. 505. Notice and application.
"Sec. 506. Eligibility for incentive bonuses.
"Sec. 507. Information and data collection.
"Sec. 508. Evaluation and report.
"Sec. 509. Implementing regulations.".

SEC. 162. EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on December 1, 1992.

(b) PERFORMANCE STANDARDS.—The Secretary of Labor shall issue revised performance standards pursuant to the amendments made by section 161 as soon as the Secretary determines sufficient data are available, but not later than July 1, 1994.

(c) GUIDANCE.—

(1) IN GENERAL.—The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

(2) SPECIAL RULE.—The guidance provided pursuant to paragraph (1), while maintaining program integrity, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility; and

(B) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

(3) DATE.—The Secretary shall provide the guidance described in paragraph (1) not later than July 1, 1992.

(d) RULES AND PROCEDURES.—The Secretary of Labor may establish such rules and procedures as may be necessary to provide for an orderly transition to programs established by, and implementation of, the amendments made by this title.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCILS

SEC. 201. DEFINITION.

For purposes of this title:

(1) APPLICABLE PROGRAM.—The term "applicable program" means any program under any of the following provisions of law:

(A) The Adult Education Act (20 U.S.C. 1201 et seq.).

(B) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(D) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(E) Subtitle F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.), to the extent provided under section 483 of such Act.

(2) APPLICABLE PROGRAM COUNCIL.—The term "applicable program council" means—

(A) with respect to the Adult Education Act, the State advisory council on adult education established under section 332 of such Act (20 U.S.C. 1205a);

(B) with respect to the Carl D. Perkins Vocational and Applied Technology Education Act, the State council established under section 112 of such Act (20 U.S.C. 2322); and

(C) with respect to the Job Training Partnership Act, the State job training coordinating council established under section 122 of such Act (29 U.S.C. 1532).

SEC. 202. ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCILS.

(a) COUNCIL ESTABLISHED.—Each State receiving assistance under an applicable program shall establish a State human resource investment council (referred to in this title as the "State council") to—

(1) review the provision of services and the use of funds and resources under applicable programs and advise the Governor of the State on methods of coordinating such provision of services and use of funds and re-

sources consistent with the applicable programs;

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures; and

(3) work cooperatively with the directors of the designated State units administering the State vocational rehabilitation programs and the directors of the special education units of the State educational agencies to enhance employment and vocational education and training opportunities under applicable programs for individuals with disabilities.

(b) COMPOSITION.—Each State council established pursuant to subsection (a) shall be appointed by the Governor as follows:

(1) BUSINESS AND INDUSTRY.—Not less than 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils established under section 102 of the Job Training Partnership Act within the State.

(2) LABOR AND REPRESENTATIVES OF COMMUNITY-BASED ORGANIZATIONS.—Not less than 30 percent shall be appointed from representatives of organized labor and representatives of community-based organizations in the State.

(3) STATE ENTITIES.—Not less than 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program;

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veterans' affairs agency (or an equivalent agency), State career guidance and counseling organizations, and any other agency the Governor determines to have a direct interest in the utilization of human resources within the State; and

(C) the chief administrative officer of the designated State unit that administers the State vocational rehabilitation program as authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) LOCAL ENTITIES.—Not more than 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units appointed from nominations made by the chief elected officials of such units or consortia;

(B) representatives of local educational agencies and postsecondary institutions, equitably distributed between such agencies and such institutions, from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) BUDGET.—Each State council shall prepare a budget for the operation of the council and shall submit such budget to the Governor for approval.

(d) SERVICES.—Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out the functions of the State council under this title and under any applicable program.

(e) CERTIFICATION.—Each State receiving financial assistance under an applicable program shall certify to the Secretary of Labor the establishment and membership of a State council not later than 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

(f) CONSOLIDATED COUNCIL.—A State that receives financial assistance under an applicable program with an applicable program council may establish a consolidated council, which shall have the authority, and perform the duties, of a State council and the applicable program council.

SEC. 203. CONFORMING AND TECHNICAL AMENDMENTS.

(a) ADULT EDUCATION ACT.—Section 342(a)(3)(A) of the Adult Education Act (20 U.S.C. 1206a(a)(3)(A)) is amended by striking clause (ii) and inserting "(ii) the State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991, and".

(b) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 626(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1425(a)) is amended by striking "(including" and all that follows through "to—" and inserting "(including State job training coordinating councils established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated councils established under section 202(e) of the Job Training and Basic Skills Act of 1991, and including service delivery area administrative entities established under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to—".

(c) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—

(1) DEFINITION.—Section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471) is amended by adding at the end the following new paragraph:

"(43) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENT.—Section 112(a)(1)(A)(ii) (20 U.S.C. 2322(a)(1)(A)(ii)) is amended by striking "(established pursuant to section 122 of the Job Training Partnership Act)".

(d) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—Section 6107(11) of the Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5097(11)) is amended by inserting before the period the following: "or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991".

(e) WAGNER-PEYSER ACT.—

(1) DEFINITION.—Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(6) the term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENT.—Section 8(b)(3) of the Wagner-Peyser Act (29 U.S.C. 49g(b)(3)) is amended by striking "(established under such Act)".

(f) JOB TRAINING PARTNERSHIP ACT.—

(1) CONFORMING AMENDMENT.—Section 4 (29 U.S.C. 1503) (as amended by section 103(a) of this Act) is amended by adding at the end the following new paragraph:

"(30) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) REPEALERS.—

(A) IN GENERAL.—Subsection (c) of section 161 and section 181 (29 U.S.C. 1571(c) and 1591) are repealed.

(B) TECHNICAL AMENDMENT.—The table of contents relating to part E of title I is amended by striking the item relating to section 181.

(g) DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT.—

(1) DEFINITION.—Section 3 of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2302)) is amended by adding at the end the following new paragraph:

"(9) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(2) CONFORMING AMENDMENTS.—Sections 5(a) and 8(b)(6) of the Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2304(a) and 2307(b)(6)) are amended by striking "State Job Training Coordinating Council" and inserting "State job training coordinating council".

(h) SOCIAL SECURITY ACT.—Section 481(b) of the Social Security Act (42 U.S.C. 681(b)) is amended—

(1) by inserting "(1)" before "Except to"; and

(2) by adding at the end the following new paragraph:

"(2) The term 'State job training coordinating council' means a State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532) or any consolidated council established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

(i) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 123(d)(5) of the National and Community Service Act of 1990 (42 U.S.C. 12543(d)(5)) is amended by striking "among programs" and all that follows and inserting the following: "among—

"(A) programs that receive assistance under this subtitle; and

"(B)(i) the appropriate State job training coordinating council established under section 122 of the Job Training Partnership Act (29 U.S.C. 1532); or

"(ii) consolidated councils established under section 202(e) of the Job Training and Basic Skills Act of 1991.".

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on December 1, 1992.

TITLE III—NONTRADITIONAL EMPLOYMENT FOR WOMEN

SEC. 301. SHORT TITLE.

This title may be cited as the "Nontraditional Employment for Women Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of the families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the work force may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this title are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

SEC. 303. DEFINITION.

Section 4 of the Job Training Partnership Act (29 U.S.C. 1503) (as amended by sections 103(a) and 204(e)(1) of this Act) is further amended by adding at the end the following new paragraph:

"(41) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

SEC. 304. SERVICE DELIVERY AREA JOB TRAINING PLAN.

Section 104(b) (as amended by section 112(b) of this Act) (29 U.S.C. 1514(b)) is further amended—

(1) by striking "and" at the end of paragraph (11);

(2) in paragraph (12), by—

(A) striking "and" at the end of subparagraph (D);

(B) striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) adding at the end the following new subparagraphs:

"(F) a description of the extent to which the service delivery area has met the goals of the area for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(G) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the age of the participant;

"(iv) the race of the participant; and

"(v) information on retention of the participant in nontraditional employment; and"; and

(3) by adding at the end the following new paragraph:

"(13)(A) goals for—

"(i) the training of women in nontraditional employment; and

"(ii) the training-related placement of women in nontraditional employment and apprenticeships; and

"(B) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities.".

SEC. 305. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) IN GENERAL.—Section 121(b)(2) (as amended by section 118(a)(2) of this Act) (29 U.S.C. 1531(b)) is further amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B) The plan shall include goals for—

"(i) the training of women in nontraditional employment through funds available under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and other sources of Federal and State support;

"(ii) the training-related placement of women in nontraditional employment and apprenticeships;

"(iii) a description of efforts to be undertaken to accomplish such training and placement, including efforts to increase awareness of such training and placement opportunities; and

"(iv) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act to train and place women in nontraditional employment.".

(b) SPECIAL PROGRAMS.—Section 121(c) (as amended by section 118(b) of this Act) (29 U.S.C. 1532(b)) is further amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment.".

SEC. 306. STATE JOB TRAINING COORDINATING COUNCIL.

Section 122(b) (29 U.S.C. 1532(b)) is amended by—

(1) striking "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting "; and"; and

(3) inserting after paragraph (8) the following new paragraphs:

"(9) review the information reported pursuant to subparagraphs (D) and (E) of section 104(b)(13) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(10) prepare a summary of the information reported pursuant to subparagraphs (D) and (E) of section 104(b)(13) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and annually disseminate such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(11) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary; and

"(12) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)), obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational and Applied Technology Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary.".

SEC. 307. STATE EDUCATION COORDINATION AND GRANTS.

Section 123(a)(2) (as amended by section 119 of this Act) is amended by—

(1) striking "and" at the end of subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting a semicolon and "and"; and

(3) inserting the following new subparagraph at the end:

"(D) provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

SEC. 308. USE OF FUNDS.

Section 204(b) (as amended by section 131(a) of this Act) (29 U.S.C. 1604(b)) is further amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(30) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.".

SEC. 309. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part D of title IV (as amended by section 154(a) of this Act) (29 U.S.C. 1731 et seq.) is further amended by adding at the end the following new section:

"SEC. 452. DEMONSTRATION PROGRAMS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From funds available under this part for each of the fiscal years 1992, 1993, 1994, and 1995, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) NUMBER OF GRANTS.—The Secretary may award not more than six grants pursuant to paragraph (1) in each fiscal year.

"(b) CONSIDERATIONS.—In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between programs under this Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under this Act;

"(3) the extent to which the initiatives proposed by a State supplement or build on existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of the demonstration training programs of such State.

"(c) USE OF GRANTS.—

"(1) IN GENERAL.—Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) ELIGIBLE RECIPIENTS.—Each State receiving financial assistance for the purposes described in paragraph (1)(A) may only award grants to—

"(A) community-based organizations;

"(B) educational institutions; or

"(C) other service providers;

that have demonstrated success in occupational skills training.

"(3) SPECIAL RULE.—Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) DEMONSTRATED ABILITY OR EXCEPTIONAL PERFORMANCE.—Each State receiving financial assistance for the purposes described in subparagraph (B) or (C) of paragraph (1) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds for the purposes described in paragraph (1)(A).

"(d) ADMINISTRATIVE EXPENSES.—In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs;

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment; or

"(3) provide technical assistance to service providers.

"(e) EVALUATION.—The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the effectiveness of the demonstration programs in—

"(1) preparing women for nontraditional employment; and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

(b) TABLE OF CONTENTS.—The table of contents relating to part D of title IV is amended by adding after the item relating to section 451 the following:

"Sec. 452. Demonstration programs.".

SEC. 310. REPORT AND RECOMMENDATIONS.

(a) REPORT.—The Secretary of Labor shall submit a report to the appropriate committees of the Congress not later than 5 years after the date of the enactment of this Act, containing information on—

(1) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(2) the effectiveness of the demonstration programs established by section 452 of the Job Training Partnership Act (as added by section 309 of this Act) in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration programs authorized by section 452 of the Job Training Partnership Act.

(b) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 452 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

SEC. 311. DISCRIMINATION.

(a) COMPARABLE WORTH.—For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(b) CIVIL RIGHTS.—

(1) CONSTRUCTION.—Nothing in this Act shall be construed to require, sanction, or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

(2) PARTICIPATION AND BENEFITS.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, handicap, age, political affiliation, or belief.

(3) FAILURE TO MEET GOALS.—Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

SEC. 312. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this title, except that the requirements imposed by sections 304, 305, and 306 shall apply to the plan or report filed or reviewed for program years beginning on or after December 1, 1992.●

Mr. THURMOND. Mr. President, as the ranking member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to rise today as an original cosponsor of legislation which strengthens the program of employment and training assistance provided under the Job Training Partnership Act [JTPA].

Since the enactment of the JTPA in 1982, the core program of job training services for the economically disadvantaged has remained basically unchanged. In its 9 years of existence, this law has helped many Americans develop needed skills for entering the work force as productive citizens. The bill introduced today builds upon that established foundation.

Mr. President, a brief discussion of the recent legislative history on this matter is instructive. In 1989, the administration submitted a JTPA proposal to the Congress. Many of the proposals set forth in that legislation were later incorporated into S. 543, a bipartisan bill reported from the Labor and Human Resources Committee in September 1989 by a vote of 15–1.

In October 1990, a variation of S. 543 passed the Senate as an amendment to the Department of Labor, Health and Human Services, and Education and Related Agencies appropriations bill. However, the JTPA measure was dropped during conference.

In June of this year, I was pleased to introduce on behalf of the administration, S. 1404, the Job Training Partnership Act Amendments of 1991. That bill is designed to improve the targeting of JTPA funds to those facing serious barriers to employment. It would also strengthen program accountability, enhance existing job training services, and promote the coordination of a broad range of programs and resources.

The measure introduced today incorporates several provisions or modifications of provisions contained in S. 1404. It is a result of bipartisan negotiations. We have had the benefit of the views of the Department of Labor, the National Governors Association, the National Association of Counties, private industry council members, members of State job training councils, and many others. It does not contain everything I would prefer to see in a bill, but I do believe it represents a consensus, and important step forward.

Some of the things this legislation would do include:

Target services to persons facing serious and multiple barriers to employment;

Enhance program quality through individual assessments and service strategies;

Increase program accountability by enhancing performance standards;

Develop a more comprehensive, and well-coordinated human resource system; and

Continue the public-private partnership and local flexibility that make up the foundation of the current JTPA program.

The House of Representatives passed their version of the JTPA amendments

on October 9, 1991, by the overwhelming margin of 420–6. Now is the time to move in the Senate.

Mr. President, I urge my colleagues to consider this important legislation.

By Mr. BINGAMAN (for himself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER):

S. 2056. A bill to assist States in developing export programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATE EXPORT ASSISTANCE AND DEVELOPMENT

Mr. BINGAMAN. Mr. President, on a different issue for just a moment let me call to my colleagues' attention a bill that I am introducing today on behalf of myself, Mr. BRYAN, Mr. DASCHLE, and Mr. ROCKEFELLER, to assist States in developing export programs.

Very briefly, Mr. President, my impetus for doing this came from a trip that I had occasion to take to Japan over a year ago. During that trip I had the good fortune to visit with the head of the Japanese External Trade Organization [JETRO], which has a major responsibility at this stage. It was founded to promote exports from Japan. Today the major emphasis of its work is promoting exports to Japan to try to deal with the very large and chronic trade surplus that Japan has developed with this country in particular but with many countries in the world.

I became aware of a program that JETRO has to assist States and State economic development agencies in working with their local businesses to export products to Japan.

The head of JETRO, the director, informed me that they had put in place 15 JETRO employees working in the State office, economic development offices, to assist those States in promoting those exports to Japan.

My reaction at the time was that this was a commendable effort by JETRO, but unfortunately it is the kind of effort that our own Department of Commerce should be pursuing in a very vigorous fashion as well.

I think in some ways it is ironic to find a foreign government supporting individuals, working in State governments around this country, and trying to deal with a very major trade problem which we have.

Mr. President, I rise today to introduce legislation directing the Department of Commerce to assist States in their efforts to promote exports. Last week I spoke about this Nation's lack of commitment to strategic industries. As I stated at that time, our trade imbalances are partially due to the fact that we have no technology or manufacturing policy in this country. Until we correct this lack of policy and take an active role in rebuilding our industrial base, our educational system, and our Nation's infrastructure, we will not have an adequate supply of quality goods to export.

Unfortunately, however, our trade difficulties are not limited to a shortage of competitive goods to export. I believe that we can do a considerably better job of developing a trade policy to promote our exports abroad.

Although the Small Business Administration, the Department of Agriculture, an interagency Trade Promotion Coordinating Committee, and other agencies have a role, the Department of Commerce's International Trade Administration [ITA] has primary responsibility for our export efforts.

The ITA's efforts are focused on assisting individual businesses interested in exporting. In addition to country desks located in Washington, the ITA, through the U.S. and Foreign Commercial Service, has a small network of trade specialists in 68 U.S. cities and over 65 countries abroad.

It is my understanding that the U.S. and Foreign Commercial Service, where available, does a good job of helping businesses in their export efforts. Unfortunately, however, there is no formalized outreach in the Department of Commerce to other levels of government that are interested in promoting trade.

Many States, for example, have expressed a strong interest in developing export policies. Most States, Mr. President, have offices for this purpose located in various countries. About 40 States have offices located in Tokyo alone. Clearly, the States have expressed a strong interest in export policy. Yet the Department of Commerce seems to be doing little to support the States in their efforts to develop export policies.

To be fair, Mr. President, the U.S. and Foreign Commercial Foreign Service has in the past detailed a few specialists to States, including New Mexico, to work on trade issues. I am told by International Trade Administration officials, however, that these assignments were not part of a formal program, and that there are no plans to implement such a program.

What is truly ironic, Mr. President, is that, while our Department of Commerce is not helping our States engage in trade, the Japan External Trade Organization [JETRO] is. As you may know, JETRO was founded in 1958 by the Japanese Government to promote Japanese exports abroad. Japan's trade, manufacturing, and technology efforts have been so successful that JETRO's original mission is somewhat obsolete. JETRO now finds itself in the position of having to promote imports from nations like the United States to increase Japanese trade.

JETRO has recently begun an ambitious program to help States develop export policies. Currently, JETRO has about 15 specialists in various States, and plans to expand this program in the future. My State of New Mexico is one of the beneficiaries of this program. Earlier this year, Governor King and JETRO signed an agreement allowing JETRO to station a full-time specialist in New Mexico who will work closely with State officials in developing export strategies.

Mr. President, it is ironic that New Mexico cannot turn to its own Federal Government for this sort of assistance. I believe that the Department of Commerce should be prepared to make a commitment similar to JETRO's. The legislation I am introducing today will mandate the Department of Commerce to make such a commitment. Briefly, the legislation provides that States can apply to the Department of Commerce for assistance in developing export policy. The Department of Commerce can detail trade specialists to work with appropriate State agencies and provide written trade materials to the States. The Department of Commerce is also authorized to provide States assistance in developing their own export materials, trade missions, conferences, and other components of a successful export policy.

This is exactly the sort of assistance that JETRO is providing to New Mexico and other States. I think it is high time that our government begin to do the same.

By Mr. ROTH:

S. 2057. A bill to amend title 10, United States Code, to provide for centralized acquisition of property and services for the Department of Defense, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE ACQUISITION REORGANIZATION ACT OF 1991

Mr. ROTH. Mr. President, the Defense acquisition system is responsible for turning technology into the weapons used to defend America by our men and women in uniform. Developing and buying today's weaponry is important work. It is also expensive. Last week, Congress gave the Department of Defense $104 billion for researching, developing, and buying new weapons in fiscal year 1992. Several billion dollars more will be spent to pay hundreds of thousands of DOD employees who develop, buy, maintain, and upgrade weapon systems.

With the impressive display of U.S. weaponry in the Persian Gulf, it might be easy to accept the current defense acquisition system. However, a confluence of world events has caused Secretary Cheney to undertake a major—and I believe innovative—restructuring of the Department of Defense that will affect the Defense acquisition system.

In addition, defense procurement problems continue to haunt DOD acquisition programs. Taking these two conditions into account, I believe that there is both an opportunity and a need

for reforming the Defense acquisition system.

Mr. President, while the system is able to produce good weapons, it is wasteful, inefficient, and takes too long to field needed technologies. The vast majority of weapon acquisition programs are experiencing serious cost and schedule problems. For example, the cost and schedule overruns on the A-12 Navy attack aircraft led Secretary Cheney to kill the program. The C-17 transport's cost and schedule overruns have seriously delayed its availability, while it now costs several times more than the C-5 transport.

After costing nearly $30 billion, the B-1 bomber's problems still kept it from being used in the Persian Gulf. According to cost data that DOD submitted to Congress in August, Army major weapon system program costs increased 23.8 percent over the last year, even after accounting for the effects of inflation and quantity.

Mr. President, I have given careful thought to this issue for many years. My colleagues may remember that I authored the legislation that created the Packard Commission and the bill that established the Under Secretary of Defense for Acquisition and implemented other Packard Commission recommendations. Over the years, my conclusion has not changed: There are many opportunities for improving defense acquisition. While many speak of down-sizing the DOD, I believe that we ought to focus on right-sizing the defense acquisition system. The organization needs right-sizing, the personnel system needs right-sizing, and the process needs right-sizing.

First, the defense acquisition system is too large. It is a large bureaucracy, with layer upon layer of management and dozens of buying commands and subcommands spread across the four military services. When the Packard Commission recommended streamlining this bureaucracy to three layers and a handful of commands, the military departments added the three-tier structure to their old organization structures. As a result, the American taxpayer is now paying for two bureaucracies in each of the three military departments. The Congressional Research Service reported that this system is clearly at odds with the principle of unity of command that was applied so successfully in Operation Desert Storm.

Second, Mr. President, the acquisition personnel system needs reform. The incentives are wrong. They reward program managers for increasing the size of their program and their budget. At a time when we are trying to reduce the number of people in DOD, the personnel system, with its perverse incentives, is telling defense acquisition managers: "Increase the number of people working for you and you'll get promoted." In addition, program management staff, with little or no acquisition training, are still being placed into positions that they are ill-equipped to handle.

Given the perverse incentive structure and the problems of high technology systems, it should be no surprise that costs and schedules grow.

Third, the defense acquisition process is too unwieldy and needs streamlining. To give you an idea of how inefficient the management practices are, a DOD program manager now has to follow 840 steps in order to get a weapon system concept into production.

This maze of standard operating procedures is clearly at odds with the modern management practices of internationally competitive high technology companies. Several recent defense acquisition studies have found that DOD has been increasing its timeline and spending ever larger amounts of money to field next generation systems, while the private sector has shrunk the time and money needed to develop comparable high technology products.

According to a Defense Sciences Board Task Force study, the time it takes to field a new weapon technology has increased 60 percent over the last four decades, and in defense acquisition, time is money. The study found that it now takes 16 years to field a new weapon, while high-technology commercial products take only 9 years.

Other elements of the acquisition process also need reform. For much of the last 15 years, studies have identified the problem of instability in the defense acquisition process.

Many blamed the instability on the Congress and I support multiyear budgeting to address this issue. But recent DOD studies have found that the majority of the problems come from within the Defense Department and from the instability of the global political situation. The studies highlight the disconnection between the annual budgeting systems of DOD and the five-milestone acquisition-decision process.

Without integration between the budgeting system and the acquisition system, a program manager must adjust his program at least twice each year—once for the budgeteers and once for the acquisition management chain. The instability is amplified by the multiple layers of the planning, programming, and budgeting system, referred to as the PPBS, and the layer-upon-layer of acquisition decision-makers in each military department. When problems arise, as is inevitable in high-technology endeavors, each layer tries to offer its correction, and, of course, this results in cost and schedule growth.

The large bureaucracy, the personnel system, and the overwhelming set of procedures have had a bad effect. The recent Defense Sciences Board Acquisition Task Force study noted that, "Many systems take an extended time to field, [and] contain outdated technology when fielded * * *." The Defense Department's Institute for Defense Analysis also found that the technology is not available when needed.

In the post-cold war environment, the Institute stated: "Fundamental changes must be made in the weapons acquisition process. This process must move in the direction of what we and others are calling a fast acquisition process."

A recent Defense Department advisory group study revealed that DOD's acquisition system continues to experience cost and schedule problems despite the myriad reforms enacted over the last 10 years.

The DOD study found that reforms, such as the Carlucci initiatives and total quality management, have only a marginal impact. While the 1980's acquisition reforms had minimal success, the Goldwater-Nichols operational command reforms were tremendously important and led to successes in Panama and the Persian Gulf.

Mr. President, we need to fix the acquisition organization, as well as the procedural and personnel system. I have spent 7 months developing legislation to this end.

To fix the organizational problems, I propose that a single DOD-wide agency, the Defense Research, Development, and Acquisition Agency replace the dozens of acquisition headquarters organizations that exist today. To fix the personnel system problems, my legislation will remove the perverse bureaucratic incentives that plague our acquisition system by implementing a form of pay for performance incentives. To fix the acquisition process problems, my legislation streamlines procedures and reallocates responsibilities to those who can get the job done right.

In crafting this proposal I took great care to provide appropriate direction and discretion to the Secretary of Defense and the Under Secretary of Defense for Acquisition.

I want to take a moment to discuss the basis of my proposal. I have applied lessons learned from Operation Desert Storm and the product development innovations of globally competitive American companies. Companies, such as Xerox, have cut their product development cycle while reducing development costs and increasing customer satisfaction.

They have done this by reorganizing their product development bureaucracy into a single entity that researches and develops products. The streamlined organization is given clear goals to accomplish. They give their people performance-based incentives and the responsibility needed to achieve those goals. Similarly, both General Schwarzkopf and the Congressional Research Service state the principle of

unity of command was a key factor in the success of Operation Desert Storm.

First, my proposal consolidates the DOD research, development, and acquisition bureaucracies into a single DOD-wide agency, the Defense Research, Development, and Acquisition Agency. The Agency will be responsible for conducting research on the process as well as the product. The current duplicative organization structures will be replaced with only one management structure; the Packard Commission three-tier organization structure.

Program Executive Officers [PEO's] will be organized on mission areas—such as antisubmarine warfare—rather than on product areas—such as aircraft. PEO's will be responsible for programs that affect their mission area regardless of the program's stage in the acquisition process, including programs that upgrade fielded systems. This allows resources to be allocated in the most cost-effective manner for meeting mission needs.

The Chairman of the Joint Chiefs of Staff will be responsible for defining procedures, in coordination with the Director of the new Agency, whereby the joint operational commanders will interface with the PEO's. The procedures will include having the joint operational commands perform acceptance testing of weapons.

Second, my proposal reforms the personnel system. It changes the incentives by applying pay-for-performance, rather than basing a manager's pay grade on the number of people working for him or the size of his budget. For example, program managers could be promoted up to the rank of two star general, or the equivalent civilian pay grade, based on the performance of their programs. They could also be demoted for not meeting program performance goals. In addition, my legislation will improve the quality of the work force by implementing training requirements.

Third, my bill streamlines the acquisition process and reallocates responsibilities. It directs DOD to redo the acquisition process regulations so that program managers focus on achieving goals. It removes the current unwieldy process that is referred to as the five decision milestones. Instead, my proposal contains just one decision milestone, at the end of the demonstration and validation of a weapon system concept, when a system has been tested and proven feasible.

It also reduces the major source of program instability by requiring the agency to define a phased acquisition process and fully funding each phase of a program. These reforms build on the Enterprise program legislation approved by the Congress in the mid-1980's.

Mr. President, my legislation is unique in that it sets performance goals for the agency and gives it the authority to achieve the goals. By the year 2000, the agency will have to meet 90 percent of its cost and schedule goals or get rid of programs that are taking too long. The agency will also have to cut in half the average time it takes to field new weapons, from 16 to 8 years.

Mr. President, the success of the Goldwater-Nichols reforms and the changes in the international security situation highlight the need for this legislation. General Schwarzkopf pointed out that by allowing the military services to maintain control over acquisition, weapons would be developed that do not meet the needs of joint operations that will dominate military operations in the future.

For example, General Schwarzkopf said that interoperability problems will not get solved—the most deadly interoperability problem in the gulf war was the inability of Air Force pilots to identify Marine and Army ground vehicles. Accordingly, the CRS report on the gulf war lessons learned indicated that a single buying agency would be better able to interact with the Joints Chiefs of Staffs' unified command structure, resulting in more cost-effective weapons.

Both General Schwarzkopf and CRS said that a unified buying organization would be more responsive to joint military command needs.

Finally, Mr. President, my proposal is good government. While recent acquisition work force reforms have made a big step toward reforms that I had recommended in the 1980's, many gains are lost without a single buying agency to integrate work force innovations. Moreover, a single buying agency would save money just by removing the expensive duplication of acquisition staff.

I anticipate that my approach will reduce acquisition management personnel by as much as 25 to 30 percent, through reductions in duplicative headquarters staffs. Still, the largest gains would come from reducing the cost and time currently wasted in converting new technology into weapons. Perhaps the most important justification is that creating a single buying agency would be more responsive to the needs of the unified and specified commanders.

In summary, Mr. President, there is both a need and an opportunity of reforming Defense acquisition. DOD programs continue to experience cost and schedule problems. Obsolete acquisition structures and procedures are inflating the time and funding needed to field technologies. Now that the Warsaw Pack has dissolved and the cold war appears to be over, the Defense Department is reorganizing and altering operational concepts.

This creates both a need and an opportunity to replace bureaucratic DOD acquisition institutions with a framework based on lessons learned from Operation Desert Storm and industry innovations.

Mr. President, I ask unanimous consent that a synopsis of the bill and a section-by-section analysis that I have prepared be printed in the RECORD.

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

SYNOPSIS OF THE DEFENSE DEPARTMENT ACQUISITION REORGANIZATION ACT OF 1991

There is both a need and an opportunity for reforming Defense acquisition. DoD programs continue to experience cost and schedule problems. Obsolete acquisition structures and procedures are inflating the time and funding needed to field technologies. Now that the Warsaw Pact has dissolved and the Cold War appears to be over, the Defense Department is reorganizing and altering operational concepts. This creates both a need and an opportunity to replace bureaucratic DoD acquisition institutions with a framework based on lessons learned from Operation Desert Storm and industry innovations.

The new single DoD acquisition agency bill incorporates the principles of unity of command, lean organization, pay for performance, and a streamlined acquisition process. In general, the bill:

Establishes performance goals for the new agency;

Reorganizes the DoD research, development, and acquisition bureaucracies into a single DoD-wide agency organized by mission area;

Re-emphasizes the commitment of Congress to a professional acquisition workforce and reorients the incentive structure towards program performance, and away from size of a manager's budget;

Streamlines the acquisition process, by directing DoD to redo the acquisition process regulations so that program managers focus on achieving goals. It also reduces the major source of program instability by fully-funding phases of a program.

The bill is composed of three Titles. Title I deals with organization and processes. Title I creates the new Defense Research, Development, and Acquisition Agency, and transfers research, development, and acquisition authority from the Military Departments to the new agency. The new Agency will consist of three layers of management: The Under Secretary of Defense for Acquisition will be the Director, Program Executive Officers (PEOs), to be selected by the Director, will be organized by mission area or target class; Program Managers, to be selected by the Director and PEOs, will have day-to-day responsibility for program management. The Program Managers will report to the PEOs, and the PEOs will report to the Director. A Deputy Director for Concurrent Engineering, who will also report to the Director, will oversee the provision of state-of-the art functional analysts to the Agency.

Title I also directs the Secretary to revise acquisition process regulations and budgeting procedures. There will be a one milestone decision process, whereby the DoD would decide whether to commit to supporting a system through the production phase. This decision would be based on the demonstration and validation tests of the system concept. In addition, full funding would be authorized for each phase of a weapons acquisition cycle that will be defined by the Secretary, rather than continuing to allow annual funding decisions driving program instability. The

Agency will have responsibility for planning, programming, and budgeting of DoD research, development, and acquisition. Title I also directs the Chairman of the Joint Chiefs of Staff to formulate the means of interactions between operation commanders and PEOs, including a process for joint foreign product development and acquisition.

Title II states management policies, including performance goals for the Agency and a revised personnel incentive system. By January 1, 2000, DoD should achieve two specific goals:

Ninety percent (on average) of the cost and schedule goals established for research, development, and acquisition programs.

The average period necessary for DoD to convert an emerging technology into operational capability should not exceed 8 years.

DoD must report its progress in implementing policies within the Secretary's Annual Report to Congress. If the goals are not achieved, Title II directs DoD to identify and consider terminating programs that are not achieving cost and schedule goals, taking into account; the current needs of the DoD; the state of technologies relevant to the needs of DoD; the estimated costs and schedule projections for completion; and, any other pertinent information. DoD must also identify existing and potential substitute programs.

Title II also reiterates the Congresses support for DoD meeting acquisition workforce education and training standards contained in Chapter 87 of Title 10 U.S. Code. In addition, Title II directs the Secretary of Defense to review available incentives and adverse personnel actions and to establish an enhanced system for encouraging excellence in the acquisition workforce. This includes a change in the basis for determining the pay grades of the acquisition workforce. Title II enables DoD to pay PEOs up the grade of a three star flag officer, or equivalent civilian grade. It enables DoD to pay the Program Managers up to the grade of a two star flag officer, or equivalent civilian grade. The Secretary can set the position regardless of a person's grade in the military, the budget, or other current standards for setting position compensation.

Title III contains conforming amendments. These modify sections of Title 10 U.S. Code for consistency with the transfer of responsibility from the Military Departments to the Defense Research, Development, and Acquisition Agency.

SECTION-BY-SECTION ANALYSIS OF THE DEFENSE DEPARTMENT ACQUISITION REORGANIZATION ACT OF 1991

TITLE I—REORGANIZATION AND REFORM OF THE DEFENSE ACQUISITION SYSTEM

Section 101. Centralization of acquisition authority

(a) The Under Secretary of Defense for Acquisition will gain the following responsibilities: prescribing policies for Department of Defenese research, development, and acquisition activities; planning, programming, and carrying-out research, development, and acquisition activities; and, in consultation with the DoD Comptroller, preparing, integrating, and executing budgets for defense research, development, and acquisition activities, including phases of the Planning, Programming, and Budgeting System (PPBS), with respect to research, development, and acquisition activities.

(b) Adds Chapter 136, comprised of the following 6 sub-sections, to Title 10 of the U.S. Code.

Section 2281 through 2283 of Title 10 will then charter the existence of the DoD Research, Development, and Acquisition Agency and the responsibilities of the Under Secretary of Defense for Acquisition (USD(A)) to match sub-paragraph (a). The Under Secretary of Defense for Acquisition is made the Director of the Agency and will conduct defense research, development, and acquisition activities through the Agency. He will also be responsible for ensuring realistic budgeting and program management. The Agency will conduct management, as well as weapons, research. There will be a Deputy Director for Concurrent Engineering.

Section 2284. Requires the USD(A) to select and evaluate Program Executive Officers (PEOs). The PEOs will be responsible for managing assigned weapons programs and related technical support. The PEOs will be organized by mission areas or target classes, but not both, and will report to the USD(A) in his role as Director of the Agency. The PEOs will have life cycle management responsibility over weapons; i.e. all research and development, procurement, product modifications.

The Chairman of the Joint Chiefs of Staff, in consultation with the Under Secretary of Defense for Acquisition, shall prescribe policies and procedures for interaction between unified and specified commanders and PEOs, including procedures for acceptance testing by operational commands.

Section 2285. Requires the USD(A) and PEOs to select and evaluate Program Managers (PMs). The PMs will be responsible for day to day management of programs. The PMs will report to the PEO for the relevant mission area or target class.

Section 2286. Requires the Deputy Director for Concurrent Engineering to provide state-of-the-art capabilities and select and evaluate Program Managers (PMs). The PMs will report to the PEO for the relevant mission area or target class.

(c) Terminates the procurement authority of the Military Departments.

Section 102. Phase funding and review of acquisition programs

Amends Chapter 131 of Title 10 U.S. Code by adding sections 2218 and 2219.

Section 2218 enables Congress to authorize full funding of programs for each phase of the acquisition program cycle. The Secretary of Defense shall define in regulations the phases of the acquisition program cycle, which may include Concept Definition, Concept Demonstration and Validation, Engineering and Manufacturing Development, Low-Rate Initial Production, and Full-Rate Production.

Section 2219. Requires the establishment of a one Milestone acquisition decision process. The USD(A) will review all programs at the end of demonstration and validation to determine whether they should proceed beyond demonstration and validation. This would make a commitment to support a program through full-rate production.

Section 103. Joint Foreign Products Development

Amends Section 153 of Title 10 U.S. Code by adding a new section that enables Unified and Specified Commanders to make recommendations to the USD(A) regarding the desirability of becoming involved in joint efforts for systems proposed or currently under development in other countries.

Section 121. Transfers

Transfers research, development, and acquisition functions of the Military Departments and Defense Agencies to the Defense Research, Development, and Acquisition Agency. Terminates the current defense acquisition organizations.

Section 122. Savings provisions

Continues in effect all decisions, rules, regulations, rights, etc. defined by existing DoD acquisition organizations until superseded or modified. States that provisions shall not affect proceedings, but allows modification or extension of proceedings to the extent that the same extent that could occur without implementation of this act.

TITLE II—SPECIFIC PROCUREMENT MANAGEMENT POLICIES

Section 201. Acquisition performance goals

It is the policy of the Congress that by January 1, 2000, DoD should achieve two specific goals. First, on average 90% of the cost and schedule goals established for research, development, and acquisition programs. Second, the average period necessary for DoD to convert an emerging technology into operational capability should not exceed 8 years.

If necessary, DoD must identify and consider terminating programs that are not achieving cost and schedule goals, taking into account: the current needs of the DoD; the state of technologies relevant to the needs of DoD; the estimated costs and schedule projections for completion; any other pertinent information. DoD must also identify existing and potential substitute programs.

DoD must report its progress in implementing policies within the Secretary's Annual Report to Congress.

Section 202. Implementation of Defense Acquisition Workforce Amendments

Reiterates Congressional support for acquisition workforce improvements and reemphasizes the importance of ensuring that the acquisition workforce is trained in accordance with the standards set-out in the Chapter 87 of Title 10 U.S. Code.

Section 203. Enhanced encouragement of excellence in the Defense Acquisition Workforce

Directs the Secretary of Defense to review available incentives and adverse personnel actions and to establish an enhanced system for encouraging excellence in the acquisition workforce. This includes establishing a pay band for PEOs and PMs by modifying Subchapter II of chapter 87 of Title 10 of the U.S. Code to insert the following:

Section 1736. Grade of Certain Acquisition Managers. Enables the Secretary of Defense to pay PEOs up the grade of a three star flag officer, or equivalent civilian grade. It enables the Secretary to pay the Program Managers up to the grade of a two star flag officer, or equivalent civilian grade. The Secretary can set the position regardless of a person's grade in the military, the budget, or other current standards for setting position compensation.

It also includes modifying Chapter 35 of Title 10 U.S. Code for the same purpose, by inserting §604 which contains similar language and allows those in the military to be permanently promoted while holding the position of a PEO or PM.

Section 204. Program management stability

Modifies language in section 1734 of Title 10 U.S. Code by replacing "major milestone" with "a phase in the acquisition program cycle." Changes language to conform with the creation of the Defense Research, Development, and Acquisition Agency.

TITLE III—CONFORMING AMENDMENTS

Modifies other sections of Title 10 U.S. Code for consistency with transfer of responsibility from the Military Departments to the Defense Research, Development, and Acquisition Agency.

By Mr. LIEBERMAN (for himself and Mr. ROBB):

S. 2058. A bill to declare as the policy of the United States cooperation with Western Hemisphere countries on energy issues, and for other purposes; to the Committee on Foreign Relations.

WESTERN HEMISPHERE ENERGY SECURITY PROMOTION ACT

Mr. LIEBERMAN. Mr. President, I am introducing today a bill for myself and Senator ROBB that would promote cooperation among the nations of this hemisphere on energy policy. This bill would require an annual report from the President on progress he has made in promoting a policy of hemispheric cooperation on oil and energy issues.

In Venezuela and in Mexico, we have two leading producers of oil. Just as important, both nations are beginning to open up to foreign investment in their energy sectors. This, in combination with a move to open up trading relations among the nations of the hemisphere, provides the United States with a unique opportunity to take advantage of the resources available to us in our own backyard.

As part of my statement on the introduction of this bill, I am attaching a recent article from Forbes magazine. The article, "A Saudi Arabia in Our Own Backyard?" describes the dramatic changes that have been made in the Venezuelan oil industry over the past few years. These changes could enhance Venezuela's role as a United States supplier. Diversification of energy supply leaves the United States much less vulnerable to political and economic disruptions in the Middle East.

Senator GLENN and I requested that the GAO do a study on the state of the Venezuelan oil industry earlier this year. We anticipate that study coming out in December or early next year. The study can serve as a basis for developing a strategy for greater cooperation among the Nations of the Americas to work together on an energy policy.

This bill is identical to legislation introduced in the other body by Representatives WISE and SYNAR.

I ask unanimous consent that a copy of the bill and the article mentioned earlier be inserted in the RECORD.

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

S. 2058

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 "Western Hemisphere Energy Security Promotion Act".

SEC. DECLARATION OF POLICY AND REPORT.

(a) DECLARATION OF POLICY.—Recognizing that Western Hemisphere energy sources contribute to the energy security of the United States, and further recognizing the Western Hemisphere's increasing importance in energy related matters, it is declared to be the policy of the United States to work with countries of the Western Hemisphere to the maximum extent practicable in the development of their energy sources. In furtherance of this policy, consistent with sound environmental practices, due consideration shall be given to—

(1) focusing attention in trade negotiations and in bilateral and multilateral consultations relating to the Western Hemisphere on the desirability and benefits of investment policies that expand worldwide production capacity and diversity of oil suppliers;

(2) the preservation and enhancement of opportunities for other countries of the Western Hemisphere to supply petroleum to the United States;

(3) the continued development of higher petroleum production capability from other countries of the Western hemisphere, especially Mexico and Venezuela (including the Orinoco Belt); and

(4) programs pursuant to which United States technical assistance could be given to other countries of the Western Hemisphere to enhance their capability to increase production of petroleum that could be made available for sale in the United States.

(b) REPORT.—The President shall transmit to Congress by December 1, 1992, and yearly thereafter, a report on the state of the implementation of the policy declared in subsection (a). Such report shall include recommendations on ways in which this policy can be further implemented through specific programs.

[From Forbes, Oct. 28, 1991]

A SAUDI ARABIA IN OUR OWN BACKYARD?

(By James Cook)

So prevailing are the capitalist winds blowing across Latin America these days that even the Venezuelans are backing away from their longstanding hands-off-our-oil policy. In Caracas, a political consensus is growing that private capital—foreign as well as domestic—should be allowed to help develop the country's enormous energy potential. As Venezuela President Carlos Andres Perez explained it last month: "The oil industry is so capital-intensive that, regardless of our theory that it is a state industry, we thought it should be opened to the private sector."

Note the pragmatic tone in Andres Perez's remarks. Rich in hydrocarbon deposits, Venezuela is one of the half-dozen countries in the world capable of significantly expanding its oil production. But since nationalizing its oil industry in 1976, Venezuela has steadily lost market share and influence in the international oil business.

Between 1973 and 1987, for instance, its production of crude oil slid from 3.4 million to 1.6 million barrels a day. Production has since increased, to 2.1 million barrels in 1990, with 2.3 million a day so far this year. But even so, Venezuela has lost valuable share of the U.S. import market, and has watched its share of production by the Organization of Petroleum Exporting Countries drop by more than half. A founding member of OPEC, Venezuela has lately been relegated to the sidelines as decisions about oil production and quotas were set largely by the political and economic interests of the Middle East producers.

The fault does not lie with Venezuela's national oil company, Petroleos de Venezuela, S.A. In terms of management and efficiency, no nationalized oil enterprise has a better reputation than PDVSA—"Pay-duh-vay-suh," as it's known locally. Last year the company generated $23 billion in sales, paid $9.8 billion in taxes and still wound up with a $1.3 billion net profit for the year.

Unlike Mexico, say, Venezuela did not meld the 13 foreign oil companies it expropriated in 1976 into a conventional national oil company charged with providing jobs as well as producing oil. Rather, Exxon's Venezuelan operations were reconstituted as Lagoven. Shell's as Maraven, while 11 smaller companies were combined to form Corpoven. All three were rolled into PDVSA. But Venezuela's oil industry continued to be operated as a commercial and autonomous enterprise, with its three operating arms competing vigorously with one another. Interesting to note, their employees were specifically not civil servants, with the result that PDVSA generates roughly $450,000 in sales per employee. That's considerably less than Amoco's $585,000 per worker but miles ahead of Petroleos Mexicanos, which generates a mere $115,000 per worker.

Venezuela's relative decline among oil producers can be explained by two facts: (1) Much of its oil is heavy and costly to extract and refine; and (2) when prices were high, Venezuela cut back production to conserve its resources rather than maximize its revenues. But the collapse in oil prices in the early 1980s began changing that way of thinking.

Early last year the Venezuelan government approved a massive $48 billion, six-year program designed to increase production by 57%—to 3.3 million barrels a day by 1996 and between 4 million and 5 million bbl./day by 2000. Also in the plan is a fivefold increase in petrochemical refining; a $3 billion liquefied natural gas project (in partnership with Exxon, Shell and Mitsubishi); and a major push to commercialize its vast reserves of very heavy oil and bitumen in the Orinoco Basin.

Traditionally, the heavy and extraheavy crudes that are the principal source of Venezuela's expanded production have been difficult to make much money on. But PDVSA expects to demonstrate that, with new technology, Venezuela's heavy and extraheavy crudes can even be processed into light products like gasoline on an economic basis.

"These [heavy] crudes do not find markets that easily," says Andres Sosa Pietri, PDVSA's president, "so we have to refine more ourselves." But not just in Venezuela. PDVSA's foreign refineries, acquired over the last few years, now process only 64,000 barrels a day of heavy oil. By 1996, they'll be running about 350,000.

Venezuela has proven reserves of around 59 billion barrels, the sixth-largest oil reserve in the world. But the country's long-term energy future depends primarily on the commercialization of the 270 billion barrels of bitumen locked up in the north shore of the Orinoco River. One of the largest petroleum reserves in the world, on a par with Saudi Arabia's, the Orinoco Basin alone could supply the entire world with oil for ten years at current consumption rates—if PDVSA's researchers could figure out how to efficiently commercialize these tarlike bitumen reserves.

And PDVSA is finally beginning to do just that. By combining bitumen with water and a chemical, PDVSA has developed a new liquid fuel, trademarked "Orimulsion," that is designed to supplant coal in many utility markets. With markets opening up in Britain, Canada, Italy and Florida, PDVSA plans to increase production of Orimulsion from 30,000 bbl./day crude equivalent to 700,000 by 1996. It's only a first step, but one that may

one day lead PDVSA into refining bitumen into light products like gasoline.

There is a catch. All this expansion costs money, and money is not something that Venezuela, which has just emerged from the worst financial crisis in its democractic history, has a great deal of. Hence the decision of the country's politicians to open the oil industry to private capital.

In an effort to finance PDVSA's ambitions, the Venezuelan congress has already opened petrochemicals and 55 marginal oilfields to private capital (though Venezuela retains nominal control over the oilfields). This fall the congress is expected to approve the $3 billion liquefied natural gas project PDVSA hopes to develop with Shell, Exxon and Mitsubishi off the northeast shore of Venezuela. And, having watched the impact of tax cuts on the U.S. in the 1980s, the government is even attempting to encourage foreign investment by cutting income taxes on jont ventures, from 67.7% to 30%, effective this fall.

PDVSA's Andres Sosa Pietri can envision $11 billion coming from various joint ventures in petrochemicals and natural gas. PDVSA itself can probably put up $30 billion out of retained earnings. But from where will the rest of the funding for the country's $48 billion expansion program come?

In Caracas these days one hears talk about pledging future production against new foreign loans, or offering supply contracts for conventional fuel if foreign oil companies commit themselves to heavy oil development. PDVSA executives talk about using project financing or even selling equity to the public. Whatever options are chosen it is clear that the government is serious about turning to the private sector for help in reinvigorating the industry. And well it should be serious: Venezuela's oil industry provides 24% of the country's GNP, 83 percent of its tax revenues and 86 percent of its export earnings.

Still, not everyone in the country sees things Andres Sosa Pietri's way. A month or so back, he found himself at loggerheads with Celestino Armas, boss of Venezuela's powerful Ministry of Energy & Mines, and the current president of OPEC. In a power grab, Armas asserted the right to review PDVSA's decisions on a wide range of operating matters. Sosa Pietri balked, and eventually Venezuela's president, Carlos Andres Perez, negotiated a truce between the two men. But Sosa Pietri will clearly have to proceed in his expansion plans with a wary eye out for Armas

Sosa Pietri must navigate another potentially treacherous conflict—between Venezuela's interests and those of OPEC. Like most other OPEC countries, Venezuela has been producing nearly all out since the Gulf war. But what happens next spring if a surplus of oil sends crude prices tumbling? Or a year or two from now when the 5 million barrels of lost Kuwaiti and Iraqi production begin moving into the market? Will OPEC impose quotas to sustain prices—and if it does, will Venezuela comply?

Andres Sosa Pietri responds to such questions cautiously. "Today," he says, "there is no conflict in aims between OPEC and what we want to do in Petroleos de Venezuela. Whatever OPEC decides, we must comply with."

In the past Venezuela has been less inclined than other OPEC producers to cheat on quotas. In recent years, however, PDVSA has moved downstream into refining and marketing on an international scale. It has accomplished this by making a series of small refinery acquisitions in Germany, Sweden and Belgium, and large ones in the U.S., where it has bought various refining and marketing operations, notably Citgo Petroleum Corp., the U.S.' ninth-largest gasoline marketer.

In short, PDVSA has become a vertically integrated oil company. It now refines more than 80 percent of its crude into higher-margined products (versus only 43% 15 years ago), thus capturing additional profit per barrel.

And therein lies a potential rub. With Venezuela now supplying 80 percent of its refineries' crude needs out of its own production, it is hard to imagine PDVSA bowing to orders from OPEC to curtail its output of crude, and buying some other producer's crude to feed its refineries.

All of this has important implications for U.S. energy policy in the decades ahead. The Gulf war has transformed OPEC. Backed by its special relationship with the U.S., Saudi Arabia is now calling the shots in OPEC, and doing so with uncommon arrogance. "Nobody's got to approve what Saudi Arabia produces," the kingdom's oil minister, Hisham Nazer, reportedly told his fellow OPEC oil ministers the other day. Nazer has made it abundantly clear that Saudi Arabia has no intention of cutting back production to make room for Iraq and Kuwait. It may prove equally intransigent in defending its dominant share of the U.S. import market—a position it assumed at Venezuela's expense in the Seventies.

Yet the bulk of PFVA's expanded output of crude and refined product is targeted at the U.S. markets. Only 4 days away by sea from the U.S.' Gulf Coast, versus 30 days from Saudi Arabia, Venezuela has always viewed the U.S. as the natural market for most of its output. U.S. producers, however, have previously viewed Venezuela as a low-cost competitor and have done their best to keep its crude out of the market.

U.S. politicians are now again talking about imposing oil import fees to protect the domestic industry. This would give Saudi Arabia, with its uncommonly low drilling and recovery costs, a considerable competitive advantage, and hurt higher-cost Venezuelan oil.

Is this intelligent policy? Henry Schuler, director of the energy security program at Washington's Center for Strategic & International Studies, doesn't think so. "Although Riyadh still appears to be willing to assert its unrivaled oil power in a way that accommodates Washington's economic and commercial interests," says Schuler, "it would be irresponsible to predict that will go on forever." Better, he thinks, to encourage relatively dependable Venezuelan supplies. Assuming Venezuela's politicians continue to open up their oil industry to private investors, wouldn't a relatively stable supplier in our own backyard make sense?

By Mr. NUNN (for himself, Mr. BREAUX, and Mr. PRYOR):

S. 2059. A bill to establish youth apprenticeship demonstration programs, and for other purposes; to the Committee on Labor and Human Resources.

YOUTH APPRENTICESHIP ACT OF 1991

Mr. NUNN. Mr. President, I rise today to reintroduce legislation first offered in the 101st Congress to authorize demonstration programs aimed at establishing a system of youth apprenticeships in the United States. I am joined by Senators BREAUX and PRYOR as original cosponsors, and I understand that Congressman DAVE MCCURDY is planning to introduce companion legislation in the House of Representatives.

We listened closely to comments from a wide variety of sources on last year's legislation, and have incorporated several constructive suggestions. For example, we have included language ensuring that demonstration programs authorized under this legislation do not conflict with existing private-sector apprenticeship opportunities, especially in the building trades. We have also fine-tuned the transition from academic courses to skills training for prospective apprentices, based on the practical experience of programs both in this country and in Europe.

Overall, however, this is the same legislation as last year's with the same basic rationale: Building a partnership between secondary and postsecondary schools and employers, to provide noncolleage bound youth real access to the jobs of the future by giving them the real-life skills they need to perform them.

I believe the case for a special effort in skills training in America is made every day by statistics that show we are not keeping up with the demands of our ever-changing workplaces. The General Accounting Office estimates that approximately 9 million of the Nation's 33 million youth aged 16 to 24 will not have the needed skills to meet employer requirements for entry-level positions.

Our task will not get any easier in the future, when even more skills will be necessary in our workplaces. A task force of the Center for Strategic International Studies found that the percentage of our jobs considered unskilled is steadily shrinking, from 60 percent in 1960, to 35 percent in 1990, to an estimated 15 percent in the year 2000. If we do not begin to catch up in skills training right now, we may find ourselves and our economy hopelessly off target in the very near future.

Through a well-designed, local job apprenticeship program, supervised work experience during high school could promote desirable work habits and workwise knowledge and skills. This approach was inspired by the impressive success of youth apprenticeship programs in Western Europe, especially Germany, England, Sweden, and Japan, and by the belief that their success substantially contributes to the relative strength of our European and Japanese friends in competing for international markets. I do not, however, suggest that we imitate or reduplicate any other country's program. Instead, we should adapt the principle of comprehensive work-based, competency-tested skills learning programs to our own culture, economy, and educational system, through a se-

ries of demonstration programs over the next 5 years.

If this legislation is enacted, these programs will be operated by a new Institute for Youth Apprenticeship, a public-private partnership managed by a broad of directors that includes representatives of educational institutions, business, labor, trade associations, and government. Aside from setting up demonstration projects, the institute's most important job will be to evaluate the results and make recommendations on how to create a nationwide apprenticeship system.

Each program will establish a partnership between secondary and postsecondary schools and employers. In the 10th grade, students will sign contracts with employers to begin apprenticeship programs in the 11th grade. These programs will last for 3 years, 1 year after graduation from high school. In the first 2 years, high school courses will be combined with training at worksites. The program is structured so that students gradually increase the time spent at worksites from 30 percent in the 11th grade to 50 percent in the 12th grade. In the third year, youth apprentices will supplement on-the-job training with academic courses at technical institutes or community colleges. Students will receive a high school diploma at the end of high school and a certificate upon completing apprenticeship training in recognition of their competency in the field in which they received their training.

Such a nationwide system would not be a new Federal program supplementing existing skills training efforts, but a basic reorientation of those efforts to tighten the links between the world of learning and the world of work, thereby improving the skills of our workers and their immediate and long-range ability to earn a decent living in the workplace of the future.

Mr. President, the economic impact of this legislation makes it especially timely. On the floor of the Senate, and indeed in every public and private forum in America, a debate is raging on the best means of reversing the squeeze on the real incomes of working Americans.

Some say we should give the middle-class a direct income boost through a tax cut. Others say we should stimulate capital investment and long-term economic growth, thereby creating a rising tide that will raise all boats.

There are elements of truth in both approaches. In the long run, however, the real key is to give working Americans the skills they need to increase their own incomes and to increase the productivity and competitiveness of our overall economy at same time. If we fail to do so, then all the tax breaks and investment incentives in the world will not keep our economy in pace with the global competition.

Reopening access to a high education for all Americans regardless of means is one-half of the skills training equation, and many Senators have offered constructive proposals toward that objection in recent years, including the national service concept which Senator ROBB and I have offered. The other half of the equation, for the forgotten half of American youth who do not go to college, is a youth apprenticeship system or something very much like it.

Our Nation's commitment to skills training must go far beyond Government programs. Educators, business leaders, and other opinion-makers must reinforce the importance of world-class skills for our workers. Our young people must believe, as I believe, that obtaining and practicing a skilled trade is just as important to our country's future as any other path in life they might choose.

Mr. President, this legislation is no more than the first step toward the kind of commitment we need to our young people's job skills. I urge the Senate to take the first step as soon as possible.

By Mrs. KASSEBAUM (for herself and Mr. METZENBAUM):

S. 2060. A bill to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act, and for other purposes; to the Committee on Labor and Human Resources.

ORPHAN DRUG AMENDMENTS OF 1991

Mrs. KASSEBAUM. Mr. President, I am introducing today the Orphan Drug Amendments of 1991. Senator METZENBAUM joins me in putting forward this measure. In addition to extending the authorization of the Orphan Drug Act for 3 years, this legislation makes several substantive changes in provisions of the act.

Ten years ago, I introduced the original Senate version of legislation dealing with the development of drugs for rare diseases after constituents representing the Committee to Combat Huntington's Disease visited my office and described the difficulties of individuals suffering from rare diseases and conditions in obtaining treatment. That legislation called for the establishment of an Office of Drugs of Limited Commercial Value.

In introducing the measure, I noted that one of the major problems was—

> * * * the understandable reluctance of profit-seeking drug companies to devote greater amounts of capital to development projects which are simply not economically justifiable. Most drugs for rare diseases, in fact, have sales of less than $3 to $5 million annually. The social responsibility for developing these drugs should not rest solely on the shoulders of the drug companies.

Subsequently, I introduced a second bill designed to address some of the impediments to the development of orphan drugs which were not covered in my original legislation. That measure, which was a companion to legislation introduced by Representative HENRY WAXMAN, was signed into law in 1983 as the Orphan Drug Act—Public Law 97-414.

Since that time, the Orphan Drug Act has been reauthorized and modified on several occasions. Perhaps one of the more significant changes made was the addition of language in 1984 of a patient population threshold of 200,000 to the definition of orphan disease or condition. This change was made in response to a request from the Food and Drug Administration's Orphan Products Development Office. Officials of the Office noted that an up-front cost analysis could not reasonably be provided by drug companies in the early stages of the development process, which is the point at which orphan drug designation is generally sought. In essence, the patient population figure was established as a proxy for the limited commercial viability standard included in the original law in order to address practical problems with its implementation.

In the early years of my work with the legislation, I found that many individuals were confused by the term "orphan drugs." In fact, I received one rather agitated call to my office asking why I was trying to take drugs away from orphans. As I explained at the time, "these drugs are commonly known as orphan drugs due to the fact that high development and drug approval costs coupled with a small market for their use give these drugs limited commercial value." Thus, pharmaceutical companies were reluctant to adopt them.

Enactment of the Orphan Drug Act sent a message of hope to the nearly 20 million Americans suffering from rare diseases or disorders. It told them that the same system which brought forward penicillin, the polio vaccine, and cancer therapies was working for them as well.

In nearly every respect, the act has been a success. To date, 469 drugs have received orphan designation and 59 of those have been approved for marketing. Approved drugs have included treatments for diseases or conditions such as blepharospasm—a condition which causes almost complete eye closure—and Paget's Disease—a bone disorder where normal bone formation is disrupted. In addition, the research grant program authorized by the act has supported 190 grants to assist with clinical testing of drugs with potential for treating rare diseases or conditions.

Unfortunately, the true success stories of the act are being overshadowed by instances in which the act has been used in ways never anticipated and for purposes never intended. Today, one searching for material about the Orphan Drug Act may be well advised to bypass the health press and head

straight for the Wall Street Journal, Money magazine, and stock market analyses. The Orphan Drug Act has become big business. Although the number of drugs at the center of this controversy is small, the situation can no longer be ignored.

Essentially, what has happened is that some drug manufacturers—lacking patent protection for their products—have seized upon the 7-year exclusive marketing provisions of the Orphan Drug Act as a means of shielding themselves from competition. At this point, most attention has been focused on EPO, a drug approved for the treatment of anemia associated with chronic renal failure, and human growth hormone [HGH], a drug approved for the treatment of pituitary dwarfism. It is estimated that the Medicare program will spend nearly $400 million in the next year for EPO, which is used by renal dialysis patients. Patients requiring HGH spend anywhere from $10,000 to $30,000 per year for the drug.

Although the patient populations to be served by the indicated uses of these drugs fall below the 200,000 figure established in the law, the extremely high prices charged for these drugs have led to sales figures in the hundreds of millions of dollars. Many other companies are waiting in the wings, eager to bring these same drugs to the market—leading one rapidly to the conclusion that these are not drugs of limited commercial viability which needed the incentives offered by the Orphan Drug Act to assure their development.

Whether it is protocol assistance or tax credits or exclusive marketing, the Orphan Drug Act offers a public benefit in order to achieve a public policy purpose. Any company that takes advantage of that benefit has an obligation to honor the public responsibility it carriers. The failure to do so can easily undermine the credibility of the act, causing many to lose sight of the enormous good it has accomplished.

The primary purpose of the reauthorization bill I am introducing today is to restore the credibility of the Orphan Drug Act by making refinements which will better assure that its original intent is served.

The bill accomplishes this purpose in two ways:

First, it establishes a $200 million sales trigger. If cumulative net sales of an orphan drug exceed $200 million, marketing exclusivity will be withdrawn from the sponsor of the drug and other manufacturers will be permitted to enter the market.

The bill also includes an appeals mechanism, which allows a manufacturer to retain exclusivity if it can demonstrate either that cumulative net sales of the drug have not exceeded $200 million or that development costs of the drug were so high that they were not recouped through $200 million in sales.

I believe it is also important to emphasize what this provision does not do:

It does not prevent the original sponsor of the drug to continue marketing that drug; it merely introduces the possibility of competition.

It does not diminish in any way the drug approval requirements which other companies must meet in order to bring a competing product to the market; those companies must go through the full drug approval process.

It does not require the Secretary of Health and Human Services to make any determinations regarding the profitability of a drug; cumulative net sales—not profits—are the yardstick.

It does not require drug companies to open their books to the Secretary of Health and Human Services; only net sales and/or development cost data would be presented and then only when a company chooses to appeal the withdrawal of market exclusivity.

As a practical matter, the overwhelming majority of orphan drugs will never have sales even approaching $200 million over a 7-year period. The incentives of the act have proven effective in cases where there has been no expectation at all that sales would reach this level, and they will continue to be effective.

I want to address briefly one aspect of this proposal about which some questions have been raised. It has been argued that withdrawing exclusive marketing rights prior to the expiration of the 7-year period set in the law would be an unconstitutional taking of private property. Without going into all the intricacies of the various legal theories put forward in this regard, let me point out that the argument is based on just that—legal theories. As is the case with any constitutional question, it is always possible to speculate about any number of legal arguments which might be raised. This is particularly true in situations such as this one, where there are few legal precedents and no cases on point with respect to the specific subject at issue. The same arguments, in fact, were raised during congressional consideration of legislation dealing with drug patents. However, no suits raising the issue of a taking of property rights were filed subsequent to the enactment of that measure in 1984.

Second, the bill addresses another situation which was not anticipated at the time the original act was crafted, and that is the case where a patient population grows beyond the 200,000 figure in the law. The rare diseases and conditions discussed at the time were not contagious and had relatively stable patient populations. Consequently, the act contains no provisions addressing situations in which a rare disease or condition "outgrows" its original classification. Subsequently, the AIDS epidemic demonstrated that such a situation is possible.

The bill adds provisions to require that the determination of whether fewer than 200,000 persons are affected by a disease or condition be made on the basis of a 3-year projection and to provide for the withdrawal of exclusive marketing rights at the point where the patient population for the approved treatment exceeds 200,000.

Additional provisions of the bill extend the authorization of the research grant program and replace the existing Orphan Products Board with an Office of Orphan Products.

This proposal has been endorsed by the National Organization for Rare Disorders [NORD], a coalition of organizations representing a broad array of individuals with rare diseases and their families. NORD has been tireless in its efforts to assist these individuals and families and to promote public awareness of the plight they face.

The issues I have discussed are controversial ones, which have been debated for several years. An alternative approach for resolving them was vetoed by the President last year. One hesitates to think how much time, effort, and money has already been spent in reviewing these questions.

I believe that this reauthorization proposal represents the right public policy choice, and I hope that my colleagues will join me in supporting it on that basis. There comes a point where enough is enough. The intent of the Orphan Drug Act is clear, its purpose is worthy, and it is well past time that the clouds on its credibility be lifted.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and a letter from Ms. Abbey Meyers, Executive Director of NORD, appear in the RECORD following my remarks.

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

S. 2060

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 "Orphan Drug Amendments of 1991".

SEC. 2. DESIGNATIONS.

(a) IN GENERAL.—Section 526(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(2)) is amended by adding before the period at the end the following: ", and on the basis of projections as to the number of persons who will be affected by the disease or condition 3 years from such date".

(b) EXCLUSIVITY.—Section 527(b) of such Act (21 U.S.C 360cc(b)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ";" and

(3) by adding at the end the following new paragraphs:

"(3) a drug has been designated under section 526 for a rare disease or condition described in section 526(a)(2)(A) and if after such designation such disease or condition does not meet such description; or

"(4) the Secretary has issued a termination notice under, and acted in accordance with, subsection (c)."

SEC. 3. TERMINATION OF ORPHAN DRUG STATUS FOR DRUGS OF SIGNIFICANT COMMERCIAL VALUE.

Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended by adding at the end the following new subsection:

"(c)(1) If the Secretary determines that the cumulative net sales of a drug which is designated under section 526 are more than $150,000,000 during the 7-year period described in subsection (a), the Secretary shall commence the review of any other application under section 505, certification under section 507, or license under section 351 of the Public Health Service Act (42 U.S.C. 262), for such drug for such designation, if such review has not already commenced.

"(2) If the Secretary determines that the cumulative net sales of a drug which is designated under section 526 are more than $200,000,000 during the 7-year period described in subsection (a), the Secretary shall issue a termination notice to the holder of the approved application of such designated drug. The notice shall state that the Secretary is authorized, no earlier than 90 days after the date of the notice, to approve other applications under section 505, issue other certifications under section 507, or issue other licenses under section 351 of the Public Health Service Act, for such drug for any such designation, unless such holder makes the showing described in paragraph (3).

"(3) Not later than 30 days after the date of the termination notice, the holder described in paragraph (2) may submit evidence to the Secretary to demonstrate that—

"(A) the cumulative net sales of the drug are not more than $200,000,000; or

"(B) the exceptionally high costs of developing the drug in the United States exceeded $200,000,000.

"(4) Not later than 90 days after the date of the termination notice, the Secretary shall review any evidence submitted by the holder—

"(A) in accordance with paragraph (3)(A), and determine whether cumulative net sales of the drug are more than $200,000,000, or

"(B) in accordance with paragraph (3)(B), and determine whether the costs of developing the drug in the United States exceeded $200,000,000.

"If the Secretary determines that the cumulative net sales of the drug are not more than $200,000,000, the Secretary shall, within such 90 days, vacate the notice until such time as such sales are more than $200,000,000. If the Secretary determines that the costs of developing the drug in the United States exceeded $200,000,000 the Secretary shall, within such 90 days, determine the amount of costs incurred in developing the drug in the United States and vacate the notice until such time as the cumulative net sales are more than such amount.

"(5) In determining the cumulative net sales of a drug, or determining the costs of developing a drug for purposes of paragraph (4), the Secretary shall consider—

"(A) evidence submitted in accordance with paragraph (3)(A) or paragraph (3)(B);

"(B) data obtained through contracts with independent sources of comparative sale date;

"(C) data submitted by interested parties; or

"(D) other relevant data available to the Secretary.

"(6) Any person may submit to the Secretary a petition which contains evidence of the cumulative net sales of a drug and which requests the Secretary to determine whether a termination notice under paragraph (2) must be issued.

"(7) As used in this subsection, the term 'cumulative net sales' of a drug means total sales of the drug in the United States minus discounts, allowances, and returns."

SEC. 4. OFFICE FOR ORPHAN AND RARE DISEASES AND CONDITIONS.

Section 227 of the Public Health Service Act (42 U.S.C. 236) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) There is established in the Department of Health and Human Services an Office for Orphan Diseases and Conditions. Such Office shall be established at a level within the Department with sufficient authority to assure full implementation of the functions and responsibilities established by this section.";

(2) by striking "Board" each place the term appears and inserting "Office";

(3) by striking "drugs and devices" in subsection (b) and inserting "Drugs, devices, and medical foods";

(4) by inserting "of chapter V" after "subchapter B" in subsection (c)(1)(A); and

(5) by adding at the end the following new subsection:

"(f)(1) There is established in the Office an advisory committee to advise the Office in carrying out the functions of the Office under this section.

"(2) The advisory committee shall be comprised of 11 members appointed by the Secretary, in consultation with the Office and the Commissioner of the Food and Drug Administration, from persons knowledgeable about rare diseases and conditions, including—

"(A) 5 representatives of organizations of persons with rare diseases or conditions;

"(B) 3 research scientists; and

"(C) 3 representatives of health-related companies.

"(3) The Secretary shall also appoint, as liaisons to the advisory committee, individuals from the Food and Drug Administration, the National Institutes of Health, and other appropriate Federal agencies.

"(4) Any vacancy occurring in the membership of the advisory committee shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the advisory committee.

"(5) Members of the advisory committee, and liaisons to the advisory committee, shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, for each day the member or liaison is engaged in the performance of duties away from the home or regular place of business of the member or liaison.

"(6) Notwithstanding section 1342 of title 31, United States Code, the advisory committee may accept the voluntary services provided by a member of the advisory committee, or a liaison to the advisory committee.".

SEC. 5. AUTHORIZATION FOR ORPHAN DRUG ACT.

Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended by striking "$10,000,000" and all that follows and inserting "$20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994."

SUMMARY OF ORPHAN DRUG AMENDMENTS OF 1991

The bill is designed to retain the incentives to develop drugs for rare diseases, but to provide for appropriate competition for commercially viable drugs with net sales of $200 million or more. It would require the Food and Drug Administration [FDA] to look into the future when deciding whether more than 200,000 people have a particular disease or condition, and to take into account conditions such as AIDS which may affect less than 200,000 people today but which are likely to affect more than 200,000 people in the near future. Finally, the bill would establish an Office of Rare Diseases within the Department of Health and Human Services, and it would provide an authorization for the research grant program for the next three years.

Section 1: The short title is the Orphan Drug Amendments of 1991.

Section 2: Under current law, the application for orphan drug status must show that, at the time of designation, the disease or condition for which the drug is marketed affects fewer than 200,000 persons in the United States. In the case of a condition such as AIDS, this means that a drug can qualify for orphan drug status even though it is expected that in the near future more than 200,000 people will be affected.

Section 2 requires that the determination of whether 200,000 people are affected by a disease or condition be made on the basis of projections as to the number of people who will be affected 3 years from the date that the designation is requested. Section 2 also provides that if at any time the number of people affected by the disease or condition goes above 200,000, additional companies may seek and obtain permission to market their drugs.

Section 3: Current law provides that an unlimited number of companies may obtain an orphan drug designation. An unlimited number of companies may also apply for approval of any specific orphan drug, but only one (the first to obtain approval) is granted seven years of market exclusivity. Any remaining sponsors of that drug must wait until the end of the 7-year period to market their products.

Section 3 establishes a trigger of $200 million in sales during the exclusive marketing period. When sales exceed the $200 million trigger, a company loses its exclusive marketing rights to an orphan drug unless it can demonstrate that development costs of the drug exceeded that amount.

Section 3 also requires the Secretary to begin review of other applications when the net sales of the designated drug reach $150 million, in order to avoid delay in the approval of a second sponsor's drug once the $200 million trigger is exceeded. This provision does not permit the approval of a competing drug prior to the termination of the market exclusivity of the designated drug.

Section 4: This section would eliminate the Orphan Products Board and substitute an Office of Orphan Products. The Office would coordinate the activities within the Federal Government concerning the development of drugs, devices, and medical foods for persons with orphan diseases and conditions. It would be assisted by an advisory committee comprised of representatives of organizations of persons with rare diseases and conditions, research scientists and representatives of health-related companies.

Section 5: Provides for an authorization for the grant program for fiscal year 1992, fiscal year 1993, and fiscal year 1994. The fiscal year 1992 authorization is $20 million, with increases of $5 million in each of the 2 following fiscal years.

NATIONAL ORGANIZATION FOR RARE DISORDERS, INC.,
New Fairfield, CT, October 22, 1991.

Sen. NANCY KASSEBAUM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KASSEBAUM: Once again we are indebted to you for your compassion and leadership benefiting people with rare "orphan diseases." It has been 10 historic years since you stepped forward to fill a gaping societal need for the development of unprofitable drugs to treat rare disorders by sponsoring the Orphan Drug Act in the Senate.

Today, we marvel at the Act's accomplishments. It has decreased pain, alleviated disability and prevented death in untold numbers of people who previously had no hope. Yet it has also been the source of unimaginable ethical and moral issues that no civilized society has ever faced.

While we have often objected to the high prices some companies are charging for their designated orphan drugs in recent years, we are outraged the absolutely unaffordable prices charged by a few companies today which blocks access to therapy by ill and dying Americans. There is no cruelty more intense than charging $350,000 per year, per patient, for a live-saving drug, knowing that families must stand helplessly by watching their loved one die because they can't afford it.

Even if a patient is insured, most people have a $1 million lifetime cap on their health insurance. As a result we are facing an outrageous dilemma when a family can hardly afford therapy to save a dying child for only 1 year.

Neither can Medicare or Medicaid bear the burden of this exorbitant pricing. Medicare's End Stage Renal Disease (ESRD) program spent approximately $250 billion on EPO this year and Medicaid pays a large proportion of the bills for AIDS drugs which are designated orphans.

It is time we put an end to the limitless profits some pharmaceutical companies are making through the privileges of a law that was written to encourage development of drugs of little commercial value. We feel your Orphan Drug Amendments are crucial to maintaining the integrity of the law, and will ensure access by patients and fairness to orphan drug manufacturers.

The appeal mechanism you have developed permits companies that spend an extraordinary amount of money developing an orphan drug to extend their exclusivity, and should lay to rest any argument that some compounds may be more expensive to develop than others. As companies see that their orphan drug is approaching the very generous $200 million cumulative sales trigger, they are free to lower their price in order to extend their exclusivity for the full 7 years. Even if they lose their exclusivity before the seven years expires, companies are free to continue marketing their orphan drug at any price they wish, but like any other American industry they will have to compete in a free market. We hope the FDA will assure the American people that it will approve additional versions of orphan drugs immediately after the initial exclusivity expires.

We are also delighted that the Central Office for Rare Diseases will be created to coordinate all of the Government's efforts related to orphan diseases and orphan drugs. This office, which was the main recommendation of the National Commission on Orphan Diseases, should save many years and millions of dollars in uncoordinated duplicative efforts by all parties that seem to operate in a vacuum at the present time.

Senator Kassebaum, it is a great sadness to recognize that a small number of abuses have led to the need to change the Orphan Drug Act. But the law's imperfections have permitted violations of its intent, and if we don't stop them now there is no telling where it will end. If a drug for a growth disorder costs per year now, an a drug for a deadly genetic disease costs $350,000 per year now, can a million dollar per year drug be far behind?

We all know that Congress must take control of health care inflation, and the best place to start is a law written to encourage development of unprofitable drugs. Anyone who knows the legislative history of the Orphan Drug Act cannot deny this, and yet it is being denied by some companies who insist that profits should have no bounds.

As you well know, the goal of the act was to ensure that no company would lose money developing an orphan drug, and they would indeed make reasonable profits; but now is the time to assure those profits are indeed reasonable and not exorbitant. There is a beyond which the neediest and most vulnerable segment of our society, the ill and the disabled, must rely on the wisdom and compassion of Congress to protect them.

Very truly yours,

ABBEY S. MEYERS,
Executive Director.

• Mr. METZENBAUM. Mr. President, I rise to join my distinguished colleague, Senator KASSEBAUM, in introducing the Orphan Drug Amendments of 1991. I want to begin by commending Senator KASSEBAUM for her leadership in the area of orphan drugs. Since the initial enactment of the Orphan Drug Act in 1983, she has never wavered in her determination to make the Orphan Drug Program an unqualified success. Her sponsorship of this bill is another indication of her continuing commitment to this most important law.

This bill amends the Orphan Drug Act—which was enacted to foster the development of medications to treat people with rare diseases—so-called orphan drugs. Until the Orphan Drug Act was passed, there were no financial incentives for pharmaceutical companies to discover and develop drugs for illnesses affecting fewer than 200,000 people. Simply put, drugs for such small patients populations had very little commercial value, and companies were rarely willing to invest the resources necessary to bring them to the market.

The Orphan Drug Act provided pharmaceutical companies with important incentives to invest in orphan drugs; most important among them was an assured 7-year market monopoly. During that 7-year period, no other company could bring a competing product to the market.

I am proud to say that the Orphan Drug Act has been an unqualified success in spurring the development of essential, sometimes life-saving drugs, for small, often forgotten, groups of patients. To date, the Food and Drug Administration [FDA] has granted 476 orphan designations and approved 58 orphan drugs. Consequently, treatments are now available for people suffering from rare diseases and illnesses such as tissue rejection following a bone marrow transplant, paget's disease—a disease that weakens the bones and causes them to break—leprosy, and AIDS-related Kaposi's sarcoma among others. The development and approval of these and numerous other orphan drugs has given thousands upon thousands of desperately ill people hope for survival and freedom from pain and suffering. This was exactly the result that Congress hoped for when the Orphan Drug Act was approved.

Unfortunately, a few companies have exploited their 7-year market monopoly for an orphan drug by charging victims of rare diseases and illnesses thousands of dollars a year for their drugs. Patients with rare diseases and illnesses are forced to pay these exorbitantly high prices because the company that makes the drug they need has a lock on the market. Competitors that want to get on the market, and offer lower prices, cannot for 7 years.

Let me illustrate just how bad this problem can be. Ceredase, a drug for the treatment of Gaucher's disease, costs a patient $350,000 a year. Human Growth Hormone, a drug for pituitary dwarfism, costs a patient between $10,000 and $30,000 a year. And the list of horribles does not end here.

I am not suggesting that the pharmaceutical companies are violating the letter of the Orphan Drug Act by charging outrageously high prices for their orphan drugs. Clearly, they are not. However, I believe these companies are violating the spirit of the act and jeopardizing congressional support for the act. Through their high prices, these companies have turned a drug for a relatively small patient population into a drug with tremendous commercial value, and then they have used their 7-year marketing exclusively rights to block their competitors. This awful result was never contemplated under the Orphan Drug Act and should not be tolerated.

The Orphan Drug Act was carefully designed to give one company the necessary incentives to take on the development of a drug of little commercial value. Instead, the act has become a shield with which one company blocks its competitors from the market for a drug of tremendous commercial value, thereby subverting the important purpose of the act.

Fortunately, the number of circumstances have been relatively few in which this misuse of the act has occurred. However, it is clear from evaluating the designated orphan drugs currently undergoing testing at the FDA, that there will be many more orphan drugs that have tremendous commercial value. It is imperative that we act immediately to avoid further undermining of the Orphan Drug Act.

Last year the Congress passed a bill to deal with this problem that was ve-

toed by the President. That legislation would have allowed for FDA approval for companies that were simultaneously developing the same drug for the same rare disease. President Bush claimed that these changes would have undermined the act's incentives for bringing an orphan drug to the market, so he vetoed it.

Although I believe that the President was wrong, the Orphan Drug Amendments of 1991 take a different approach to the problem of high-cost, commercially valuable orphan drugs. The bill establishes a sales trigger that will allow a competitor's drug onto the market when the original sponsor's cumulative sales in the United States exceeds $200 million. This very generous sales trigger guarantees that an orphan drug's sponsors will receive a substantial return on its investment in a particular drug. Moreover, the sales trigger does not affect the ability of the original orphan drug sponsor to continue to sell its drug or set the selling price after it exceeds the trigger amount. Quite simply, all the bill does is allow a competitor onto the market before the original orphan drug sponsor's 7-year monopoly expires, if the original sponsor has sales of more than $200 million. Injecting competition into the market for costly orphan drugs will bring prices down and help make these drugs affordable for the patients who need them.

A few of the biotechnology companies that produce some of the most costly orphan drugs, have already begun to complain about the potential loss of market exclusivity. They argue that because they often have difficulty obtaining patient protection on biotechnology derived products and processes, the Orphan Drug Act is their only protection from competition, and hence their only assurance of recouping their investment. This argument stands the Orphan Drug Act on its head. Quite simply, the act was never intended to protect the stockholders of these biotechnology companies. Rather, it was enacted to provide pharmaceutical companies with special incentives to produce drugs of little commercial value for desperately ill patients. The biotechnology companies, with high-priced, commercially valuable drugs, cannot be allowed to hide behind the protection of the Orphan Drug Act because they have a problem with the patent laws. Their patent law problems ought to be addressed through amendments to those laws.

The bill contains several other provisions that are important changes to the Orphan Drug Act. Senator KASSEBAUM has discussed those provisions in the summary of the bill which she has placed in the RECORD.

In closing, I want to encourage all Senators to carefully review this important bill. If you want to end the inappropriate use of the Orphan Drug Act to block competition for high-priced, commercially valuable drugs, then you ought to join us in sponsoring this bill.●

By Mr. SASSER:

S. 2061. A bill to amend the Internal Revenue Code of 1986 to provide middle income tax relief, to provide for long-term economic growth, and for other purposes; to the Committee on Finance.

MIDDLE INCOME TAX RELIEF AND ECONOMIC GROWTH ACT OF 1991.

Mr. SASSER. Mr. President, the Conference Board reports this morning that consumer confidence has dropped to the lowest point in this present recession. Consumer confidence is lower today than it was in those fearful days just preceding the Persian Gulf war. And confidence is even lower now than at the worst point of the 1982 recession, which was the deepest recession in the post-World War II era.

We do not really need the Conference Board's survey to figure out that people who are worried about their jobs just do not make confident consumers, and they do not spend much money. 493,000 Americans filed unemployment claims just last week. That is the third consecutive weekly increase and the heaviest level of new claims since late April.

Economists are now revising downward their forecast for the fourth quarter gross national product growth for 1991, and more so, they are reviewing the figures coming in from the third quarter, which now we anticipate will be lower than originally predicted. But through it all, the prescription for the White House never changes. As the economy falters and flags, the White House says, "Stand pat; do not worry; keep cool; prosperity is just around the corner."

It is time we accept that this do-nothing approach has, indeed, done just that—nothing. What is needed now is a comprehensive, responsible, and well-crafted plan for recovery. The President never had a plan for unemployed Americans. We had to put one together on the Senate floor. I suppose it logically follows that if there is no plan for those Americans who need it most, since he saw no need to help the most distressed, he is going to have great difficulty seeing the need to help anyone else.

The "let the bad times roll" approach to economic policy is not, I submit, simply a historical anomaly. This administration is true to the economic philosophy of previous Republican administrations. Yes, the administration of President Reagan wore the pro-growth mantle, but very uncomfortably over the last decade, because Republicans are traditionally the party that fears inflation and distrusts economic growth.

The Democratic Party has been far more committed to the notion of Government policies that stimulates growth, that create jobs, that provide upward mobility. Just consider, if you will, the nine Presidents that we have had since World War II. There were four Democrats and five Republicans, and note that all four Democrats rank in the top five with respect to GNP growth records: Kennedy, Johnson, Truman, and Carter. That leaves the Republican administrations bringing up the rear on economic growth.

Put another way: The economy, since the days of Harry Truman, has grown on the average of 4 percent a year under Democratic administrations, and by only 2.5 percent a year with Republicans in the White House. In my estimation, many of our current difficulties—fiscal, political, and otherwise—can be attributed to the fact that this economy simply has not grown appreciably in the last 3 years.

I will note, Mr. President, that this administration in office now, the administration of President Bush, has actually had a negative real growth over the past 3 years. This is the first administration to preside over negative real growth on a per capita basis of any administration since that of Herbert Hoover in the late 1920's.

Mr. President, I am introducing an economic growth plan that is coordinated and is comprehensive. It is aimed at durable growth; it is financed over 5 years by an $80 billion peace dividend. Before going into detail, let me acknowledge that I am not the only one offering a constructive growth proposal. Many of my colleagues have drawn up plans and crafted initiatives that I think are valid, and are also meritorious.

I am not, by any means, wedded to all the elements of my own plan, and I am certainly open to proposals that are not included in what I offer today. But I think the larger point we are making is we, at the very least, need a dialog that leads to corrective action.

If the President waits until January, some 2 months away, if he waits for the State of the Union Address before even offering an economic game plan, we will not have any hope of enacting anything until at least the middle of an election year and, Mr. President, I submit that is too late.

The plan I am offering today is distinct, in my view, because it combines both sharp short-term stimulus and long-term growth elements, while placing necessary emphasis on fiscal constraint.

It is a multitiered approach designed both to lift us from the stagnation of the moment and make durable whatever growth we achieve to pay for it. I am proposing military spending cuts that are reasonable and achievable today and do not reduce our military flexibility or readiness. I am proposing an $80 billion peace dividend which will amount to a 5-percent reduction in de-

fense spending and retake this reduced military spending and divide it into roughly three components: First, $30 billion for a middle-income tax cut; then $23 billion for long-term growth initiatives; and, finally, $25 billion to be applied to reduction of the deficit.

Now, the first component, the middle-income tax cut, is an immediate stimulus, an immediate jolt to counter the economic stagnation that is badly hurting middle-class American families. Middle-income households would receive a $300 to $500 credit against their 1991 taxes, and the proposal would put money, beginning in January 1992, into the pockets and purses of middle-class American families.

Mr. President, I have a chart here which indicates that my tax proposal is carefully targeted to benefit those who are most distressed by this recession and the most neglected by the policies of the last decade—middle-income Americans. You will note that, under this plan, families earning less than $50,000—these families here, families earning less than $50,000—receive 76 percent of the benefits. These same middle-income families would receive 5.8 percent of the capital gains tax cut advocated by the President.

Let me reemphasize, Mr. President. With the middle-income tax cut that I am proposing, 76 percent of the benefits would go to families making below $50,000. Contrast this with the President's proposal in which only 5.6 percent of the capital gains tax cut advocated by the President would go to families making less than $50,000. That is not to say the plan attempts to redress all of the inequities that muddle the Tax Code. Rather, it is designed to create a demand surge, to deliver with full force the momentum necessary to drive a recovery.

To that end, the plan also provides $3 billion for penalty free withdrawals from individual IRA's for first-time homebuyers and for individuals with higher education expenses or particular medical costs.

Now, I have coupled this with a broad-based tax cut and placed it in the context of a stimulus that is sizable, immediate, and temporary.

The plan then seeks to use that initial spark to ignite sustained economic combustion and long-term growth. It provides $12 billion in long-term business incentives, including extensions of the research and experimentation tax credit, the low-income housing tax credit, and the mortgage revenue bond tax credit.

I have also incorporated a proposal developed by Senator BUMPERS to offer a tax incentive for investment in small business to reward entrepreneurship and stimulate capital formation. The premium here is on new capital formation, new investment.

The plan I am offering today also recognizes that we need to improve the structural condition of our Nation, and we need more public investment to do it. My approach would invest $8 billion in roads, highways and bridges, waterways and runways, and in the process it would generate at least 100,000 jobs every year.

Finally, this growth plan would return no less than $25 billion, or nearly one-third of the peace dividend, to the U.S. Treasury in the form of unadulterated deficit reduction.

In offering this plan, I recognize the legitimate concerns of financial markets. That is why the plan is paid for. That is why the tax cut is temporary. The goal is to lift us from the stagnation of the moment and then sustain growth for the future. As I have said, Mr. President, others in the Senate have developed economic recovery proposals that are worthy, that are meritorious, and that are workable. There are other plans in the House of Representatives that also deserve consideration. But the bottom line is that sitting and waiting and complaining is not the answer.

Mr. President, I send this bill to the desk and ask for its immediate appropriate referral, and I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

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

S. 2061

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 "Middle Income Tax Relief and Economic Growth Act of 1991".

TITLE I—TAX INCENTIVES

SEC. 101. NONREFUNDABLE TAX CREDIT FOR 1991.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. MIDDLE INCOME TAXPAYERS CREDIT.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined as follows:

"In the case of a taxpayer described in:	The credit amount is:
Section 1(a)	$500
Section 1(b)	$450
Section 1(c)	$300
Section 1(d)	$250.

"(b) PHASEOUT OF CREDIT AMOUNT.—

"(1) IN GENERAL.—Each dollar amount contained in subsection (a) shall be reduced (but not below zero) by 2 percent of the amount by which the taxpayer's adjusted gross income for the taxable year exceeds the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount for any taxpayer shall be determined as follows:

"In the case of a taxpayer described in:	The applicable amount is:
Section 1(a)	$65,000
Section 1(b)	$60,000
Section 1(c)	$40,000
Section 1(d)	$32,500

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25, the following new item:

"Sec. 25A. Middle income taxpayers credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990, and before January 1, 1992.

SEC. 102. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 28(b)(1) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. 1-YEAR EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(1) by striking "1991" each place it appears and inserting "1992",

(2) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(3) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(4) by striking "1994" in paragraph (2)(C) and inserting "1995".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1991.

SEC. 104. 1-YEAR EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendments made by subsection (a) shall apply to bonds issued after December 31, 1991.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after December 31, 1991.

SEC. 105. PENALTY-FREE IRA WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) IN GENERAL.—Section 408(d) of the Internal Revenue Code of 1986 (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(8) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified special purpose distribution from an individual retirement account or an individual retirement annuity.

"(B) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—The term 'qualified special purpose distribution' means—

"(i) a qualified first-time homebuyer distribution, or

"(ii) an applicable medical or educational distribution.

"(C) 25 PERCENT ACCOUNT LIMIT.—

"(i) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(I) 25 percent of the sum of the aggregate balance of individual retirement accounts and individual retirement annuities established on behalf of an individual, plus the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(II) the aggregate amounts previously treated as qualified special purpose distributions.

"(ii) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of clause (i).

"(D) DISTRIBUTIONS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of subparagraph (B)—

"(i) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement account or an individual retirement annuity to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

"(ii) BASIS REDUCTION.—The basis of any principal residence described in clause (i) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

"(iii) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(I) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in subclause (II), gain (if any) on the sale or exchange of a principal residence to which clause (i) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and section 72(t) shall apply to such amount.

"(II) EXCEPTION.—Subclause (I) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement account or an individual retirement annuity. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(III) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in subclause (I) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before subclause (I).

"(iv) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(I) any amount is paid or distributed from an individual retirement account or an individual retirement annuity to an individual for purposes of being used as provided in clause (i), and

"(II) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement account or an individual retirement annuity as provided in paragraph (3)(A)(i) without regard to paragraph (3)(B), and, if so paid into such other account or annuity, such amount shall not be taken into account in determining whether paragraph (3)(A)(i) applies to any other amount.

"(v) DEFINITIONS.—For purposes of this subparagraph—

"(I) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(II) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

"(III) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(IV) DATE OF ACQUISITION.—The term 'date of acquisition' means the date on which a binding contract to acquire the principal residence to which clause (i) applies is entered into, or on which construction or reconstruction of such a principal residence is commenced.

"(E) APPLICABLE MEDICAL DISTRIBUTIONS.—For purposes of subparagraph (A), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

"(F) DISTRIBUTIONS FOR EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of subparagraph (E)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of clause (i)—

"(I) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or the taxpayer's child (as defined in section 151(c)(3)) or grandchild, at an eligible educational institution (as defined in section 135(c)(3)).

"(II) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 106. DEDUCTION FOR CAPITAL GAINS ON CERTAIN SMALL BUSINESS STOCK.

(a) IN GENERAL.—Subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

"PART VII—ENTERPRISE CAPITAL INVESTMENT INCENTIVES

"Sec. 1301. Deduction for gain on certain small business stock.

"Sec. 1302. Definitions and special rules.

"SEC. 1301. DEDUCTION FOR GAIN ON CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—If a taxpayer has a qualified small business net capital gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 50 percent of the excess (if any) of—

"(A) qualified small business net capital gain, over

"(B) the amount of seed capital gain, plus

"(2) the seed capital gain deduction.

"(b) QUALIFIED SMALL BUSINESS NET CAPITAL GAIN.—For purposes of this section, the term 'qualified small business net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of qualified small business stock with a holding period of more than 5 years at the time of sale or exchange.

"(c) SEED CAPITAL GAIN DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'seed capital gain deduction' means an amount equal to the sum of the amounts determined by applying the applicable percentages to the appropriate categories of seed capital gain under the table contained in paragraph (2).

"(2) COMPUTATION OF AMOUNT.—The seed capital gain deduction shall be computed as follows:

"In the case of:	The applicable percentage is:
5-year gain	50
6-year gain	60
7-year gain	70
8-year gain	80
9-year gain	90
10-year gain	100.

"(3) SEED CAPITAL GAIN.—For purposes of this subsection, the term 'seed capital gain' means the lesser of—

"(A) the excess (if any) of—

"(i) the net capital gain for the taxable year, over

"(ii) the qualified small business net capital gain for the taxable year determined without regard to gain or loss described in subparagraph (B), or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of stock—

"(i) which is qualified small business stock in a corporation which is a qualified small business (determined by substituting '$5,000,000' for '$100,000,000' in section 1302(b)(1)), and

"(ii) with a holding period of more than 5 years at the time of the sale or exchange.

"(4) CATEGORIES OF GAIN.—For purposes of this subsection—

"(A) 10-YEAR GAIN.—The term '10-year gain' means the lesser of—

"(i) the seed capital gain, or

"(ii) the seed capital gain determined by taking into account under paragraph (3)(B) only gain or loss from qualified small business stock with a holding period of more than 10 years at the time of the sale or exchange.

"(B) OTHER GAIN.—The terms '5-, 6-, 7-, 8-, and 9-year gain' mean, with respect to any category, the lesser of—

"(i) the excess (if any) of—

"(I) seed capital gain, over

"(II) the amount determined under this paragraph for categories with a longer holding period, or

"(ii) seed capital gain determined by taking into account under paragraph (3)(B) only gain or loss from qualified small business stock with a holding period of more than 5, 6, 7, 8, or 9 years but not more than 6, 7, 8, 9, or 10 years, respectively.

"(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of qualified small business stock which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gains derived from the sale or exchange of capital assets.

"SEC. 1302. DEFINITIONS AND SPECIAL RULES.

"(a) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified small business stock' means any stock in a corporation which is originally issued after December 31, 1991, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) 5-YEAR ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during the testing period, such corporation meets the active business requirements of subsection (c).

"(3) CERTAIN REDEMPTIONS, EXCHANGES, ETC. DISQUALIFIED.—For purposes of paragraph (1)(B), and except as provided in subsections (d) and (e), stock shall not be treated as acquired by the taxpayer at its original issue if—

"(i) it is issued directly or indirectly in redemption of, or otherwise in exchange for, stock which is not qualified small business stock, or

"(ii) it is issued in an exchange described in section 351 in exchange for property other than qualified small business stock, if immediately after the exchange, both the issuer and transferee of the stock are members of the same controlled group of corporations (as defined in section 1563).

"(b) QUALIFIED SMALL BUSINESS.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation with respect to which the sum of—

"(A) the aggregate amount of money, other property, and services received by the corporation for stock, as a contribution to capital, and as paid-in surplus, plus

"(B) the accumulated earnings and profits of the corporation,

does not exceed $100,000,000. The determination under the preceding sentence shall be made as of the time of such issuance but shall include amounts received in such issuance and all prior issuances.

"(2) AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO PROPERTY AND SERVICES.—For purposes of paragraph (1)—

"(A) PROPERTY.—The amount taken into account with respect to any property other than money shall be an amount equal to the adjusted basis of such property for determining gain, reduced (but not below zero) by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation.

"(B) COMPENSATION FOR SERVICES.—The amount taken into account with respect to stock issued for services shall be the value of such services.

"(c) ACTIVE BUSINESS REQUIREMENT.—For purposes of this part—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the requirements of this subsection are met if, during the testing period—

"(A) the corporation is engaged in the active conduct of a trade or business, and

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK.—A corporation shall be treated as failing to meet the requirements of paragraph (1) if, at any time during the testing period, more than 10 percent of the value of its assets (in excess of liabilities) consist of stock in other corporations which are not subsidiaries of such corporation.

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns at least 50 percent of the combined voting power of all classes of stock entitled to vote, or at least 50 percent in value of all outstanding stock of such corporation.

"(4) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(5) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) if, at any time during the testing period, more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(6) SMALL BUSINESS INVESTMENT COMPANIES.—Paragraph (1) shall not apply to any small business investment company operating under the Small Business Investment Act of 1958.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(8) TESTING PERIOD.—For purposes of this section, the term 'testing period' means, with respect to any stock held by a taxpayer, the 5-year period beginning with the first day of the taxpayer's holding period for such stock.

"(d) SPECIAL RULES FOR OPTIONS, WARRANTS, AND CERTAIN CONVERTIBLE INVESTMENTS.— For purposes of this part—

"(1) IN GENERAL.—In the case of stock which is acquired by the taxpayer through the exercise of an applicable option or warrant, through the conversion of convertible debt, or in exchange for securities of the corporation in a transaction described in section 368—

"(A) such stock shall be treated as acquired by the taxpayer at original issue, and

"(B) such stock shall be treated as having been held during the period such option, warrant, or debt was held, or such security was outstanding.

"(2) ISSUE PRICE FOR CONVERTIBLE DEBT OR SECURITY.—For purposes of section 1302(b)(1) and notwithstanding section 1302(b)(2), in the case of a debt instrument converted to stock, or stock issued in exchange for securities in a transaction described in section 368, such stock shall be treated as issued for an amount equal to the sum of—

"(A) the principal amount of the debt or security as of the time of the conversion or exchange, and

"(B) accrued but unpaid interest on such loan or security.

"(3) APPLICABLE OPTION OR WARRANT.—For purposes of this subsection, the term 'applicable option or warrant' means an option or warrant which—

"(A) was issued in exchange for the performance of services for the corporation issuing it, and

"(B) is nontransferrable.

"(e) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this part—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), 723, or 732, or

"(D) of qualified small business stock for other qualified small business stock in a transaction described in section 351 or a reorganization described in section 368.

"(3) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock which is not qualified small business stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This part shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(f) STOCK EXCHANGED FOR PROPERTY.—For purposes of this part, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(1) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(2) the basis of such stock in the hands of the taxpayer shall be treated as equal to the fair market value of the property exchanged.

"(g) PASS-THRU ENTITIES.—For purposes of this part, any gain or loss of a pass-thru entity which is treated for purposes of this subtitle as a gain or loss of any person holding an interest in such entity shall retain its character as qualified small business or seed capital gain or loss in the hands of such person.

"(h) INDEXING.—In the case of any stock issued in a calendar year after 1992, the $5,000,000 and $100,000,000 amounts in section 1301(c)(3)(B)(i) and subsection (b)(1) of this section shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1991' for '1987' in subparagraph (B) thereof.".

(b) MAXIMUM 14 PERCENT TAX RATE.—

(1) INDIVIDUALS.—Section 1(h) of such Code is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rate and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) SPECIAL RULE WHERE TAXPAYER HAS QUALIFIED SMALL BUSINESS NET CAPITAL OR SEED CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has qualified small business net capital gain or seed capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified small business net capital gain and seed capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 14 percent of the qualified small business net capital gain and seed capital gain.

"(B) DEFINITIONS.—For purposes of this paragraph, the terms 'qualified small business net capital gain' and 'seed capital gain' have the meanings given such terms by section 1301 (b) and (c), respectively.".

(2) CORPORATIONS.—Section 1201(a) of such Code (relating to alternative tax for corporations) is amended—

(A) by inserting "or the corporation has a qualified small business net capital gain or seed capital gain" before ", then", and

(B) by striking paragraph (2) and inserting:

"(2) a tax equal to the sum of—

"(A) 34 percent of the sum of the net capital gain, reduced by qualified small business net capital gain and seed capital gain, plus

"(B) 17 percent of the qualified small business net capital gain and seed capital gain.".

(c) TREATMENT AS PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) of such Code (relating to items of tax preference under the alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the deduction for the taxable year determined under section 1301(a)(1).".

(d) LOSSES ON SMALL BUSINESS STOCK.—Section 1244(c)(3)(A) of such Code (defining small business corporation) is amended by striking "$1,000,000" and inserting "$5,000,000 (adjusted at the same time and manner as under section 1302(g))".

(e) CONFORMING AMENDMENTS.—

(1) Section 62(a) of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1301.".

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "(or, in the case of qualified small business stock under section 1301, 50 percent of the amount)" after "the amount".

(3) Section 172(d)(2) of such Code is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1301 shall not be allowed.".

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 of such Code is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of sale of qualified small business stock, see section 1301.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of qualified small business stock held for more than 5 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1301 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1301 (relating to deduction for gain on qualified small business stock) shall not be taken into account.".

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(h), 1201, and 1211" and inserting in lieu thereof "1(h), 1201, 1211, and 1301, and for purposes of section 57(a)(8)".

(9) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(10) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1301 (relating to deduction for qualified small business net capital gains) and" after "except that".

(11) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1301 shall not apply.".

(12) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to stock issued after December 31, 1991.

(2) APPLICATION OF TAX INCENTIVE TO CURRENT STOCK HOLDINGS OF INVESTORS.—

(A) IN GENERAL.—If—

(i) a taxpayer holds any stock on any date on or after the date determined under subsection (a) which, at the time it was issued, would be treated as qualified small business stock (as defined in section 1302(a) of the Internal Revenue Code of 1986) without regard to the time it was issued, and

(ii) the value of such stock on such date exceeds its adjusted basis,

the taxpayer may elect to treat such stock as having been sold on such date for an amount equal to its value on such date (and as having been reacquired on such date for an amount equal to such value). The gain from such sale shall be treated as received or accrued (and the holding period of the reac-

quired stock shall be treated as beginning) on such date. For purposes of applying section 1301 of such Code, such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition and the requirement of section 1302(a)(1) that the stock must have been issued after December 31, 1991, shall not apply.

(B) ELECTION.—An election under subparagraph (A) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable.

TITLE II—INCREASED OBLIGATION CEILINGS UNDER FEDERAL TRANSPORTATION TRUST FUNDS

SEC. 201. OBLIGATION CEILING FOR FEDERAL-AID HIGHWAY PROGRAMS.

Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs (including minimum allocations for States under section 157 of title 23, United States Code) shall not exceed—

(1) $17,300,000,000 for fiscal year 1992;
(2) $17,800,000,000 for fiscal year 1993;
(3) $18,300,000,000 for fiscal year 1994;
(4) $18,800,000,000 for fiscal year 1995;
(5) $18,300,000,000 for fiscal year 1996; and
(6) $17,120,000,000 for fiscal year 1997.

SEC. 202. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR AIRPORT DEVELOPMENT AND PLANNING GRANTS; OBLIGATION CEILINGS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund, $250,000,000 which shall be available only to incur obligations to make grants under section 505(b) of the Airport and Airway Improvement Act of 1982.

(b) OBLIGATION CEILING.—Notwithstanding any other provision of law, the total of all obligations under section 505(b) of the Airport and Airway Improvement Act of 1982 shall not exceed $2,150,000,000 for each of the fiscal years 1993 through 1996.

SEC. 203. OBLIGATION CEILINGS FOR MASS TRANSIT DISCRETIONARY GRANTS.

Notwithstanding any other provision of law, the total of all obligations for the discretionary capital grant program funded out of the Mass Transit Account of the Highway Trust Fund shall not exceed $1,535,000,000 for each of the fiscal years 1993 through 1995.

SEC. 204. SURFACE TRANSPORTATION AUTHORITIES.

The following sections of S. 1204 of the One Hundred Second Congress (as passed the Senate) are hereby enacted: sections 102 and 103, sections 105 through 140, and sections 301 through 347.

TITLE III—DEFICIT NEUTRALITY

SEC. 301. ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the discretionary spending limits under section 601(a)(2) of the Congressional Budget Act of 1974 (as adjusted under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) are decreased as follows:

(1) the discretionary spending limit with respect to fiscal year 1993 for the defense category (under section 601(a)(2)(C)(i) of such Act) is decreased by $8,900,000,000 in new budget authority and $2,300,000,000 in outlays;

(2) the discretionary spending limit with respect to fiscal year 1994 for the discretionary category (under section 601(a)(2)(D) of such Act) is decreased by $12,800,000,000 in new budget authority and $7,600,000,000 in outlays; and

(3) the discretionary spending limit with respect to fiscal year 1995 for the discretionary category (under section 601(a)(2)(E) of such Act) is decreased by $17,600,000,000 in new budget authority and $13,800,000,000 in outlays.

(b) REDUCTION IN DEFENSE CATEGORY.—The reductions required under this section shall be achieved through reduction of discretionary appropriations in only the defense category.

SEC. 302. DEFENSE SPENDING LIMITS.

(a) IN GENERAL.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new subsection:

"(j) DEFENSE SPENDING LIMITS.—(1) The term 'defense spending limit' means spending for the major functional category for national defense (function 050) as follows—

"(A) with respect to fiscal year 1994, $282,200,000,000 in new budget authority and $282,300,000,000 in outlays;

"(B) with respect to fiscal year 1995, $280,300,000,000 in new budget authority and $277,600,000,000 in outlays;

"(C) with respect to fiscal year 1996, $272,900,000,000 in new budget authority and $274,200,000,000 in outlays; and

"(D) with respect to fiscal year 1997, $261,400,000,000 in new budget authority and $264,000,000,000 in outlays,

as adjusted consistent with the adjustments that section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 requires that the President or the Director of the Office of Management and Budget make to the discretionary spending limits.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for a fiscal year, amendment to such a concurrent resolution, motion in relation to such a concurrent resolution, or conference report on such a concurrent resolution, that would cause the level of budget authority or outlays for the major functional category for national defense (function 050) for the first fiscal year that is set forth in such concurrent resolution or conference report to exceed the defense spending limit set forth for that year under this subsection.".

(b) PRESIDENT'S BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with levels of budget authority and outlays for the major functional category for national defense (function 050) that do not exceed the defense spending limits set forth under section 301(j)(1) of the Congressional Budget Act of 1974 for any of the 5 years covered by that budget.".

SEC. 303. NO SEQUESTRATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, there shall not no sequestration under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 as a result of any reduction in tax revenues caused by application of the provisions of (and amendments made by) this Act.

(b) BUDGET TOTALS ADJUSTMENTS.—

(1) PRESIDENT'S BUDGET.—When the President submits the budget for fiscal years 1993, 1994, and 1995, in addition to any adjustments required by section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, the maximum deficit amounts for the budget year and all outyears through fiscal year 1995 (under section 601(a) of the Congressional Budget Act of 1974) shall be adjusted to reflect up-to-date reestimates of the effects on the deficit of the provisions of (and amendments made by) this Act.

(2) CALCULATION OF INCREASE OR DECREASE.—The required increase or decrease under this subsection shall be calculated so that the maximum deficit amount shall be increased by the amount by which the provisions of (and amendments made by) this Act increase the deficit and the maximum deficit amount shall be decreased by the amount by which the provisions of (and amendments made by) this Act decrease the deficit.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Ms. MIKULSKI, Mr. PACKWOOD, Mr. WIRTH, Mr. MCCONNELL, Mr. WELLSTONE, Mr. DECONCINI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. DIXON, Mr. GORE, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. ROBB, Mr. SARBANES, Mr. SIMON, and Mr. WOFFORD):

S. 2062. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EQUAL REMEDIES ACT OF 1991

Mr. KENNEDY. Today, we are introducing legislation to repeal the cap on the amount of damages available to women, religious minorities, and the disabled under the recently enacted Civil Rights Act of 1991. Identical legislation is being introduced in the House of Representatives.

I intend to ask the Senate Labor Committee to report this legislation at the beginning of the next session of Congress, and Majority Leader Mitchell has assured me that he will schedule it for action early in the session.

Three weeks ago, Congress passed a landmark civil rights bill that will restore to all Americans the ability to enforce their right to be free from job discrimination. Those who are committed to equal justice under law struggled for two years to pass this legislation, and its enactment constituted an impressive victory.

For the first time, the act gives women, religious minorities, and disabled persons the right to recover compensatory and punitive damages when they suffer intentional job discrimination; racial and ethnic minorities may sue under this provision as well.

Unfortunately, the new remedy created a glaring inequity by placing a ceiling on the amount of damages that can be recovered. As a result of this cap, victims of discrimination based on sex, religion, or disability can recover only limited damages, while victims of

race or national origin discrimination—who can sue under a different law—can recover unlimited damages.

There is no justification for this double standard. Intentional discrimination against women, religious minorities, and disabled persons is no less reprehensible than intentional race or national origin discrimination, and our laws should not perpetuate this injustice. Women, religious minorities, and the disabled are not second-class citizens, and they do not deserve second-class remedies.

The standard of proof and the definition of intentional discrimination are identical under the Civil Rights Act of 1991 and the long-standing race discrimination statute. There is no reason to expect significantly more litigation, or significantly larger jury awards, under the 1991 act.

In the last 11 years, under the law which allows racial minorities to recover unlimited damages, only 118 successful claims of intentional discrimination have been reported. Damages were awarded in only 69 of these cases, and damages over $200,000 were awarded in only three of these cases.

The caps under the 1991 act will not affect the size of the award for the vast majority of victims of discrimination. But those who have suffered the most severely, or been the victim of the worst discrimination, will be prevented from recovering full damages for their injuries, and employers who have committed the most outrageous acts of discrimination will be shielded from full responsibility.

It makes no sense to create a system which protects the worst lawbreakers and denies relief to those who have been harmed the most.

The Civil Rights Act of 1991 laid the groundwork for granting full justice to women, religious minorities, and the disabled. We must now complete the job.

Mr. DURENBERGER. Mr. President, we have just finished one of the most contentious battles I have witnessed in a very long time in the U.S. Senate. After long periods of discussion, negotiation, and debate, we managed to pass a civil rights bill that overruled several wrongly decided 1989 Supreme Court decisions.

I must add that I have been out in front in the race to end all forms of discrimination, in the workplace especially, and beyond. When I came to the U. S. Senate in 1979, I hired a legislative director by the name of Ralph Neas, who now happens to be Executive Director of the Leadership Conference for Civil Rights. And we made a mutual commitment that Ralph was going to help me end discrimination against women in the workplace. At that time, women in the workplace were being paid about 59 percent of what men were being paid. As Ralph showed me, going through the laws in this country, all of the many ways in which explicitly we discriminated against people on the basis of sex.

So in 1980, with the help of then Senator Birch Bayh, we introduced the first Economic Equity Act and reintroduced it, with Senator BOB PACKWOOD, my colleague from Oregon, in 1981; and we have been reintroducing it and passing portions of it every year since.

Over the last 6 years we made great strides under the Economic Equity Act in eliminating sexual discrimination in pension, estate, and tax law, insurance law, and a host of other issues. That effort has continued in the last 5 years under the leadership of Senator AL CRANSTON, Senator BARBARA MIKULSKI, myself, and others. We share a common goal of making this a Government of laws, not of men and women.

So it is clear from a review of this Senator's record that I have a long history of supporting equal opportunity legislation. And the recent civil rights initiative, spearheaded by Senator JOHN DANFORTH, was a victory for all Americans because it reaffirmed to the Nation and to the Supreme Court that we are committed as a nation to civil rights.

In addition to overturning various 1989 Supreme Court decisions, the civil rights bill plugged one of the biggest gaps in our civil rights laws by providing much-needed relief to victims of discrimination.

Previously, although racial and ethnic minorities were eligible for unlimited compensatory and punitive damages determined by a jury under section 1981 of the Civil Rights Act of 1986, women, the disabled, and persons suffering discrimination on the basis of religion, were only eligible for equitable relief and a court order reinstating the victim to his or her prior job.

In the new civil rights bill that we passed only a few short weeks ago, we provided to women, disabled, and those discriminated against on the basis of religion, compensatory and punitive damages awarded by a jury. The damages are only available to victims of intentional discrimination, and the law only provides recourse to employees who have suffered from deliberate employer conduct.

Thus, we are holding employers accountable for their actions, and thereby encouraging corporations to invest in educating their managers, supervisors, and employees, so employers will eliminate intentional discrimination from the workplace.

This was a much needed remedy, and I applaud the effort. But we did a novel thing when we created this new remedy: We capped the damages at a certain level. In other words, we limited the amount of compensatory and punitive damages in deliberate intentional discrimination cases, and we did it on the basis of the size of the company.

Mr. President, I announced at that time that I voted for the Civil Rights Act that I opposed the capping of the awards for women, the disabled, and those discriminated against because of religion. I did it because if we are to have equal rights, then we need to have equal remedies.

I opposed the damages caps at that time, and I would like to explain why I voted for a bill that contained the caps—there were two reasons. First, I obtained a promise on the part of the Senate leadership, as many of us did, that they would bring to the Senate floor early next year, that is in 1992, the bill that I am cosponsoring today, to lift the damages caps. And second, it was clear after a year-and-a-half of difficult negotiations that any attempt to lift the caps would require a conference with the House and would invite a Presidential veto. This, it would have been counterproductive at a time when we were trying to provide equal access to jury trials, and to provide damages for women and the disabled, to introduce an amendment that eliminated the caps.

Now that the Civil Rights Act has been signed by the President, I ask my colleagues: Why should women, people with disabilities, and those discriminated against intentionally because of religion, be singled out for special treatment? Should they not be entitled to the same relief that all other plaintiffs receive? I think everyone should be allowed to collect the same level of damages.

The reason is simple. The whole premise of civil rights law is to assure equal opportunity to every person. Congress mandates equal rights for all people regardless of race, sex, national origin, or religion.

But if we are to create equal rights, then we must also create and implement equal remedies. Congress must permit all individuals to share equal remedies under the law, and that is why I oppose the caps on damages.

The civil rights bill that we passed just a few short weeks ago had a fatal flaw. In attempting to encourage employers to treat each person equally, we wrote into the law unequal remedies. Racial minorities were entitled to unlimited damages, while women and the disabled have a cap placed on the damages available to them. This detracts from the very equality that we hope to sustain.

So, Mr. President, the time is at hand when we can do something about unequal treatment. And that is exactly what we are doing with the legislation introduced by Senator KENNEDY, myself and others, and the present occupant of the chair, my colleague from the State of Minnesota.

I strongly endorse this proposal to lift the caps. I urge all of my colleagues, particularly on the Republican side of the aisle, to support it. Prior to the new civil rights law, women and the disabled were treated as second

class citizens. We cannot allow this treatment to continue.

Mr. PACKWOOD. Mr. President, on October 29 of this year I stood before this body and lamented the fact that we were about to pass the Civil Rights Act of 1991 incorporating a provision that goes only part way toward correcting an equal protection problem in our law. I and others have detailed the history of how remedies for various kinds of intentional job discrimination came to be unequal.

When Congress passed title VII of the Civil Rights Act of 1964, it provided that the remedies for intentional discrimination based on race, sex, religion, or national origin would be primarily "equitable"—that is, you could get injunctions to stop the illegal treatment, and you could get reinstated to your job, and maybe back pay if you were illegally fired. You could not get compensatory damages, which are designed to compensate you for losses you suffered like doctor bills or losing your car if you could not make payments. You could not get punitive damages, which are designed, in egregious cases, to punish the wrongdoer who caused the discrimination.

Congress set up the title VII scheme to give everyone the same kinds of remedies. If you were black and mistreated on the job because of it, you had the same relief available to you as if you were a woman mistreated on the job because of her sex. But in 1976 an anomaly was created by a court when a race discrimination plaintiff successfully argued that they should be able to use section 1981, an 1866 statute which prohibits race discrimination in contracts, to get relief from job discrimination. This makes sense when you think about it because an employment situation really is a contract, an agreement between parties. But the effect of the court accepting this argument is that since 1976 race discrimination victims, and I understand some victims of discrimination based on national origin, have been able to get money damages while women and religious minorities could not. This is an anomaly in the law, created by judicial interpretation, not by any intent of Congress.

The Civil Rights Act of 1991 provides, for the first time, a remedy of money damages for all types of job discrimination, including even handicap discrimination, which was not included in title VII. But the act limits the dollar amount of damages. It is a step in the right direction but it maintains the basic inequity, since race discrimination victims can still use section 1981 and get unlimited damages.

When we passed the Civil Rights Act of 1991, I and some of my distinguished colleagues noted that they were uncomfortable with the still-unequal remedy scheme, and would continue to advocate for uncapped damages for all. I therefore am pleased to join with Senators KENNEDY, DURENBERGER, MCCONNELL, and COHEN and many other Senators to introduce the Equal Remedies Act of 1991, and look forward to Senate action on this very important matter.

Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Equal Remedies Act of 1991. This legislation would remove the stigma of second-class status from the working women of this country, from religious minorities, and from the disabled. It would also strike a blow for equal treatment, a principle which every one of us should embrace.

The Civil Rights Act of 1991, signed into law by the President on November 21, 1991, was a giant step forward in the effort to restore the scope and protections of Federal civil rights law. But like most compromises, the Civil Rights Act of 1991 was not a perfect piece of legislation.

In addition to overturning eight Supreme Court decisions, the act attempted to address a longstanding anomaly in Federal civil rights law. Under title VII, women and religious minorities have received backpay and injunctive relief as remedies for intentional discrimination; punitive and compensatory damages have not been available. When the disabled were accorded rights for the first time under the Americans With Disabilities Act of 1990, they were restricted to these remedies as well.

But racial minorities have long been able to recover unlimited punitive and compensatory damages for intentional race discrimination under section 1981, a post-Civil War Reconstruction statute barring discrimination in contracts. Thus, under Federal law prior to enactment of the Civil Rights Act of 1991, racial minorities could recover unlimited punitive and compensatory damages for intentional discrimination, but women, religious minorities, and the disabled could not.

The Civil Rights Act of 1991 creates an important new remedy for women, religious minorities, and the disabled. But tragically, the inequity I have just described remains true today. The act does allow victims of intentional discrimination to recover compensatory and punitive damages, but this recovery is subject to monetary limitations—$50,000, $100,000, $200,000, and $300,000—that vary with the size of the employer. Out-of-pocket compensatory damages are not subject to these limitations. Thus, it is still the case that racial minorities may recover unlimited punitive and compensatory damages for intentional discrimination, but women, religious minorities, and the disabled may not.

This inequity has a tremendous practical effect on the disadvantaged groups. First, because compensatory damages are designed to make an individual whole for all losses they have suffered, it is completely inappropriate to place a monetary limitation on the amount that individual can recover. Victims of intentional harassment and discrimination often suffer severe physical and mental injuries as a consequence. The harms suffered by these victims are not capped in any way, and the remedies available to them should not be limited either.

Second, punitive damages are designed to punish employers who have acted with malice or with reckless indifference to the victim's rights. To ensure that the amount awarded deters the employer from future violations, juries are instructed to consider all relevant circumstances, including the employer's net worth. The Civil Rights Act of 1991 limits the amount of damages that may be awarded, based on the number of employees an employer has. While that number may roughly correspond to the employer's net worth in some instances, size is by no means a proxy for wealth. Moreover, these limitations apply to smaller employers who intentionally discriminate no matter how egregious their conduct. As a consequence, some may escape with only a monetary slap on the wrist that does not serve as a deterrent to future violations.

The legislation we are introducing today performs a quick and simple surgery on the damages provision established by the Civil Rights Act of 1991. It eliminates the monetary limitations described above, to ensure that the Federal Government treats all forms of intentional discrimination equally. I am proud to join with Senators KENNEDY, MIKULSKI, WIRTH, DURENBERGER, and the other original cosponsors in offering this legislation.

Up to now, the very statutes designed to ensure equality of opportunity for all Americans themselves have contained provisions which discriminate against women, religious minorities, and the disabled in terms of the remedies they may recover. Let us move swiftly to remove this inequity from Federal law. I can think of no reason to oppose this legislation, except for a willingness to let women, religious minorities, and the disabled be treated as second-class workers. I certainly hope no one will do so.

Mr. WELLSTONE. Mr. President, today we introduce the Equal Remedies Act of 1991—an act which rectifies a serious inequity created by the Civil Rights Act which was enacted by Congress this fall.

Under the Civil Rights Act which we recently passed, victims of intentional discrimination based on sex, religion, or disability in the workplace will be able to sue under the Federal civil rights laws for the first time. This was a giant step forward in the granting of equal civil rights to all Americans, and toward the elimination of the cancer of discrimination in our society.

That act, however, went only part of the way. While it established a remedy for victims of sex, religious, and disabled status discrimination, it also set a cap—an upward limit—on the amount of damages that the victims of these kinds of discrimination could receive. Although victims of racial discrimination are now able to receive unlimited damages to redress the violations of their civil rights, victims of discrimination on the basis of sex, religion, or disabled status are not.

I know of no legitimate reason—indeed, none has ever been advanced—that justifies this difference in treatment. Illegal discrimination of any kind wounds its victims. Illegal discrimination of any kind diminishes us as a society and as a Nation. We cannot say that one kind of discrimination is better or less reprehensible than another; that the legal remedies for one kind of discrimination will be limited, while the remedies for another will not. The existence of a two-tier system of remedies says to the victims of sex, religious, and disability status discrimination that what they have suffered is of lesser importance; it says to the perpetrators of this discrimination that the law has greater tolerance for their conduct. Neither is true. Both messages of the prior Civil Rights Act must be eradicated.

The section on damages in the Civil Rights Act represented a compromise necessitated by concern about passing a bill which would be signed by the President. Now that this step has been taken, we need to take the next step: The elimination of a damage scheme that itself discriminates against victims of employment discrimination. I believe that Americans believe in fairness and equality. I believe that the U.S. Senate remains committed to fairness and equality. By enacting this legislation, we will be finally completing the eradication of this last vestige of invidious discrimination in the civil rights laws.

By Mr. LEAHY:

S. 2063. A bill to amend the Communications Act of 1934 to require cable television operators to provide notice and options to consumers regarding the use of converter boxes, remote control devices, and multiport technology; to the Committee on Commerce, Science, and Transportation.

CABLE TELEVISION LEGISLATION

Mr. LEAHY. Mr. President, there is a concern I have, and I suspect it is one probably shared by many of those who are watching C-SPAN, or watching these proceedings, and that is the problem of cable television.

My home in Vermont is blessed by the fact that it is so far out in the country, and the houses are about a mile or so apart and you do not have cable television. In fact, we practically have no television. I think we get 1½ channels; one sort of comes in, and other comes in not too bad in the picture, but poor in the content.

I constantly run into people who tell me about the problems with cable television. It was not until I decided, in the home that I use during the week here in the Washington area, to put in cable television that I found out why people complain so about cable. In the rural independent part of the country that I am from, maybe it is just as well they do not have this type of TV. It would probably spark a revolution of people marching on cable headquarters.

So, Mr. President, I rise today to speak about Cable TV, an issue which has the American people fed up, out of patience and ready for action. They are tired of rising prices and dismal service, tired of being charged for channels they never ordered, converter boxes they do not want and remote control units they are forced to rent, tired of being a captive audience for cable operators and tired of too little action from Congress and the President.

THE CABLE MONOPOLY

Meanwhile, politicians, bureaucrats, and lobbyists here in Washington show an amazing ability to stay behind the curve. Last March, a panel of leading industry lights argued at a Senate hearing that cable is not a monopoly because people have other alternatives—such as watching over-the-air stations, or home videos or driving off to a ball game, instead of watching it in their living room. This makes about as much sense as saying that old Ma Bell was not a monopoly because people could write letters or send telegrams. Settling for a handful of over-the air stations or renting a movie is no substitute for the 30, 50, or 80 channels available on cable.

Meanwhile, our Federal watchdog agency, the FCC, after lengthy bureaucratic review, concluded in July that cable operators face effective competition if there are six over-the-air stations in their area. This decision was apparently considered a great advance over the old rule which said that three over-the-air channels amounted to meaningful competition.

All I can say about that is: Guys, you just do not get it. The bureaucrats and experts in Washington can debate the antitrust laws until the cows come home and try to convince each other that cable is not a monopoly, but the American people know better. Any consumer from Burlington, VT, to San Francisco can tell you that if you want to get a full slate of programming, you will probably have to deal with the local cable company. If that is not a monopoly, I do not know what is.

Moreover, cable is an unregulated monopoly. In 1984, Congress stepped in and freed cable from much regulation. In fact, basic cable rates were supposed to be regulated wherever cable faced no effective competition. But when the FCC waved its wand and declared—contrary to simple common sense—that virtually all cable operators did face competition, the operators were off to the races.

From November 1986 to April 1991, basic rates shot up by 56 percent. In a similar period in my own State of Vermont, prices rose 48 percent. And those are just averages. We have all heard the horror stories about truly astronomical increases—of 130 percent in Newark; 186 percent in Jefferson City, MO; and 222 percent in one Connecticut town because of the monopoly. Meanwhile, the unprotected victims of this price-gouging have no recourse.

As cable revenues soared, the industry took aggressive steps to consolidate its position, buying up programmers and preventing potential competitors like satellite or wireless cable from gaining access to key programming. When, for example, cable operators deny competitors access to prime attractions like TNT, with its NBA and NFL broadcasts, what they are doing is making the world safe for monopoly.

And unsafe for consumers. As long as companies face real competition, customers are well served. But if the customer is captive, business' natural impulse to maximize profits means rising prices and declining service. That is why anyone who thinks that cable or any other monopoly can effectively police itself is dreaming.

Of course, in a sense, cable has become a victim of its own success. The programming that cable and its newer competitors like satellite and wireless deliver has increasingly become a fixture in American households. If you want to see news around the clock on CNN; if you want to see public affairs programming on C-SPAN; if you want to see first-run movies or a full menu of college and professional sports, you cannot rely on your old antenna. The days when people were satisfied with a handful of broadcast stations are over. But the more that people come to rely on cable programming, the more that cable's monopoly status becomes intolerable.

THE COMPREHENSIVE CABLE BILL—S. 12

A number of my colleagues, including Senators HOLLINGS, INOUYE, GORE, METZENBAUM, LIEBERMAN, and DANFORTH have been wrestling with the cable issue for a long time and I commend their efforts in doing that. In essence, S. 12 establishes a temporary regulatory scheme while encouraging the growth of a competitive environment that will allow regulation to be phased out.

On the regulatory front, S. 12 requires that cable rates be reasonable and establishes standards for adequate service.

On the competitive front, S. 12 bars any programmer that owns or is owned by a cable operator from unreasonably refusing to deal with competitors like

satellite and wireless or from discriminating against them in the price or terms of sale, if such discrimination damages local competition. I think that these nondiscrimination provisions could be still tougher, but they are an important step in the right direction.

I so have some concern about the copyright implications of the bill's new provisions on retransmission consent, and I plan to review those provisions carefully. But, on the whole, I think the approach of S. 12 is right on target.

The cable monopoly, of course, wants to continue to have its cake and eat it too. Cable operators oppose regulation on the ground that the free market should be left to work its will, but oppose the very measures—open access to programming—that would allow the free market to work. They talk about letting the free market in, but they make darn sure the free market does not come in.

The truth is that, when it comes to exclusive program deals, the cable industry has a lousy memory. In 1976, when the networks dominated and cable was a fledgling upstart, Congress granted cable a compulsory license so that cable would have full access to broadcast programming and could compete effectively. Now that the shoe is on the other foot, cable insists on its God-given right to tie up programming with exclusive contracts.

It may be that cable operators should not have been allowed to integrate vertically in the first place. If cable systems and cable programmers had remained in separate hands, many of the anticompetitive problems we face now could have been avoided. But given the vertically integrated world we live in now, with most top programmers owned by cable operators, the least we can do is demand that cable's competitors have access to programming on fair terms. To do less is to consign those competitors to defeat and America's consumers to the whims of monopoly power.

CABLE EQUIPMENT BILL

The bill I am introducing today—the Cable Ready Equipment Act of 1991—is aimed at a problem that more and more cable customers are confronting, to their dismay: Namely, that the converter boxes many are required to use disable important features of their cable ready TV's and VCR's.

How many people, Mr. President, have come to you, as they have to me, and said they have cable but then are told to get a converter box. They have to rent the converter box. How many of these people come in and say, "Hey, I got cable, but the cable company told me, 'Well, now you have to rent a converter box from us.'"

And why do you have to rent the converter box? Does it give you a better picture? Usually not. If anything, it usually degrades the picture. Why do you have to do it? If you do take this converter box that they tell you you need, then the TV remote control unit that you bought with your television becomes worthless. That box also makes it impossible to watch one channel while you tape another or to tape consecutive programs on different channels.

And if your new TV includes special features like a picture-in-a-picture display that lets you simultaneously check out a second channel while watching something else—forget it. The converter box prevents that feature from working—this converter box which you were required by your cable company to take apparently for no other reason than the fact that they make money on it.

My bill would do a number of things to make cable equipment more user-friendly:

First, it would encourage cable systems to use methods of signal denial—such as trapping or interdiction—which do not require a converter box in the first place. Because it is more and more evident to me that the main reason for converter boxes is that cable companies can charge for them. The fact that you bought a whole lot of equipment that you are not going to be able to use is immaterial to them as long as they are making money. The heck with whatever inconvenience it causes you;

Second, my bill would forbid cable operators from scrambling those channels offered on basic cable service;

Third, it would require cable operators to offer subscribers the option of receiving their unscrambled channels by direct hookup to their television, eliminating the converter box as to all such stations;

Fourth, cable operators would have to offer subscribers the option of purchasing a remote control device from any source rather than having to rent it from the cable operator.

Finally, it would direct the FCC to establish regulations phasing in a new technology called mutiport, which can decode scrambled signals without disabling any features of either a cable-ready TV or VCR.

If we lived in a real competitive cable world, this legislation would be unnecessary.

Can you imagine if you had two cable companies, one which said, "Well, you have to rent all this extra equipment of ours, you have to buy this or rent that, you have to set up all this stuff on your television—granted, it will not allow you to use any of the special features of your TV, but we are going to make money out of it"; and right in that same town another cable company that said, "Hey, same price, we will let you just hook right up to your TV, you will not have to rent extra equipment from us; you won't have to have a half dozen remote controls and so on." Which cable company do you think you would buy service from?

If there were real competition, nobody would put up with the kind of baloney that they put us through.

Enterprising companies would have seized the opportunity to offer consumers user-friendly service that allowed full use of their TV's and VCR's. But in a monopolistic world, which we have in the cable industry, consumers need help and this bill is designed to provide it. This is highly technical legislation, and I look forward to working on it with interested and knowledgeable parties in this country and within the Senate.

SATELLITE HOME VIEWER ACT—STANDING

My second bill—which I introduced Thursday—is intended to help reduce the amount that home dishowners have to pay for programming. Congressman BOUCHER has introduced companion legislation in the House. As an FCC study concluded in July, satellite carriers that uplink and downlink superstations and network affiliates routinely charge satellite distributors, who sell programming to dishowners, far more—sometimes several times more—than they charge cable operators. This price discrimination against satellite distributors in turn drives up the price that home dishowners have to pay.

That kind of price discrimination is clearly illegal under the Satellite Home Viewer Act of 1988. The problem is that the distributors have no standing to sue to enforce their rights.

My bill—the Satellite Home Viewer Act Amendments of 1991—will correct this anomaly by making clear that satellite distributors have such standing.

Mr. President, Congress cannot continue to ignore the growing problems in the cable industry. I fully agree that competition is the best way to protect consumers, but until consumers have genuine competitive options and are free from monopoly abuse, regulation will be necessary. Moreover, unless monopoly power is restrained by legislation, new competitors like satellite and wireless will die on the vine.

In this regard, I also want to register my concern over the proposed rule announced in July by the Copyright Office—a rule which would doom wireless cable by denying it the all important benefits of the cable compulsory license. Competition to cable should be the order of the day. The last thing we need is to squeeze the life out of a potential competitor.

Mr. President, I look forward to the debate on comprehensive cable legislation early next year. Cable's captive audience is restless and it has a right to demand better treatment. It is up to the Congress and the White House to deliver.

I ask unanimous consent that the full text of my cable equipment bill be included in the RECORD.

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

S. 2063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE AND OPTIONS TO CONSUMERS REGARDING CABLE READY EQUIPMENT.

The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding after section 624 the following new section:

"SEC. 624A. NOTICE AND OPTIONS TO CONSUMERS REGARDING CABLE READY EQUIPMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Cable Ready Equipment Act of 1991'.

"(b) FINDINGS.—The Congress finds that—

"(1) the use of converter boxes to receive cable television may disable certain features of cable ready televisions and VCRs, including, for example, the ability to—

"(A) watch a program on one channel while simultaneously using a VCR to tape a different program on another channel;

"(B) use a VCR to tape two consecutive programs that appear on different channels; or

"(C) use certain special features of a television such as a 'picture in a picture' feature; and

"(2) cable operators should, to the fullest extent possible, employ technology that allows cable television subscribers to enjoy the full benefit of the features available on cable ready televisions and VCRs.

"(c) DEFINITIONS.—As used in this section:

"(1) The term 'cable ready', when used to describe a television or VCR, means that the television or VCR is equipped with adequate channel capacity to receive the service offered by cable operators without the use of a converter box, except insofar as a converter box is needed to decode scrambled signals.

"(2) The term 'Commission' means the Federal Communications Commission.

"(3) The term 'converter box' means a device that—

"(A) allows televisions that are not cable ready to receive the service offered by cable operators; and

"(B) decodes signals that cable operators deliver to subscribers in scrambled form.

"(4) The term 'multiport' means an apparatus that is built into a television according to the EIA/ANSI 563 standard, or any successor standard accepted by the Commission, into which is fitted a cable system decoder that performs only a descrambling function, while other functions, such as tuning and remote control, are carried out by the television.

"(5) The term 'VCR' means a videocassette recorder.

"(d) SCRAMBLED SIGNALS.—Cable operators shall not scramble or otherwise encrypt any signal that is offered as part of basic cable service, as that term is defined in section 602(2).

"(e) CONVERTER BOXES.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations requiring a cable operator offering channels the reception of which requires a converter box to—

"(1) notify a subscriber that if a subscriber's cable service is delivered through a converter box, rather than delivered directly to the subscriber's cable ready television or VCR, the subscriber may be unable to enjoy certain features of his television or VCR, including the ability to—

"(A) watch a program on one channel while simultaneously using a VCR to tape a different program on another channel;

"(B) use a VCR to tape two consecutive programs that appear on different channels; or

"(C) use certain special features of the subscriber's television such as a 'picture in a picture' feature;

"(2) offer any subscriber with a cable ready television who does not receive channels the reception of which requires a converter box, the option of having his cable service installed, or reinstalled, at the cable operator's expense, by direct hookup to the subscriber's television or VCR; and

"(3) offer any subscriber with a cable ready television who receives or wishes to receive channels the reception of which requires a converter box, the option of having his cable service installed, or reinstalled, at the cable operator's expense, in such a way that those channels whose reception does not require a converter box are delivered directly to the subscriber's television or VCR.

"(f) REMOTE CONTROL DEVICES.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations relating to the use of remote control devices that shall—

"(1) require a cable operator who offers subscribers the option of renting a remote control unit—

"(A) to notify subscribers that they may purchase from any source a remote control device rather than renting it; and

"(B) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(2) prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(g) MULTIPORT TECHNOLOGY.—Within 180 days after the date of enactment of this section, the Commission shall promulgate regulations relating to the installation of multiport technology on new televisions and the supplying by cable operators of descrambling units that are compatible with such technology. Such regulations shall require that—

"(1) all televisions with a picture screen of 13 inches or greater in size sold in the United States on or after the earliest feasible date to be fixed by the Commission, shall be equipped with multiport technology;

"(2) no later than the date fixed by the Commission in paragraph (1), a cable operator who provides channels the reception of which requires the use of a converter box shall, for a subscriber who receives or wishes to receive such channels and who owns a cable ready television equipped with multiport technology, offer to replace the converter box at the cable operator's expense, with a descrambling unit that is compatible with the multiport technology; and

"(3) an offer made pursuant to paragraph (2) to replace a converter box with a descrambling unit shall fully inform the subscriber that the use of the descrambling unit will enable the subscriber to enjoy features available on a cable ready television and any VCR that is connected to the television.".

By Mr. HATFIELD (for himself, Mr. MITCHELL, Mr. SIMON, Mr. JEFFORDS, Mr. DECONCINI, Mr. LEAHY, Mr. ADAMS, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE):

S. 2064. A bill to impose a 1-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period; to the Committee on Foreign Relations.

NUCLEAR TESTING MORATORIUM ACT

Mr. HATFIELD. Mr. President, in a just a few days I will be leaving for Pearl Harbor with a delegation taking part in the ceremonies commemorating the 50th anniversary of the Japanese attack on the Pacific fleet. Recorded history refers to December 7, 1941, as a day which will live in infamy.

Mr. President, for myself and many others, Pearl Harbor's shock and tragedy is matched by few horrors, but certainly by the atomic blasts at Hiroshima and Nagasaki. As a young naval officer who viewed Hiroshima only days after the bomb was dropped I saw firsthand the terrible power of nuclear weapons.

Since World War II the United States and the Soviet Union engaged themselves in the task of perfecting the atom, creating tactical and strategic weaponry which could be flexible enough to use in any military situation. Yet, at the same time the superpowers have sought to suppress the possession of nuclear capabilities by other countries. That goal largely has been met. And just as the United States' relationship with Japan since Pearl Harbor has been completely and permanently transformed, so has our own need for nuclear weapons. The problem is that some within the Pentagon are not yet ready to admit that fact.

Today, I am pleased to announce that Senator MITCHELL and I, along with several other Senators, are offering legislation which will place the United States in a leadership position with respect to nuclear testing. Our bill calls for a 1-year, bilateral moratorium on such tests, so long as the Soviets are adhering to their decision to suspend tests. Now, more than ever, a nuclear test ban makes sense and I commit myself today to the effort to enact this moratorium

The premise behind our legislation is rather simple: The ending of the cold war has reversed the arms race. There is no need to develop new nuclear weapons. People will certainly argue over the need for such weapons at all. But no one can, in my view, assert that the United States will be unable to maintain national security if the Nation's testing program is halted. To the contrary, I am convinced that our security in the new world order can only be assured by the decision to suspend all nuclear testing.

President Bush's former arms control negotiator Richard Burt noted recently that "I think the time has come for us to seriously look at [a comprehensive test ban]. If the United States and the Soviet Union stopped testing nuclear weapons, it is going to be that much more difficult for small countries in the Third World to do that."

Mr. Burt has captured the real argument for a test ban: The threat has changed. We cannot allow ourselves to be preoccupied with a Soviet threat which has all but dissolved while ignoring the fact that the gravest danger now lies with the prospect of nuclear proliferation. The United States can recognize this threat and address it not only by implementing the bill introduced by Senator MITCHELL and myself, but by also working vigorously to enact a comprehensive test ban treaty.

Detractors will no doubt argue that a test ban places our nuclear stockpile at risk by prohibiting tests which verify safety. Yet, in a report to Congress last summer, a physicist at Lawrence Livermore National Laboratories asserted that the safety of our nuclear stockpile need not limit U.S. consideration of a test ban. The retirement of older weapons as well as tactical weapons have made this possible. In addition, precautions regarding the handling and transporting of nuclear weapons can provide a measure of safety in lieu of testing.

If then, we have largely ended the nuclear arms race and identified alternatives to testing, I challenge my colleagues to justify to the American taxpayer the continuation of a program which costs an average of $160 million per test. I urge the Congress to adopt the Nuclear Testing Moratorium Act in the spirit of the arms control initiatives announced by Presidents Bush and Gorbachev early this fall.

Mr. MITCHELL. Mr. President, I am pleased to join the distinguished Senator from Oregon [Mr. HATFIELD] and my other distinguished colleagues in introducing this legislation to implement a mutual moratorium on nuclear testing.

I believe it is important to sustain the momentum created by the recent unilateral arms control initiatives taken by President Bush and President Gorbachev. This legislation, by taking up the Soviet offer to temporarily halt nuclear testing, is another step toward building a more peaceful new world order.

President Gorbachev has offered to observe a 1-year testing moratorium as part of an effort to move the two countries toward a comprehensive test ban.

Up until President Bush assumed office, it had long been U.S. policy to pursue an end to all nuclear testing.

Our commitment to end nuclear testing was related to our institution of the nonproliferation regime. In exchange for other countries agreeing not to acquire nuclear weapons, we agreed to try to eliminate their role in our defense. Even President Reagan expressed to Congress his commitment to immediate negotiations on a step-by-step program to limit and end nuclear testing.

Unfortunately, the Bush administration has taken a giant step backward. This administration has called for a "period of implementation" of the Peaceful Nuclear Explosions and Threshold Test Ban Treaties before negotiating additional testing limits.

The rationale the President uses is that we must continue testing as long as we have nuclear weapons. Yet we can test the reliability of nuclear weapons without exploding warheads.

The real reason to conduct new tests is to develop new types of more lethal nuclear weapons, but we don't need such new nuclear weapons. Already this year, the administration has conducted 7 nuclear tests at a cost of between $10 and $100 million per test. This does not seem to reflect the end of the cold war and the emergence of a new world order.

It fails to acknowledge that the relevance of nuclear weapons to our society has declined dramatically. This administration has not sought a comprehensive nuclear test ban despite the fact that the Soviet Union has periodically halted its own nuclear tests.

President Bush has declined to explore further limits despite the fact that he has initiated a new phase of arms control in which progress can be achieved outside of the legal framework of a formal treaty. That is why we are introducing this bill today.

It is a very simple bill. It says that for 1 year, the United States will refrain from exploding any nuclear weapons as long as the Soviet Union, the Soviet Republics, or their successor states do the same. But if they do explode a nuclear device, the United States is free do so. I commend the senior Senator from Oregon for his leadership on this issue and I look forward to continuing to work together on issues of such vital concern. I am confident that we all want to help the new world order become a reality, to see more rapid and meaningful progress toward disarmament.

We all want to help end nuclear proliferation. We all want a cleaner environment, free of radioactive waste. We all want to save money.

With the arms race ending, with both the United States and the Soviet Union making deep reductions in nuclear and conventional weapons, now is the time to take the additional step of negotiating an end to nuclear testing. And in the meantime, the United States should join the Soviet Republics in temporarily halting nuclear explosions. It is a small but meaningful step toward a safer world.

By Mr. DIXON (for himself and Mrs. KASSEBAUM):

S. 2065. A bill to federalize the crime of child molestation for repeat offenders; to the Committee on the Judiciary.

KAHLA LANSING CHILD PROTECTION ACT

Mr. DIXON. Mr. President, I rise today to introduce the Kahla Lansing Child Protection Act of 1991, and ask for its swift enactment.

Kahla Lansing was a lovely 6-year old girl who lived in Spring Valley, IL. Spring Valley is a town of some 5,800 people nestled along the Illinois river in Bureau County, Mr. President. Kahla went to Lincoln elementary school there, and was a bright, well-liked student.

Earlier this year, Kahla was roller skating out in her family's neighborhood when a man in a car abducted her into the night, never to be heard or seen from again. The man molested her and murdered her, Mr. President; this lovely 6-year old girl.

The mayor of Spring Valley, who also happened to be Kahla's elementary school principal, Jim Narczewski, wrote me recently about the Kahla Lansing murder, and its devastating impact on the people of this close-knit family community. In his letter, he writes that the community was shocked to learn that the accused:

> Had been twice convicted of child molestation in the State of TX, sentenced to ten years imprisonment, and released after three months of "shock" incarceration. * * * in addition to abducting, molesting, and murdering Kahla Lansing, this same individual also sexually molested a child in Galesburg, Illinois. After leaving Galesburg, Illinois, the defendant traveled to Spring Valley * * * in search of a child to abduct and molest.

Mr. President, please hear what the mayor has said: The accused was twice convicted of child molestation, served his time under the law, and then hunted down Kahla Lansing. The system failed in this case.

It provided the loophole through which the accused was able to continue his sick criminal activity.

It is a sad fact that the Kahla Lansing case is not unique. Thousands of children are molested every day. Those convicted serve a wide variety of sentences. State laws provide an inadequate patchwork of laws for repeat offender situations. The application of Federal law in repeat offender situations provides the type of protection necessary to prevent Kahla's tragedy from reoccurring.

Our children are not adequately protected under current law from this crime. We need to provide better protection.

The legislation I am introducing today closes the loophole. It provides for Federal jurisdiction in cases where an individual has one or more prior Federal or State criminal convictions for child abuse as the term is defined in the 1990 Crime Control Act. The bill imposes a tough 15-year minimum mandatory sentence with no opportunity for parole, and requires the Bureau of Prisons to provide appropriate counseling and therapy to the person while incarcerated.

Under my legislation, values are put into practice. We, as parents and legislators, have the obligation to protect

children from the type of sick people who engage in child abuse, molestation, and pornography.

I truly hope, Mr. President, that through this legislation, no child will have happen to them what happened to Kahla Lansing. It would be a fitting memorial to her, and to all those children whose voices were silenced too soon, to enact this legislation. We must never forget Kahla, Mr. President, and with my colleagues' support of this legislation, we never will.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2066. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide financial assistance to local educational agencies administering public school districts where military installations are located; to the Committee on Armed Services.

IMPACT AID PROVIDED BY THE SECRETARY OF DEFENSE

• Mr. DIXON. Mr. President, together with my good friend and colleague Senator PAUL SIMON from Illinois, I am introducing legislation correcting what is presently an inequity in financing education for those communities that support military bases and an inequity to their local taxpayers. This bill transfers part of the Federal impact fund from the Department of Education to the Department of Defense. While this step may at first appear to do things backward, the reality is that this legislation will help correct an injustice to many local property taxpayers who presently have to bear the unfair burden of paying a large portion of the cost of educating military dependents who live at many of our U.S. installations.

Many of our school districts Mr. President, are in a dire financial state. They are taking drastic steps to try to balance their budgets. Teacher paycuts, lack of necessary school equipment, reduction or elimination of sports programs, and the reduction of the number of school days all attest to the problem many of the school districts are having with their budgets. These cutbacks in educational services to our children are occurring at a time when we desperately need to improve our educational system in order to assure our future competitiveness in the world marketplace.

All of these financial problems are being made much worse by the impact of our military dependent children that the school districts are required to absorb in their school systems. In my State of Illinois, there are school districts, for example, Highwood-Highland Park and West Chicago, that are facing financial collapse due in large part to the impact of supporting military dependents without adequate financial support from the Federal Government.

A large portion of the money to pay for the school system comes from local taxpayers in the form of property tax and State tax. If a military member lives on the military installation, he does not pay any property tax. If his official residency is other than the State where he is stationed, he is not required to pay tax to that State where he is temporarily living.

Mr. President, for the local school districts, this means that needed tax money is not generated. To offset this problem, the Federal impact law provides Federal money to the school district for these students. The Department of Education administers this program. Unfortunately, based upon the dollars allocated in this program and the formulas used by the Department of Education to dispense these dollars, the school districts that service military dependents do not get adequate funds. The result is the school districts are short-changed on the dollars, which, in turn, means our students are penalized with a less than adequate education. This situation causes a grave injustice to those communities which are required to provide an educational system for military dependents.

Mr. President, as the chairman of the Armed Services Subcommittee on Readiness, Sustainability, and Support, I strongly believe that the Department of Defense should be accountable for those costs that are directly related to their operations. I further strongly believe that the cost to have military personnel and their dependents located in our communities at military installations is a cost directly related to the operations of that installation.

Mr. President, by transferring the responsibility and administration of that portion of the Federal impact funds that support military dependents to the Department of Defense, we will ensure the Department of Defense considers the cost of supporting its dependents in their budget requests. This in turn will cause the Department of Defense to ensure that the local community school system gets the needed dollars to support military dependents. Mr. President, this bill will require the Department of Defense to pick up the tab for military dependent schooling. I strongly feel this is only right. Mr. President, I also plan to introduce, at a later date, a bill to revamp how the impact fund for the military dependents is administered.

This bill we are introducing that transfers the portion of the impact funds that support military dependents is basically restating a premise that the national defense costs are a shared national burden, not an item with which to over burden a small group of homeowners. This cost of educating our military dependents should be factored in as a vital part of the cost of defense.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

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

S. 2066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF IMPACT AID RESPONSIBILITY TO THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—(1) Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2254. Impact aid for local educational agencies

"(a) The Secretary of Defense shall establish and conduct a program to provide direct financial assistance to each local public educational agency that—

"(1) administers a public school district in which there is located any military installation composed of property that—

"(A) was acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property owned by the United States before 1939 that was located in the school district; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired);

"(2) experiences a substantial and continuing financial burden resulting from the acquisition of such property by the United States; and

"(3) is not being substantially compensated for the loss in revenue resulting from the acquisition of such property by the United States.

"(b) To the maximum extent practicable, the program established pursuant to subsection (a) shall be consistent with the program established under the provisions of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236 et seq.).

"(c) Funds for carrying out subsection (a), including funds for making payments to local educational agencies pursuant to such subsection, shall be provided for under the national defense budget function (050).

"(d) A local educational agency may not receive payments under the Act referred to in subsection (b) with respect to children counted for the purpose of providing financial assistance under the program conducted pursuant to this section.

"(e) In this section, the term 'military installation' shall have the meaning given that term in section 2801(c) of this title.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting after the item relating to section 2253 the following new item:

"2254. Impact aid for local educational agencies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992.•

• Mr. SIMON. Mr. President, I rise to join my colleague and friend from Illinois in supporting legislation that directs the Secretary of Defense to administer the military portion of im-

pact aid. I am pleased to be an original cosponsor of this bill.

Impact aid financially compensates local school districts that are adversely affected by activity within the district, such as a military base. This activity can severely affect the tax base of the school district and thus hamper local schools' ability to provide all students with the quality education they deserve. Not only does our Federal activity reduce revenue from local property taxes, it can substantially increase the number of students that local schools must educate.

By not adequately reimbursing local schools for this cost, the Federal Government is shortchanging these districts—and in many areas, local taxpayers are taking up the slack. For example, North Chicago District 187 is losing up to $4,000 per year for each military child—despite passage of a referendum to raise property taxes to one of the highest rates in Illinois. Inadequate impact aid funding has forced North Chicago to cut 45 of 140 teachers in order to meet payroll. Highland Park and other Illinois districts, as well as school districts throughout the country, face similar problems. Our students deserve better.

Last week I wrote to Secretary Cheney urging that the Department of Defense take over the military portion of the Impact Aid Program. The Federal defense budget is nearly 10 times larger than our education budget. Obviously, there is much more room for providing adequate funding for this program within the defense budget than in the already underfunded education budget. In fact, impact aid funds appropriated for next year total just less than the cost on one B-2 bomber. I do not have to ask what is more important to our future—manufacturing another bomber that will probably never even be used or providing access to a quality education for 600,000 students.

In short, transferring the military portion of impact aid to the Department of Defense is common sense. What better way to show our appreciation to the individuals who serve in our Armed Forces—many of the whom served in the Persian Gulf—than to contribute to full and fair funding for educating their children.

Mr President, I urge my colleagues to join me in supporting this important legislation.●

By Mr. MOYNIHAN:

S. 2067. A bill to provide for the elimination of the General Services Administration's Federal Building Fund; to the Committee on Environment and Public Works.

S. 2068. A bill to provide for a biennial review and planning for a public buildings program; to the Committee on Environment and Public Works.

S. 2069. A bill to provide that the General Services Administration provide information concerning public buildings in a certain form for the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Environment and Public Works.

REFORM OF GENERAL SERVICES ADMINISTRATION

Mr. MOYNIHAN. Mr. President, today I am introducing legislation to reform the General Services Administration's Public Buildings Service. Mr. President, we have a budget process which looks no further than 1 year. Thus we continue to waste scarce funds and make poor investment decisions. In the case of procuring Government space, we have been forced to continue to lease expensive space rather than purchase or construct new space. Landlords become wealthy, but the Government has nothing to show for it, except a stack of rent stubs.

This is not new. Shortly after World War I, a public buildings commission surveyed Federal office space in Washington and found we were spending $1 million a year in rent to private landlords. There was an outcry, of course, and we built the Federal Triangle shortly thereafter. By 1994 we will spend $2 billion a year for rent. Too much for an outcry. Perhaps a howl.

The administrations' economic policies of the last decade have left us with no choice but to lease rather than to construct Federal office space. The pressure of the budget crisis makes it expedient to budget annual lease payments rather than the larger sums necessary to construct federally owned buildings. A General Accounting Office study of 43 proposed new building projects found that building the facilities would be $12 billion cheaper than leasing the space, over a 30-year period. Thus, while claiming to make Government behave more like the private sector, we fail to make necessary and wise investments.

But this has always been the case. It has been said that public buildings are the second most important item to every Cabinet Secretary. More time is spent worrying about office space than almost any other single issue in Government.

Although public building space is important, it is not popular. Such an investment never is. Thus we build in fits and starts.

From the first Congress until 1902, new Federal buildings were generally authorized individually. In 1902, Congress passed the first Omnibus Building Act, authorizing more than 60 buildings. Other such bills were passed, but with the onset of World War I everything just stopped. And they did not truly start again until the enactment of the Public Buildings Act of 1926 which created Washington's Federal Triangle and the Supreme Court Building. The Federal Triangle was needed to make up for the Government's office space shortage, which had become intolerable. During World War I, while we delayed the construction of new projects, the Government work force doubled to some 70,000.

World War II brought an end again to new public buildings construction. From then on we built slowly until space shortages would become troublesome enough that Congress would authorize a larger package of buildings all at once. This happened in 1954. GSA received a 3-year authority to build 23 buildings. Again in 1972, GSA received authority to build 68 projects.

Recognizing this trend, during the last buildings crisis, we created a self-funding mechanism for public building, known as the Federal Building Fund or FBF. It is funded by the so-called rent paid by agencies to GSA. The fund was intended to come the operating cost of the Public Buildings Service and to fund new construction projects. It has not. In fact, the fund has generated less than $100 million a year, on average, for new construction. To put this in perspective, the administration has requested a new Department of Transportation headquarters. That project alone would cost over $500 million.

The simple truth is we are not building enough buildings. A 1989 GSA/OMB study reached the same conclusion. But as long as we link the amount of money GSA collects in rents to the amount available for building new buildings we will fail to make the necessary investment.

The Administrator of the General Services Administration has testified before the Subcommittee on Water Resources, Transportation and Infrastructure, which I chair, that GSA should own 74 percent of its space, leasing the other 26 percent. In 1970, GSA owned 70 percent. Today they own just 57 percent. We are going backward. This is unwise and unacceptable.

For this reason, Mr. President, I introduce today a bill to eliminate the Federal Buildings Fund. I am greatly pleased that Senator BURDICK, chairman of the Environment and Public Works Committee is a cosponsor of this legislation.

By returning to the regular appropriations process for public buildings we will be able to make decisions based on the economics of such an investment. The shortsightedness may not end, but the choices will be clear.

Funding is not the only problem with GSA's public buildings service. Their planning and analysis are also insufficient. As chairman of the subcommittee which oversees GSA's Building Program, I am astonished at how little information we receive about proposed projects. Not just new construction, but leases and repair and alteration projects as well.

In this time of tight budget constraints, the question is not whether a

proposed project has a positive rate of return, but which projects have the highest rate of return—where does the Government get its best return on investment. GSA must submit an adequate 5-year plan establishing priorities. I have requested such a plan, but not received it.

As such, Mr. President, I am also introducing a bill, to be known as the Public Buildings Planning Act. This bill will require that GSA provide the information necessary for Congress to make rational economic choices in the public buildings area. it is a maxim that good decisions require good information. We are not getting it. We must require it.

Finally, Mr. President, I introduce a bill today to require GSA to include commercial equivalent rates in their lease prospectus submissions. GSA currently presents the committee a lease range estimate that doesn't relate to the private sector. This has caused great consternation in the committee. That information is important and this bill will require it to be included in all GSA lease requests to Congress.

Mr. President, these reforms are long overdue. We need to make intelligent investments and with these bills enacted, we will have a greater opportunity to do so.

By Mr. MOYNIHAN (for himself and Mr. BURDICK):

S. 2070. A bill to provide for the Management of Judicial Space and Facilities; to the Committee on Environment and Public Works.

JUDICIAL SPACE AND FACILITIES MANAGEMENT ACT

• Mr. MOYNIHAN. Mr. President, today I introduce, along with Senator BURDICK, legislation to grant the Federal courts greater independence from the General Services Administration in the area of space and facilities management. Mr. President, currently the judicial branch of our Government is dependent upon the executive branch for all of its space and facilities needs. The Judiciary's requests are subjected to both GSA's and OMB's decisionmaking process. And although both have been willing in recent years to fund a great number of court projects, it remains an executive branch prerogative.

The courts have rightfully requested more independence from GSA. The legislation I introduce today will do just that. Under this bill, following a transition period, the courts will no longer be subjected to executive branch review. Rather, they will make their space and facilities requests directly to Congress. Further, the Director of the Administrative Office of the United States Courts will be granted authority to contract for space and facilities for the U.S. courts itself, instead of relying on GSA.

As a consequence of this separation, the courts will no longer pay the so-called rent to GSA. They will be required only to reimburse GSA on an actual cost for services rendered basis. Such an arrangement already exists for several buildings belonging to the Social Security Administration.

Let me state here, Mr. President, that I do not support the decentralization of public building services. Centralization in this area is efficient and appropriate for executive branch agencies. Yet, in the case of the courts, it raises the question of separation of powers.

It should also be recognized, Mr. President, that greater independence for the courts ought not threaten the construction of new executive branch buildings. We know we are not building enough. The Administrator of GSA has testified that the Government should own 74 percent of its space. Currently, however, GSA owns just 57 percent. This is down from 70 percent in 1970. We are headed in the wrong direction. As such, the courts will not be permitted to receive funds from the Federal Building Fund for construction of its facilities following the 2-year phase period.

The courts will be permitted to establish their own building fund to be capitalized from whatever sources they may identify. And of course, Congress may directly appropriate funds for court projects. Mr. President, this bill is fair. It provides independence for the courts, but it does not create an inefficient duplication of GSA's services. I urge my colleagues to support it.•

By Mr. KERRY:

S. 2071. A bill to suspend temporarily the duties on certain instant print cameras; to the Committee on Finance.

S. 2072. A bill to suspend temporarily the duties on certain chemicals; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CAMERAS AND CHEMICALS

• Mr. KERRY. Mr. President, today I am introducing two bills to amend the Tariff Code.

In the last few years, Mr. President, many of us have begun to recognize the way in which international competition is shifting significantly to the economic sphere. Indeed, many eloquent speeches have been made on this floor alluding to the fleeting triumphs of the cold war and enjoining America to embark on a new economic struggle to regain economic competitiveness.

However, Mr. President, despite this new reality and new rhetoric, precious little is being done to advance the competitiveness of this Nation. In fact, we continue to force our companies to play by a set of outmoded rules, to tie one hand behind their backs. This is especially true in the area of trade.

American businesses, to their credit, are doing their best to compete globally regardless of the laws and regulations imposed on them by Congress and regulatory agencies. One prime example of this is Polaroid. This company, a leader in advanced instant print systems and a leading manufacturer of technical and industrial photographic equipment, is engaged in an effort to maintain its dominance. What is so special about this effort is that Polaroid is seeking to keep its production facilities principally located in the United States.

Today I am introducing two bills to assist Polaroid in this effort. My legislation would suspend temporary duties on certain instant print cameras and chemicals now produced by the company in its foreign trade subzone located in Massachusetts. This duty suspension would help Polaroid continue to be competitive from its United States base. At the same time, the legislation would not damage any other U.S. competitor since there are no U.S. producers of the imported goods or of high-quality-instant photographic equipment.

I hope that my colleagues can join me in this small effort to assist a dynamic U.S. corporation retain its leadership.•

By Mr. BREAUX (for himself and Mr LOTT):

S. 2073. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARITIME ADMINISTRATION AUTHORIZATION

• Mr. BREAUX. Mr. President, I, along with my colleague, Senator LOTT, am introducing a bill today that authorizes the appropriations for the Maritime Administration [MarAd] for fiscal year 1992. The largest increase over the administration's request is an additional $8,961,000 for MarAd's Ready Reserve Force [RRF] Operations and Training. The funds authorized by this bill will enable MarAd to continue and improve upon its operation of the RRF as well as its many other functions.

MarAd's primary responsibility is the promotion of those activities that are designed to enhance the maritime industry in the United States. Among these duties are the maintenance and deployment of the National Defense Reserve Fleet, including the Ready Reserve Force.

The RRF played an essential role in Operation Desert Shield/Desert Storm. Had it not been for the RRF's participation in the military sealift strategy of the United States during the conflict in the Persian Gulf, the allied victory in the Middle East might not have been as thorough as it proved to be.

MarAd deserves much credit for our success in the Persian Gulf. Its performance in the maintenance and deployment of the RRF was vital. They are to be commended for a job well done.

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. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. For fiscal year 1992, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) $272,210,000 for payment of obligations incurred for operating-differential subsidies of United States-flag vessels.

(2) $36,985,000 for expenses related to manpower, education, and training, including—

(A) $25,278,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $10,072,000 for assistance to the State maritime academies; and

(C) $1,635,000 for manpower and additional training.

(3) $28,204,000 for operating programs.

(4) $8,011,000 for expenses related to national security support capabilities, including—

(A) $6,748,000 for the National Defense Reserve Fleet; and

(B) $1,263,000 for emergency planning operations.

(5) $233,961,000 for the Ready Reserve Force, including—

(A) $104,000,000 for fleet additional, replacements acquisitions, and upgrading of vessels for the Ready Reserve Force;

(B) $125,961,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(C) $4,000,000 for Ready Reserve Force share facilities and fleet support craft.●

By Mr. LIEBERMAN (for himself and Mr. RUDMAN):

S. 2074. A bill to amend section 6002, United States Code, respecting immunized testimony; to the Committee on the Judiciary.

IMMUNIZED TESTIMONY

Mr. LIEBERMAN. Mr. President, together with my friend and colleague from New Hampshire, Senator WARREN RUDMAN, I rise today to introduce a bill that would revamp our Nation's laws governing use immunity. Passage of this bill is essential to preserve the ability of law enforcement and Congress to obtain immunized testimony from a witness without endangering society's right to hold that witness accountable for his or her crimes.

Many of the arguments supporting this legislation are summarized in an op-ed I wrote that was published in the Washington Post earlier this year. I will not repeat them now, but ask unanimous consent that a copy of my op-ed be reprinted in the RECORD immediately following my statement.

This is a significant anticrime measure. Since Congress adopted use immunity as part of the Organized Crime Control Act of 1970, it has become one of the greatest weapons Federal prosecutors have to attack organized crime, including drug kingpins, and complex, white collar crimes, such as S&L fraud. Unfortunately, this weapon has been significantly blunted by recent court decisions. This bill seeks statutorily to reform the law underlying those decisions, thereby reinvigorating use immunity as a law enforcement weapon.

This bill is also essential to preserving Congress' oversight and investigative powers. Without the reforms contained in this bill, Congress will often face the dilemma of either letting criminals go free or obtaining testimony necessary to proper oversight.

Mr. President, there is an adage I learned in law school that says, "Hard cases make bad law." Fortunately, in this instance, it is within our power to change the law. We can make use immunity useful once again.

I ask unanimous consent that copy of the bill be printed in the RECORD, immediately following my op-ed.

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

[From the Washington Post, Sept. 24, 1991]

AFTER THE NORTH CASE: HOW DO WE GET AT THE TRUTH?

(By Joseph I. Lieberman)

"Hard cases make bad law," an adage first learned in law school, was borne out once again by the legal journey of Oliver North. Col. North—patriot and hero to some, scoundrel to others—has won his freedom. In the process, his case may have destroyed a valuable investigative tool used by law enforcement agencies and by Congress: the grant of "use immunity." Now freed from the political controversy of the North prosecution, it is time to assess and repair this damage.

Use immunity was an innovation enacted by Congress as part of the Organized Crime Control Act of 1970. It struck a balance between society's interest in fully investigating and prosecuting crimes and a witness's Fifth Amendment privilege against self-incrimination. Under that law, which the Supreme Court upheld in 1972, a witness who is compelled to testify can still be prosecuted so long as neither the witness's testimony nor evidence derived from it is later used to prosecute him or her.

This balance, properly executed, makes sense. In criminal cases involving organized crime and complex white-collar crime (such as the savings and loan scandal), the testimony of underlinings is often essential in convicting the criminal boss. Strategic granting of use immunity allows prosecutors to gain the evidence they need to convict the boss while preserving the witness's Fifth Amendment right not to testify against oneself and the right to prosecute that witness.

Similarly, Congress has legitimate oversight responsibilities for which it may require testimony from alleged criminal perpetrators. By granting use immunity to key witnesses, Congress can more quickly arrive at the truth of a matter of urgent public importance.

But under the court decisions that led to the end of the North case, the right to prosecute a witness granted use immunity has become an illusion; it's tantamount to waiving prosecution, no matter how heinous the crime. That's because the court in the North case vastly expanded what it means to use a defendant's immunized testimony against him or her. To prosecute that person, prosecutors must show that the defendant's testimony in no way influenced their witnesses. The incentive given to clever defense lawyers is clear: simply show your client's immunized testimony to every possible prosecution witness and—bingo—they're tainted and useless in court. Indeed, to fail to do so may be malpractice.

The chilling effect on Congress's power to investigate is clear: left unchanged, the current state of the law will inhibit its ability to get to the bottom of future S&L, HUD, Watergate, Iran-contra and BCCI scandals. Congress will be forced to forgo shedding the light of public inquiry on major cases of fraud and abuse if it doesn't want to endanger the prosecution of those who committed crimes.

Similarly, the outcome of the North case will inhibit prosecutors from going after the masterminds of criminal conspiracies by granting use immunity to their associates. Lawrence Walsh's decision to end North's prosecution demonstrates that the appellate court has erected an insurmountable burden to prosecuting a witness who has given testimony under a grant of use immunity.

I do not believe the Fifth Amendment requires us to sanction such gamesmanship or mandates the onerous requirements set by the appellate court. During Senate consideration of crime legislation earlier this year, I was blocked from offering an amendment that would have established a more sensible balance between investigators' needs and a defendant's Fifth Amendment rights. Under my amendment, which will shortly be introduced as a bill, testimony of a witness exposed to the defendant's prior immunized testimony would not be excluded so long as the witness testifies based on what he saw or heard transpire.

For example, if the bill had been law, it would not have mattered that Robert McFarlane was affected by North's immunized congressional testimony so long as he testified based on his own knowledge of the facts in the case. My bill would also prohibit the prosecution from exposing a witness to the immunized defendant's statements or otherwise using the defendant's immunized testimony to develop lines of inquiry.

These modifications would permit Congress to investigate fraud without shielding the perpetrators from prosecution and would give back to prosecutors the power to use testimony from witnesses to convict criminal bosses. At the same time, our legislation would still protect defendants against the misuse of immunized testimony by prosecutors.

This is the kind of balance Congress intended when it created use immunity 20 years ago. It is the kind of balance Congress must restore if the public's right to know—and right to justice—is to be fully preserved. Hard cases do make bad law. But it's within our power to change the law and make use immunity useful once again.

S. 2074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. IMMUNIZED TESTIMONY.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 6002 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b)(1) Testimony of a witness that is based on the witness's personal knowledge,

irrespective of whether the witness has been exposed to testimony compelled under subsection (a), shall not be considered to be directly or indirectly derived from or to constitute a use of such compelled testimony if—

"(A) the prosecution has made no use of the immunized testimony; and

"(B) the witness was not exposed to the immunized testimony by the prosecution or by a third part acting, directly or indirectly, at the direction of the prosecution.

"(2) This subsection does not affect the prosecution's affirmative duty to prove that the evidence it proposes to use is otherwise derived from legitimate sources wholly independent of the compelled testimony.

"(3) This subsection shall be applied so as fully to protect a witness's privilege against self-incrimination in all respects. If, in the particular circumstances of any case, any provision of this subsection cannot be applied in a manner that is fully consistent with a witness's privilege against self-incrimination, the provision shall be applied only to the extent that it is fully consistent with the witness's privilege against self-incrimination, and the remainder of this subsection shall be fully applicable.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to compelled testimony that is given on or after the date of enactment of this Act.

By Mr. LIEBERMAN:

S. 2075. A bill to facilitate and assist in the economic adjustment and industrial diversification of defense industries, defense-dependent communities, and defense workers that are adversely affected by the termination or reduction of defense spending or defense-related contracts; to the Committee on Finance.

INDUSTRIAL DIVERSIFICATION AND ECONOMIC ADJUSTMENT ACT OF 1991

• Mr. LIEBERMAN. Mr. President, I rise today to introduce the Industrial Diversification and Economic Adjustment Act of 1991, a bill designed to effectuate a smooth, orderly, and intelligent transition to reduced levels of U.S. defense spending.

I am very pleased to be joined in this effort by Senator DODD, and I am also pleased to join Senator DODD as a cosponsor of the Defense Savings Investment Act of 1991, which he will be introducing later this afternoon.

Mr. President, throughout our history the level of U.S. defense spending has fluctuated greatly in response to a variety of threats to our national security. In 1944, during the peak of World War II, defense spending represented approximately 39.2 percent of our total GNP; in 1953, during the Korean war, defense spending represented approximately 14.4 percent of total GNP; and in 1968, during the Vietnam war, defense spending rose to 9.6 percent of GNP.

More recently, between the years 1979 and 1986, the United States waged what we are now able to describe as the final battle of the cold war. United States defense spending rose from 4.8 to 6.5 percent of GNP—the largest peacetime buildup in our history. In fact, Mr. President, in 1989 the Federal Government spent approximately $300 billion for defense. If we adjust this figure for inflation it represents roughly the same percent of GNP as at the 1953 Korean war peak and the 1968 Vietnam war peak.

Unlike most other conflicts, however, the cold war was not fought on the battlefields. It was fought in factories and laboratories throughout the country, and the soldiers included not only the armed services, but some of America's finest engineers, scientists, and skilled workers.

Now, in significant part due to their efforts, democratization and economic reform are emerging in both Eastern Europe and the Soviet Union, and the United States has declared victory in this first cold war.

We no longer need to place the containment of communism as our top spending priority. We now have the opportunity to reevaluate our national defense needs and reorder our national spending priorities. I believe, as others have indicated, that we will be able to reduce the defense budget by at least 25 percent over the next 5 years. If this is accomplished we will surely have the opportunity to address many domestic issues—like job creation and economic growth—that have for too long been neglected.

These opportunities will be both refreshing and exciting, but, it is important to remember that the actions we take to reduce the level of defense spending will have broad and direct ramifications for our economy, for our ability to compete in the world marketplace, as well as for the workers, communities, and businesses who, for reasons of national security, have become economically dependent on defense programs.

The legislation I am introducing attempts to minimize this impact by creating a bridge, if you will, to provide for an orderly, thoughtful, transition, and a unified governmental response to reduce levels of defense spending.

Mr. President, I believe diversification initiatives are important for many reasons.

First, we have already made an enormous investment, both directly and indirectly, in our defense infrastructure. In the past we have evaluated levels of defense spending on either national security or budgetary grounds. It is clear, however, that since defense industries now represent a major part of our remaining industrial, technological, and manufacturing base, that it will be essential to make these decisions on economic grounds as well.

While Japan and Germany have been pouring capital into their civilian industrial base, we have been pouring it into our defense base. We are now considering scrapping a big piece of what's left of the most advanced part of our industrial base. We must do this intelligently and provide for a careful transition on the American economy, American job creation, and American competitiveness will miss an opportunity and sacrifice much strength.

Thus, in order to protect this investment and our economic future, we will need to appraise our manufacturing and industrial base and then assess how best to effectuate a successful transition. If possible, cutbacks in this area should be undertaken so as to not adversely affect, and whenever possible to enhance, our industrial and technological capabilities. If we disregard this step, an important part of our economic future will surely be at risk.

Second, Mr. President, study after study tells us how this gap between the jobs and the skills of workers will continue to grow as we approach the 21st century. It is fair to state that the significant growth in the U.S. economy during the 20th century has been attributed to increases in human capital or the expansion of workers' knowledge. In order for us to continue to grow during the 21st century, we must have a work force prepared to meet the technical requirements of the workplace of the future.

Thus, as our inability to compete in the international marketplace becomes more and more apparent, it is clearly in our best interest to retain and re-use one of the finest trained and highly skilled work forces in the world—our defense workers—highly qualified and motivated—stars of the American work force. They can and should play an important role in the peaceful economic challenges that lay ahead.

And finally, I simply believe the Federal Government has a compelling obligation to mitigate the economic distress caused directly by its actions. America's defense workers are, in a way, veterans of the cold war and thus deserve our assistance during this time of transition, particularly in the area of job training. Mr. President, why should those who worked so hard to guarantee our security during times of conflict now be forced to pay the price for peace?

Just as it was in our national interest to spend billions and billions of dollars on defense over the last decade, I believe, for the reasons I have outlined, that it is now very much in our national interest to provide for an orderly transition and to enact diversification legislation concurrent with reductions in defense spending.

Mr. President, I know of the need to assist in the transition of defense workers and industries from firsthand experience. Throughout the cold war, as it was in the Revolutionary War and in every other conflict involving our Nation, Connecticut has been an arsenal of democracy. In 1989 my State received approximately $5.8 billion in direct defense expenditures and another $4.2 billion in indirect defense expendi-

tures. On a per capita basis, that amounted to approximately $3,100 per resident and meant that approximately 8 percent of Connecticut's work force was employed in defense or defense-related jobs. In 1990, the Department of Defense awarded direct contracts worth $4.2 billion to more than 700 Connecticut companies.

Thousands of my constituents have been working in round-the-clock shifts to produce submarines, tanks, helicopters, and military aircraft engines—all the best in the world.

In this legislation I have attempted to address the diversification issue in a well balanced and comprehensive manner that addresses industrial, business, work force, and community issues. This legislation:

Calls for a study so we can better understand the extent to which and the means by which diversification defense industries to nondefense production can be accomplished;

Creates a Presidential Council on Economic Diversification to coordinate the efforts of Federal agencies and programs for the purpose of assisting communities, workers, and businesses in economic diversification;

Establishes a Defense Industrial Diversification Account for businesses wishing to diversify from relying primarily on defense contracts to becoming more integrated into the civilian sector. This account would function much like an IRA;

Establishes within the Small Business Administration a permanent Office of Small Business Diversification, and creates a small business diversification guaranteed loan or grant program;

Requires employee notification be given for qualified employees 90 days prior to any layoff;

Amends title III of the Job Training Partnership Act to increase the Federal set-aside for displaced workers and modifies the formula used to disburse funds to States;

Allows qualified defense workers who have been laid-off to withdraw funds from their Individual Retirement Account to pay the principal or interest on a mortgage on their primary residence or for the rental costs of their primary residence;

Identifies communities that will be substantially and seriously affected by defense layoffs and allows these impacted communities to be eligible for title IX Community Planning Grants under the Economic Development Administration;

Establishes an Office of Commercial and Defense Product Integration in the Department of Defense to implement policies and procedures designed to achieve a better integration of commercial production process and defense procurement practices and which will promote diversification by defense firms, as well as reduce the cost of defense products;

Establishes a Commission on Military Budget Reform to study the desirability and feasibility of Congress instituting a 3-year budget cycle for defense contracting. This multiyear approach can have the effect of reducing unit costs, increasing efficiency, and protecting jobs.

Mr. President, we will face a number of issues as we debate the fiscal year 1993 budget—a weekend economy, a crippling budget deficit, a chronic trade deficit, the savings and loan bailout, and an array of domestic issues demanding our time and attention. This, in combination with the global crumbling of communism, suggests that our defense budget must be reduced. What I am saying with this legislation is that we can do this one of two ways—either we can cut programs, troops, and contracts without regard for the consequences of our actions, or for a relatively low cost, we can protect our investment in both our work force and our industrial base and provide for an orderly, less painful, transition to the apparently more peaceful environment that lies ahead.

I believe this legislation takes us down the latter, wiser course.

Mr. President, I ask unanimous consent that a summary of this legislation be included in the RECORD immediately following my remarks.

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

SUMMARY OF INDUSTRIAL DIVERSIFICATION AND ECONOMIC ADJUSTMENT ACT OF 1991

TITLE I—INDUSTRIAL DIVERSIFICATION STUDY

Requires the Department of Commerce, in consultation with the Department of Defense, the Small Business Administration, and the Defense Advanced Research Projects Agency (DARPA) to perform a study on the extent to which and how diversification of defense industries to non-defense production can be accomplished.

TITLE II—DEFENSE INDUSTRIAL DIVERSIFICATION ACCOUNT

Establishes a Defense Industrial Diversification Account for defense business wishing to become more integrated into the civilian sector.

This title would allow a firm, which is at least 35 percent reliant on defense contracts, to deposit a portion of its gross revenues into the account, tax free, for the purposes of investing in new non-defense plant and equipment or for the retaining or continued education of its workforce.

Deposits would be limited to the amount of a firm's defense-related depreciable assets. These investments could be made for a period of five years. the withdrawals could occur for 10 years. If the money were withdrawn for purposes other than those specifically stated, then the money would be fully taxed and a 10 percent penalty would be added.

TITLE III/TITLE IV—SMALL BUSINESS DIVERSIFICATION

Establishes, within the Small Business Administration, a permanent Office of Small Business Diversification. The purposes of this office is to identify the problems associated with defense cutbacks, for small defense-dependent businesses. The office would also serve to coordinate the efforts of the Small Business Administration and its programs for assisting firms adversely affected by defense cutbacks.

Creates a small business diversification guaranteed loan or grant program. Loans, guaranteed loans, or grants are capped at $40,000 for qualified small firms and require a 1:1 match from the firm.

Specific uses for the loan, guaranteed loan, or grant may include, but shall not be limited to, conducting market research or analysis for non-defense products, development of an alternative use of non-defense business plan, basic or applied research and development for non-defense lines of business, strategic planning, or non-defense prototype development.

Program is designed to promote diversification of small defense manufacturers and to qualify firms, if needed, for other S.B.A. loan guarantee programs or commercial lending sources.

TITLE VI—ECONOMIC ADJUSTMENT ASSISTANCE FOR EMPLOYEES

Employee notification is required for qualified employees 90 days prior to layoff.

Amends Title III of the Job Training Partnership Act (Displaced Worker Title). Increases Federal set-aside for displaced workers and modifies the formula used to disburse funds to States to factor in defense-related lay-offs.

Allows qualified defense workers, who have been laid-off, to withdraw funds from their Individual Retirement Account to pay the principal or interest on a mortgage of his or her primary residence of for the rental costs of his or her primary.

TITLE VII—COMMUNITY ECONOMIC ADJUSTMENT PLANNING

Identifies communities that will be substantially and seriously affected by defense lay-offs. (loss of more than 250 employees)

Allows substantially and seriously impacted communities to be eligible for Title IX Community Planning Grants under the Economic Development Administration.

TITLE VIII—COMMERICAL AND DEFENSE PRODUCT INTEGRATION

Establishes an Office of Commercial and Defense Product Integration in the Department of Defense to implement policies and procedures designated to achieve a better integration of commercial production processes and defense procurement practices.

TITLE IX—COMMISSION ON MILITARY BUDGET REFORM

Establishes a Commission on Military Budget Reform to study the desirability and feasibility of Congress instituting a three year budget cycle for defense contracting. The commission will determine whether the multi—year approach can have the effect of reducing unit costs, increasing efficiency, and protecting jobs.●

By Mr. PELL (for himself and Mr. WOFFORD):

S. 2076. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Rules and Administration.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

● Mr. PELL. Mr. President, on behalf of myself and the junior Senator from Pennsylvania [Mr. WOFFORD], I introduce a bill to provide free broadcast

time for the use of candidates for the U.S. Senate.

This bill, which I introduced in prior Congresses as the Informed Elections Act, has some special features which I believe could contribute to a restoration of public confidence in Congress as an institution:

It does not involve public financing;

It can help reduce the costs of campaigning; and

It directly deals with the problem of negative advertising.

The purpose of this legislation is simple and straightforward. It attacks the problem of spiraling costs of Federal political campaigns at its source. It would make available at no cost the one element which has contributed the most to the cost spiral and that is media broadcast time.

The bill requires TV stations—as a condition of their license to use public air waves—to provide time for campaign use to the national committees of the political parties, which would in turn allocate the time to eligible candidates for the Senate. Minor parties showing support of at least 5 percent of the electorate would also be eligible to participate.

Committees receiving free broadcast time may use up to 15 minutes per day up to a limit of 3 hours on any 1 station during the 60-day period immediately preceding a general or special election. The bill does not apply to primaries.

All time is to be provided during the so-called prime time access period, from 7:30 to 8 p.m. local time, each weekday evening. This is a time period which local stations are supposed to use for community-oriented programming, but which in practice is not always well used.

The free time must be used in a manner which promotes a rational discussion and debate of issues pertinent to the election involved. At least 75 percent of the time must be taken up by a candidate's own remarks. In this way, I believe the bill provides a positive alternative to negative campaign ads without in any way imposing limits on present practices.

While our bill would place an administrative burden on the parties, I suggest that it is a burden they should be glad to accept. The plan of the bill permits the party organizations to decide which of their candidates—particularly in metropolitan areas where Senate candidates from more than one State may be competing for time—can best benefit from the media exposure offered by the bill.

This bill is in no way restrictive of present campaign practices. Any candidate, whether or not a recipient of free time under this bill, is still at liberty to go out and purchase as much additional media time as he or she can afford and needs. Hopefully, however, the substantial infusion of free time provided by the bill will reduce substantially campaign expenditures for media purchases.

I would emphasize that this is a no-cost bill in terms of the value of the media time that would be given to the political process. The basic commodity of the bill is an existing public resource—namely the airwaves—which the Congress can properly require to be used for political debate.

The idea is by no means a new one. I introduced it in the 99th Congress as S. 2837, in the 100th Congress as S. 593, and in the 101st Congress as S. 751. And the idea has been espoused, quite independent of my own efforts, by scholars and commentators as diverse as Charles Krauthammer, Arthur M. Schlesinger, Jr., and Larry J. Sabato. So there has been ample opportunity for the concept to be absorbed into the fabric of campaign reform.

I am especially pleased to note that the basic concept of this bill was included among the recommendations of the bipartisan Campaign Finance Reform Panel appointed by the Senate majority and minority leaders last year. In its report of March 6, 1990, the panel specifically recommended that broadcasters be required, as a condition of license renewal, to make free time available to political parties for campaign use. There are some differences in the distribution formula, but essentially the bill matches the panel's recommendation.

I also note with great interest that the idea has been embraced on the other side of the aisle in this body. I was very pleased to find that title V of S. 7, the Fairness in Politics Act, introduced by the Republican leader, Mr. DOLE, mandates a grant of free time to Senate candidates by broadcast licensees. And the senior Senator from Delaware, Mr. ROTH, introduced another version of the plan as S. 1062.

Finally, I would note that this concept has particular relevance at this time when Congress as an institution is under attack, and when so much uncritical attention is being given to panaceas such as mandatory limitations on the number of terms a Member can serve.

The best alternative to mandatory term limitations, in my view, is to assure that the existing system of term limitation—namely the right of the electorate to throw out an incumbent every time he runs for reelection—is as competitive as it can be. This bill would help assure that objective.

So the time seems ripe to translate this idea into action.

Mr. President, studies have shown that at least 40 percent of all political campaign expenditures—and up to 75 percent in some media markets—are spent on media advertising. If we are truly concerned about curbing the cost of campaigning, it makes sense to use an available public resource to substitute for this major category of expenditure.

Hopefully, we will be giving thoughtful consideration to the subject of campaign reform in the second session of the 102d Congress. I offer this bill at this time for consideration in that context.•

By Mr. MOYNIHAN (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. ROTH, Mr. AKAKA, and Mr. MCCAIN):

S. 2077. A bill to amend title XIX of the Social Security Act to provide for optional State coverage of coordinated care, and to improve Federal requirements with respect to the provision of coordinated care by health maintenance organizations in order to allow States to reduce costs and improve quality of care in contracting for managed care services under the Medicaid program; to the Committee on Finance.

MEDICAID MANAGED CARE IMPROVEMENT ACT OF 1991

• Mr. MOYNIHAN. Mr. President, along with Senators DURENBERGER, PACKWOOD, ROTH, AKAKA, and MCCAIN, I an introducing today the Medicaid Managed Care Improvement Act of 1991. Our goal is to make it easier for States to enroll their welfare recipients into managed care plans—health maintenance organizations, preferred provider organizations, and primary care case management programs.

In part, this legislation is motivated by the problem of rising costs. The Medicaid Program has become the most volatile part of State budgets, and Governors have been fighting a losing battle to control expenditures. That job has been made more difficult by Congress' adoption of a long list of program expansions, principally in the areas of maternal and child health and long-term care, and by the willingness of hospitals and nursing homes to go to court under the Boren amendment to seek higher reimbursements. In addition, the provider tax controversy may result in some States receiving less Federal Medicaid funding than they had counted on. In this difficult environment, managed care represents one of the few ways that States can control costs without harming recipients.

Furthermore, managed care is needed to improve access to services. In most places, this is the real quality-of-care issue. Often, Medicaid reimbursements are so low that health care providers refuse to take welfare recipients as patients. In New York, for instance, Medicaid reimburses doctors $11 for a simple office visit, much less than the rate charged to private patients. The result is that most doctors refuse to see Medicaid clients. By reducing unnecessary services—particularly inpatient hospitalization—managed care plans save money and thus are able to pay providers higher fees. As a result, more doctors participate, and the plan is able to guarantee each client access to a phy-

sician and to other health care providers.

Finally, managed care no longer represents a new technology. Health maintenance organizations have been in existence for over 50 years, and there have been Medicaid HMO contracts for over 20 years. It may have made sense to have strict Federal oversight when States first contracted with HMO's 20 years ago, but it makes little sense today.

Currently, managed care is only allowed in the Medicaid program under special waivers. And the Federal waiver process is long and difficult. It may take several years to receive Federal approval for a new program. In contrast, our bill lets States decide whether they want to contract with managed care plans. There would still be Federal requirements—HMO's could not discriminate in enrolling and disenrolling people based on health status, for instance—but States would not have to receive prior Federal approval. In effect, managed care would become a regular part of the Medicaid Program.

Ensuring that managed care plans provide health care of high quality is important. There have been some problems in this area in the past, and there is a need for oversight. But the present system works poorly. Some of the rules accomplish little other than to place a heavy burden on the Medicaid agencies and the managed care plans that are required to meet them. Furthermore, the States are in a better position than the Federal Government to monitor the quality of care at the local level because they are closer to the action.

Consider, for instance, the rule that 25 percent of the enrollees in a Medicaid-contracting HMO must be private pay clients. This rule was placed into the law out of concern that HMO's providing care to the poor not be composed solely of poor people. The argument was that an HMO is less likely to provide substandard care if some of its enrollees are paying their own way and thus are able to take their business elsewhere if dissatisfied with the quality of services. The only problem is that it has not worked out that way. There is a virtual consensus among those familiar with Medicaid-contracting HMO's that the 75-25 rule has done little, if anything, to improve the quality of care. There are bad HMO's that have ample private pay enrollees and excellent HMO's made up exclusively or largely of welfare clients—this is allowed currently under a waiver.

And the 75-25 requirement virtually rules out managed care plans in areas of concentrated poverty, such as large urban ghettoes, because there are so few private pay clients there. Yet it is there that we are most likely to find welfare clients abusing the system—getting drug prescriptions from several physicians and then selling the drugs on the street, for instance, or receiving their care in hospital emergency rooms where there are no records of previous services received and thus no continuity of care. This is where managed care is needed most.

Our bill replaces the existing arrangements with a meaningful quality assurance system which requires that enrollees be fully informed of their rights; that there be an extablished grievance procedure both within the plan and within the State agency overseeing the managed care program—including toll-free hotlines; that the State do periodic surveys of enrollee satisfaction; and that it review medical records to identify indications of underutilization and/or inappropriate treatment patterns. Finally, the bill requires that an independent, outside entity review each plan's quality assurance activities, and issue an annual report on its findings.

Our proposal also allows States to require that Medicaid recipients enroll in a managed care plan to receive services, but only if there are at least two plans available in the area from which recipients can choose—it would also be allowed where there is only a single plan if that plan has enrolled at least two-thirds of the area's physicians. If enrollment is purely voluntary, chances are that the worst abusers—clients who insist on seeing four or five doctors at the same time, for instance—will not enroll. Moreover, there is some evidence that a voluntary program will attract the healthiest clients but not those with more serious health care needs.

Some will argue that mandating enrollment in managed care limits the client's freedom of choice. In practice, however, the opposite is usually the case. In many center cities, where few physicians will accept welfare customers, freedom of choice is an empty phrase. Clients can pick any physician they want, but few of these will accept welfare customers. HMO's, in contrast, are able to attract additional physicians by paying more competitive rates, and thus provide a much broader set of choices for enrollees. In this sense, mandatory enrollment actually increases consumer choice.

Managed care provides major advantages to States struggling to control their exploding Medicaid costs. It also can help States guarantee access to services for welfare recipients who often have trouble finding a physician to treat them. And whatever the past problems with Medicaid HMO's, State Medicaid directors are unanimous in believing that, on the whole, the care provided in managed care plans is superior to that in the regular Medicaid fee-for-service, system. For these reasons, I am hopeful that the Senate will join us in approving this legislation as soon as possible.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD along with a recent New York Times editorial.

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

S. 2077

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 "Medicaid Managed Care Improvement Act of 1991".

SEC. 2. OPTIONAL STATE MEDICAID COVERAGE OF COORDINATED CARE.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) in paragraph (24), by striking the comma at the end and inserting a semicolon;

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively, and by transferring and inserting paragraph (25) after paragraph (23), as so redesignated; and

(4) by inserting after paragraph (23) as redesignated, the following new paragraph:

"(24) coordinated care (as defined in section 1903(m)(1)); and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 3. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR MANAGED CARE SERVICES UNDER MEDICAID.

(a) COORDINATED CARE DEFINED.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended by amending paragraph (1) to read as follows:

"(1) For purposes of this subsection, the term 'coordinated care' means programs operated by any public or private entity described in paragraph (2)(A) or a primary care case management program described in paragraph (6).".

(b) IN GENERAL.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) For purposes of this subsection, the term 'plan' means a public or private organization, organized under the laws of any State, operating under contract with a State, which meets the requirement of section 1902(w) and is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or is a public or private organization, organized under the laws of any State, operating under contract with a State, which meets the requirements of section 1902(a) (except subsections (a)(1) and (a)(10)(B)). No payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided by a plan unless the contract between the State and the plan provides for the following:

"(i) That it makes services it provides to individuals eligible for benefits under this title accessible to such individuals, within the area served by the plan, to the same extent as such services are made accessible to individuals (eligible for medical assistance under the State plan) not enrolled with the organization.

"(ii) That the plan has made adequate provision against the risk of insolvency, which

provision is satisfactory to the State and which assures that individuals eligible for benefits under this title are in no case held liable for debts of the plan in case of the plan's insolvency.

"(iii) That the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) that pertain—

"(I) to the ability of the plan to bear the risk of potential financial losses, or

"(II) to services performed or determinations of amounts payable under the contract.

"(iv) That in the plan's enrollment, reenrollment, or disenrollment of individuals who are eligible for benefits under this title and eligible to enroll, reenroll, or disenroll with the plan pursuant to the contract, the plan will not discriminate among such individuals on the basis of their health status or requirements for health care services.

"(v) That the plan—

"(I) except as provided under subparagraph (E), permits individuals who have elected under the State plan for medical assistance to enroll with the plan for purposes of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and

"(II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment.

"(vi) That the plan permits, at the option of the State, mandatory enrollment of individuals eligible for benefits under this title provided that the individual has—

"(I) a choice of two or more plans,

"(II) a choice between enrolling in a plan or a primary care case management system described in paragraph (6)(A), or

"(III) a choice among participating physicians to the extent that at least two-thirds of physicians in a geographic area participate in the plan or in the primary care case management system.

"(vii) That, at the option of the State, the plan may continue to provide an individual the benefits covered under its contract with the State, and receive State payment for such coverage, for a guaranteed period of one to six months, regardless of whether the individual becomes ineligible for benefits under this title during the six-month period.

"(viii) That the contract provides that, in the case of medically necessary services which were provided—

"(I) except as provided under subparagraph (E), to an individual enrolled with the plan under the contract and entitled to benefits with respect to such services under the State plan, and

"(II) other than through the plan because the services were immediately required due to an unforeseen illness, injury, or condition, either the plan or the State provides for reimbursement with respect to those services.

"(ix) That the plan provides for disclosure of information in accordance with section 1124 and paragraph (3) of this subsection.

"(x) That the contract provides, in the case of a plan that has entered into a contract for the provision of services with a federally qualified health center, that—

"(I) rates of prepayment from a State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and

"(II) at the election of such center payments made by the plan to such a center for services described in section 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E).

"(xi) That any physician incentive plan that it operates meets the requirements described in section 1876(i)(8).

"(xii) That the plan provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.

"(xiii) That the payment methodology is based on experience rating or another actuarially sound methodology as approved by the Secretary and that payments to the plan shall not exceed 100 percent of expenditures that would otherwise have been made, demonstrated by such models or formulas as the Secretary may approve.

"(xiv) That the plan shall provide for implementation of an internal quality assurance program containing at least the following elements:

"(I) A written Quality Assurance Program (hereinafter referred to as 'QAP') specifying a systematic process including: measurable goals and objectives for quality of care, and activities to be undertaken on a continuous basis, and annual evaluation of the QAP.

"(II) The plan has an identifiable organization structure responsible for performing quality assurance functions within the plan and is accountable to the governing body of the plan, and whose activities have adequate supervision, staff, and other necessary resources.

"(III) If the QAP delegates certain quality assurance functions to other entities, the plan remains accountable for all QAP functions, and must have mechanisms to assure that all QAP plan activities are carried out.

"(IV) The QAP contains provisions to assure that physicians under contract with the plan, as well as all other health care professionals under contract with the plan, are qualified to perform their services and that their qualifications are assured through appropriate credentialing and recredentialing procedures.

"(V) The QAP provides for policies addressing enrollee rights and responsibilities, including enrollee grievance mechanisms and mechanisms to provide enrollees with information about access to and use of services within the plan.

"(VI) The QAP implements a continuous process of monitoring the delivery of health care which includes: identification of clinical areas to be monitored; use of quality indicators and standards for assessing care delivered, including availability and accessibility of care; monitoring through use of epidemiologic data or chart review, the care of individuals, as appropriate, and patterns of care overall; and implementation of corrective actions.

"(VII) For any other requirements if approved by the Secretary in consultation with States.".

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A), as amended, the following new subparagraph:

"(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a plan within the meaning of subparagraph (A) shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.";

(D) in subparagraph (C) as redesignated—

(i) by striking "clause (ix)" and inserting "clause (x)"; and

(ii) by striking "an entity" and inserting "a plan";

(E) by striking subparagraphs (C) and (D);

(F) by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively;

(G) in subparagraph (D), as redesignated—

(i) by adding "and" at the end of clause (iii);

(ii) by striking "; and" at the end of clause (iv) and inserting a period; and

(iii) by striking "(v)" and all that follows through the period;

(H) in subparagraph (E), as redesignated—

(i) in clause (i)—

(I) by striking "subparagraph (E) or (G)" and inserting "subparagraph (D) or (F)"; and

(II) by striking "which meets" and all that follows through "(A)(ii)";

(ii) in clause (ii), by striking "paragraph (6)" and inserting "paragraph (5)"; and

(iii) in the matter following clause (ii), by striking "clause (vi)" and inserting "clause (v)";

(I) in subparagraph (F), as redesignated—

(i) by striking "In" and inserting "The provisions of subparagraph (E) shall apply in"; and

(ii) by striking ", clauses (i)" and all that follows through "apply"; and

(J) in subparagraph (G), as redesignated, by striking "health maintenance organization" each place it appears and inserting "plan";

(2) by redesignating paragraph (4) as paragraph (3);

(3) in paragraph (3), as redesignated—

(A) by striking "health maintenance organization" the first place it appears and inserting "plan"; and

(B) by striking "organization" each place it appears and inserting "plan";

(4) by redesignating paragraph (5) as paragraph (4); and

(5) in paragraph (4), as redesignated—

(A) by striking "organization" each place it appears and inserting "plan";

(B) by striking "entity" and inserting "plan"; and

(C) by striking "(2)(A)(v)" and inserting "(2)(A)(iv)".

(c) PRIMARY CARE CASE MANAGEMENT PROGRAM DEFINED.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended—

(1) by redesignating paragraph (6) as paragraph (5); and

(2) by adding at the end the following new paragraph:

"(6) For purposes of this subsection, a primary care case management program means a process wherein individual medical providers, under agreements with the State, coordinate the delivery of medical care to individuals entitled to benefits under this title. The State may provide for a primary care case management program under this subsection that does not meet the requirements of section 1902 (a)(1), (a)(7), and (a)(10)(B). No payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided under a primary care case management program established by a State unless it provides for the following:

"(A) The individual medical provider operating under the program meets all applicable State licensure requirements and is otherwise eligible to participate under this title.

"(B) The primary care case management agreements entered into with the States meet the requirements of clauses (ii), (iii), (iv), (viii), and (xi) of paragraph (2)(A) if payment under the agreement is made on a risk basis for outpatient services delivered to an enrollee.".

(d) INDEPENDENT REVIEW AND QUALITY ASSURANCE OF COORDINATED CARE.—Section 1903(m) of such Act (42 U.S.C. 13966(m)) is further amended by adding at the end the following new paragraphs:

"(7) A State contracting for coordinated care as described in paragraph (1) with a primary care case management program described in paragraph (6) or a plan as described in paragraph (2) shall provide for quality assurance activities to be conducted by the State consisting of at least the following activities:

"(A) A toll-free telephone number for enrollee questions and grievances.

"(B) A State-operated enrollee grievance procedure.

"(C) Periodic informing of enrollees of such enrollees rights.

"(D) Sample review of grievances registered with the plan or the State.

"(E) Survey and analysis of enrollee satisfaction.

"(F) In the case of a State contracting for coordinated care with a plan under paragraph (2), monitoring the plan's quality assurance to assure that it meets requirements specified in law and the contract entered into between the State and the plan under this subsection.

"(8) A State contracting for coordinated care as described in paragraph (1) with a plan described in paragraph (2) shall in addition to the requirements of paragraph (8) provide for an external independent review of each plan's quality assurance activities to be conducted by a Peer Review Organization or other organization external to the State as approved by the Secretary that consists of the following activities:

"(A) Review of the plan's medical records through sample or other appropriate methods for indications of inappropriate utilization and treatment.

"(B) Review of enrollee inpatient and ambulatory data either through sample or other appropriate methods to determine quality trends.

"(C) Review of the plan's internal quality assurance activities.

"(D) Notification of plans and State follow-up activities when any of the activities of this paragraph indicate inappropriate care or treatment.".

(e) CONTINUATION OF CERTAIN MANAGED CARE PLANS.—Section 1903(m) of such Act (42 U.S.C. 1396b(m)) is further amended by adding at the end the following new paragraph:

"(9) The Secretary may provide for the continuation of any managed care program operating under sections 1115 and 1915 authority without the need for granting additional waivers under such sections provided the program has been successful in assuring quality and containing costs (as determined by the Secretary) and is likely to continue to be successful in the future.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 4. CONVENING OF SECRETARIAL GROUPS ON SENTINEL HEALTH EVENTS AND ENCOUNTER DATA FORMATS.

(a) SENTINEL HEALTH EVENTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall no later than 1 year after the date of enactment of this Act convene a group composed of State medicaid staff, physicians, and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on criteria to be used by States and the plans described in section 1903(m)(2)(A) of the Social Security Act to determine underutilization in certain distinct health areas.

(b) ENCOUNTER DATA FORMATS.—The Secretary shall no later than 1 year from the date of enactment of this Act convene a group composed of State medicaid staff and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on the feasibility of utilizing encounter data and on data elements and formats to be utilized in submission and State review of information concerning services provided by plans described in section 1903(m)(2)(A) of the Social Security Act to individuals receiving services under such plans under the medicaid program.

SEC. 5. CERTAIN IMPROVEMENTS IN MEDICAID CASE MANAGEMENT SERVICES AND HOME AND COMMUNITY-BASED WAIVERS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in paragraph (17)—

(A) by striking "and" at the end of subparagraph (C);

(B) by adding "and" at the end of subparagraph (D); and

(C) by adding at the end the following new subparagraph:

"(E) nothing in this subsection shall be construed as restricting payment of medical assistance under this title for services received by individuals eligible under this title, when similar services are provided by the State or under contract with the State through a public or private entity to a population without charge to the individual;";

(2) in paragraph (23), by inserting "(including case management services under subsections (c), (d), and (g) of such section)" after "in section 1915"; and

(3) in paragraph (32)—

(A) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(B) by adding at the end the following new subparagraph:

"(D) in the case of services arranged through the case management agency under subsections (c), (d), or (g) of section 1915, payments made by the case management agency to providers of services shall be permitted provided that—

"(i) the case management entity is a nonprofit entity;

"(ii) the case management entity maintains a clear system of records demonstrating conformity between payments made and services required under the individual's plan of care; and

"(iii) the entity makes assurances satisfactory to the State that providers paid by the entity, for covered services to individuals eligible under this title, are eligible for payments under the provisions of this title;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1992.

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902—

(A) in subsection (a)(30), by amending subparagraph (C) to read as follows:

"(C) provide, in the case of coordinated care under section 1903(m)(2), quality assurance review as described in section 1903(m)(8);"; and

(B) in subsection (e)(2)—

(i) in subparagraph (A)—

(I) by striking "an entity" and all that follows through "1903(m)(2)(A)" and inserting "a plan or program providing for coordinated care described in section 1903(m) (2)(A) or (6)"; and

(II) by adding at the end the following new sentence: "The State plan may also provide for 1 month continuous eligibility (as described in subparagraph (C)) for individuals enrolled with a coordinated care plan or primary care case management program under section 1903(m)."; and

(ii) by adding at the end the following new subparagraph:

"(C) For purposes of subparagraph (A), one month continuous eligibility means continued enrollment in a coordinated care program under section 1903(m) for a period of 1 month if the enrolled individual is determined ineligible due to excess income or resources and can reasonably be expected to reestablish eligibility in the month following the month of ineligibility."; and

(2) in section 1905—

(A) in paragraph (1), by inserting "(other than that which is permitted under section 1903(m)(6)" after "case management system"; and

(B) in paragraph (4), by inserting "other than that which is permitted under section 1903(m) regarding coordinated care programs" after "(4)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

PUT THE AID BACK IN MEDICAID

When they're sick, poor people in New York State suffer twice. Beyond injury and disease, they must struggle with a health care system that sends them from emergency room to clinic to Medicaid mill, looking for treatment they're not likely to find. They rarely see the same doctor twice, rarely get the attention that private patients do and even more rarely develop relationship with doctors who know their medical histories.

The result is attention that's so fragmented and haphazard that patients avoid it until they get so ill they have no choice. That's not only senseless; it is explosively expensive.

There is a better way, and several states, including New York, are giving it serious consideration. It is called managed Medicaid, a way of providing medical care to the poor that restores dignity and common sense. A blue-ribbon committee now urges Mayor David Dinkins of New York to embrace managed Medicaid. The case is compelling, for the physical health of poor patients and also the fiscal health of the city and state.

Under the present system, poor people who receive often inadequate Medicaid insurance seek care wherever they can find it, often at an emergency room. Under managed Medicaid they would choose from a new network of medical care facilities and receive their care in that place. That would allow them to develop a relationship with one doctor and get preventive, continuing attention. Typically, these facilities would resemble health maintenance organizations, or H.M.O.'s, which increasingly attract privately insured people.

Because enrollment would be mandatory, a managed system has a good chance of overcoming a besetting problem: the lack of doctors willing to serve poor patients in poor areas. How to attract the doctors? By paying higher reimbursement rates and guaranteeing them a large pool of patients. The state could afford the higher rates and still save money because preventive medical attention would obviate much more expensive care.

Adovcates predict that a managed system could attract private doctors, H.M.O.'s and

hospitals now struggling to serve Medicaid patients inefficiently in costly emergency rooms meant to cope with true emergencies.

There are obstacles to managed Medicaid. It would, notably, require capital to establish the new neighborhood facilities. But the chief stumbling block is emotional—overcoming the perception that a managed system denies poor people the freedom of choice available to others. Patients would have to choose and stay with one facility. But compare that with the only practical present choice—ping-ponging from sullen service in one place to the same in another.

It will take time to put a managed system into practice, but New York is on the verge of talking the first step. Gov. Mario Cuomo has introduced a bill to require counties to set up managed Medicaid systems gradually. Now Mayor Dinkin's management advisory committee urges him to go ahead with a pilot project. Concern for the poor, and for prudent management, would impel him to say yes, and soon.

The current system is close to disaster. It accounts for about 14 percent of the state budget and nearly 7 percent of New York City's budget, and it keeps growing. A managed system would save money—the costs average at least 10 percent less than traditional Medicaid. More important, it can bring humanity and quality care to poor New Yorkers; they already suffer enough.

• Mr. DURENBERGER. Mr. President, I am pleased to rise today to join my good friend, the senior Senator from New York, in introducing the Medicaid Managed Care Improvement Act. This legislation will provide States greater flexibility to address the health care needs of their Medicaid populations through health maintenance organizations and other forms of managed care. No longer will States have to obtain permission from the Federal Government to use managed care techniques that have been widely accepted and applied in the private sector. Techniques which have been demonstrated to both control costs and improve access to medically necessary treatments for Medicaid recipients in several States, including my own.

Mr. President, our recent debate on Medicaid provider taxes drove home a point of which I think most of us were already painfully aware: Medicaid directors and their governors are facing unprecedented fiscal crises. The combination of tightly constrained budgets and rapidly rising Medicaid costs has pushed some States to the brink of disaster—not just in terms of Medicaid, but with respect to other important programs as well. Funding for education, transportation, and law enforcement has been slashed in order for States to balance their budgets.

New Federal mandates expanding the eligible population plus health care cost inflation have created dramatic growth in State Medicaid spending over the past 10 years. As a result, Medicaid is the fastest growing component of most State budgets.

In the span of just a decade, from 1980 to 1990, the portion of State budgets consumed by Medicaid grew from 9 percent to 14 percent. It is projected to rise to 17 percent by 1995. The State share of Medicaid costs rose by 18 percent last year, and is expected to rise by 23 percent this year.

Unfortunately, Mr. President, the Federal Government has contributed much to the dilemma faced by the States, but offered little in the way of constructive solutions. In fact, we have placed major obstacles in the way of States who have sought to use managed care as an alternative to eliminating the eligibility of optional categories of Medicaid recipients or making drastic cuts in provider reimbursement. The result has been fewer poor people covered by Medicaid and, in many States, a provider population so grossly underpaid that few are willing to treat Medicaid patients.

The goal of the legislation we are introducing today is to eliminate the barriers that exist in current law with respect to States' use of managed care in Medicaid. While erected to preserve freedom of choice among providers for Medicaid recipients and to assure the provision of good quality care, in reality these legislative barriers have failed to accomplish either objective.

In fact, the notion of freedom of choice in fee-for-service Medicaid is a fantasy. Just what types of choices are available to fee-for-service Medicaid patients in urban ghettos?

On July 8, 1991, the New York Times furnished a graphic portrayal of what, unfortunately, is an all too common experience for Medicaid patients in inner cities. And I quote:

The lines begin at sunrise, often before the metal gates have been lifted from a single shop window in Harlem or the Bronx.

Patients arrive by the dozen, limping and wheezing, many clutching Medicaid cards. Some like Melissa Mendez, a 26-year old mother of four, will stand for hours, fevered and coughing, outside a bleak South Bronx office building. Others nap on crumpled pads of cardboard, or fashion makeshift chairs from the seats of abandoned cars.

The street is their waiting room, because there is almost never a place to sit inside the dilapidated doctors' offices known as "Medicaid mills".

* * * Housed in shabby, nondescript storefronts along the most desolate blocks in the city, the clinics are called mills because, for the official New York State Medicaid reimbursement rate of about $11 per patient visit, doctors there grind routinely through dozens of patients in a single hour. Often exams consist of nothing more than taking a person's name, temperature and Medicaid information.

So much for freedom of choice in fee-for-service settings for inner city Medicaid patients. And so much for quality of care considerations.

Mr. President, I request that the entire article from which I just read be placed in the RECORD following my statement.

The Medicaid Managed Care Improvement Act will make it possible for states to contract with managed care plans, including health maintenance organizations, preferred provider organizations and primary care case management systems, without obtaining a waiver from the Federal Government. It will also allow States to mandate enrollment in managed care plans so long as the beneficiary has a choice among at least two plans. If there is just a single plan available, enrollment can only be made mandatory if at least two-thirds of the physicians in an area are participating providers.

Some advocacy groups may perceive this provision as an abandonment of our commitment to assuring poor people the same range of health care choices that exist for other people. The harsh reality is that, despite the best efforts of these groups, we have never succeeded in mainstreaming the Medicaid population. As poignantly illustrated in the New York Times article from which I read, having a Medicaid card does not guarantee access to good health care. For many Medicaid recipients, enrollment in an HMO—voluntary or mandatory—would represent a significant improvement in access over what is available in a fee-for-service environment.

Senator MOYNIHAN and my bill will eliminate the requirement that any HMO in which Medicaid recipients are enrolled have at least 25 percent private pay enrollees. Historically, this requirement has been used as a measure of the quality of care provided by the plan. It was believed that having some enrollees who are free to disenroll at will would help assure a certain standard of quality in the organization.

While logical on the surface, the reality is that the mix of patients has little to do with the quality of services provided by a managed care plan. And, the downside of the 75/25 requirement has been to make it virtually impossible to establish managed care plans for Medicaid recipients in inner cities. These are often the populations that need managed care the most: patients who are likely to have multiple health and social problems that can best be served in a coordinated care system.

Instead of relying on an artificial proxy for quality of care, such as the 75/25 rule, our bill requires that all Medicaid managed care plans have an internal quality assurance program that is responsible for continuously monitoring the health care provided to patients and for implementing corrective action plans. In addition, States that contract for managed care must have their own quality assurance program that includes a toll-free telephone line for recipients. The State must review all grievances registered with the plan or the State, and it must survey and analyze enrollee satisfaction, as well as monitor the managed care plans' quality assurance programs. Finally, all managed care plans must submit to a review of their medi-

cal records by an independent, external organization, such as a Peer Review organization, that looks for indications of inappropriate utilization or treatment.

While there is no evidence to suggest that HMO's which are at financial risk for the health care services used by their enrollees provide less care than may be medically necessary, there continues to be concern that this could occur. Therefore, our bill directs the Secretary of Health and Human Services to convene two groups. The first group is to be comprised of State Medicaid staff, physicians and HMO representatives and will be charged with examining the entire issue of underutilization. The second group will study the feasibility of using medical encounter data for monitoring quality of care, and will determine the data elements and formats that should be used to accomplish that objective.

Mr. President, the bill my distinguished colleague from New York and I are introducing today will not solve all of the problems with the Medicaid program. For example, it will not correct the gross inequities that exist between States with respect to eligibility, covered services and provide payments. Nor will our bill make it easier for eligible people to enroll, or eliminate the welfare stigma that surrounds the program as a result of its linkages to AFDC and SSI.

I am convinced that for Medicaid to fulfill its original mission of providing access to health care services for poor pregnant women and children, the program must undergo a total transformation. And this cannot be accomplished without restructuring Medicare in a way that ensure that the long-term care needs of our elderly and disabled populations are met without them having to become Medicaid eligible.

I am committed to pursuing legislation that will reshape Medicaid and Medicare to better meet the health care needs of our population. However, this is a long-term proposition that, under the most optimistic scenario, will take years to accomplish. In the meantime, States are in crisis right now.

Good managed care plans offer states a chance to slow the rate of increase in their Medicaid Programs through the use of rigor our utilization review techniques; primary care gatekeepers and/or other providers as patient care managers; channeling of patients to high quality, efficient providers; quality assurance programs; and reimbursement systems that make the providers financially accountable for the cost and quality of services rendered.

Minnesota has employed mandatory managed care in its Medicaid Program in three counties since June of 1982, with great success. Currently, some 62,000 Minnesota Medicaid recipients are enrolled in managed care plans, and Minnesota's program is highly regarded among experts in this area. Nonetheless, despite nearly a decade of experience in Medicaid managed care, Minnesota must continue to operate its program under a waiver from the Federal Government.

This means that every few years, the Minnesota Medicaid staff must jump through a series of Federal hoops to get their waiver extended. Every few years they must hold their breath and hope that the waiver comes through.

Mr. President, no good purpose is served by the continuation of Federal waivers for States to use managed care in Medicaid. Managed care offers great promise for both slowing the rate of increase in health care costs and improving the quality of services rendered. It is commonplace in employer-sponsored health plans, and I look forward to the time when it is equally commonplace in Medicaid. This legislation will do much to hasten that day, and I encourage all of my colleagues to become cosponsors.●

[From the Washington Post, July 8, 1991]

MEDICAID'S MALADY

(By Michael Specter)

New York—The lines begin at sunrise, often before the metal gates have been lifted from a single shop window in Harlem or the Bronx.

Patients arrive by the dozen, limping and wheezing, many clutching Medicaid cards. Some, like Melissa Mendez, a 26-year-old mother of four, will stand for hours, fevered and coughing, outside a bleak South Bronx office building. Others nap on crumpled pads of cardboard, or fashion makeshift chairs from the seats of abandoned cars.

The street is their waiting room, because there is almost never a place to sit inside the dilapidated doctors' offices known as "Medicaid mills." Often the last refuge for sick people in need of quick medical attention but with no money to pay for it, such mills have taken on a troubling new prominence here as funds for public health clinics disappear and the poor overwhelm hospital emergency rooms.

Housed in shabby, nondescript storefronts along the most desolate blocks in the city, the clinics are called mills because, for the official New York State Medicaid reimbursement rate of about $11 per patient visit, doctors there grind routinely through dozens of patients in a single hour. Often, exams consist of nothing more than taking a person's name, temperature and Medicaid information.

"You can't call what goes on in those places medicine," said Joseph Post, medical coordinator for the state Health Department's office of professional conduct, which investigates Medicaid abuse. "It's a continuous obscenity. It isn't just that we treat poor people worse than animals. It's that the incentives are all designed to give the biggest rewards to the biggest criminals. No real doctor would spend a day there."

Medicaid, the primary health plan for the poor, has become by far the fastest-growing spending program in the United States, costing federal and state governments more than $90 billion this year. Yet even as costs rise beyond the most pessimistic projections, experts say the program serves fewer of those who need it most each year.

With fees that lag far behind what private insurers or even Medicare, the government program for the elderly, pay for the same services, many of even the most committed doctors refuse to participate in Medicaid.

In statehouses and on Capitol Hill, political leaders issue almost daily denunciations of a health-care system that ignores the nearly 34 million Americans with no insurance and treats the larger number on public assistance with indifference.

But it is on the poverty-ridden streets of the nation's largest cities that one can best understand the effects of a federal health policy that rewards doctors willing to abuse the neediest members of society.

"I regard the whole program as beyond repair," said Fernando Ferrar, Bronx borough president and an advocate of recruiting higher-paid physicians to serve underprivileged areas of the city. "We should just blow it up. * * * the city has the world's best medical schools and the finest hospitals. It has thousands of licensed doctors, many of them famous. And we have no health care at all for people who are in need. None. Nothing we do can be worse than this."

In areas where talented and qualified physicians rarely dare to practice, Medicaid mills prevail. Scattered throughout communities hit hardest by the spiraling epidemics of drug abuse, AIDS, tuberculosis, measles and many other preventable and often easily treated diseases, the exact number of such outfits in New York is unknown.

The 15 state health investigators in New York City divide their time between looking for abuse on the streets and doing paperwork involved in auditing the more than 10 million individual Medicaid claims filed each month. Local law enforcement officials recently have intensified their scrutiny of the mills, where doctors often prescribe drugs that in turn are sold immediately on the street or back to the supplying pharmacies—usually owned by the same person who owns the mill.

But, enforcement officials and legislators say, like crack houses or brothels, as soon as one mill is shut, another opens around the corner. Often the three can be found in the same block.

Several recent visits to one such doctor's office, on East 138th Street in the South Bronx, revealed long lines of young men waiting to enter, then staying for only a moment or two. Most then proceeded to the pharmacy next door. When finished there, several crossed the street and climbed into an abandoned building through a hole in a bricked-up window.

"Crack house," said a sergeant at the nearest police precinct, "They go from the doctor to the pharmacy, get whatever they can and try to barter it away for crack. It's absolutely routine."

Most Medicaid mills are run by people who never appear on the premises, according to state fraud investigators. With no sign outside, or simply the words "Doctors Office" painted above their doors, the offices consist of a waiting area, desk and examination room. Medical equipment is sparse, usually nothing more than a machine to test hearing and another to test lung capacity.

"They are installed only for the revenue they bring in," said Post, a retired physician who investigates claims of abuse for the state. "They advertise for doctors in the newspaper help-wanted ads. Most are newly licensed immigrants, eager for the money and often unaware that the conditions are so profoundly unacceptable."

The doctors work in shifts earning a salary of as much as $5,000 a week for fewer than 40 hours of work.

No matter what the malady, a visit to a mill rarely lasts more than a minute or two, time enough for a cursory examination and to draw blood for a series of expensive tests. The blood will be sent to a lab that will reward the Medicaid mill with a small fee for the favor. The same is true for pharmaceuticals. Since the government pays for Medicaid drugs, and kickbacks are routine, few patients depart without prescriptions.

Mendez said she came to the mill near her home in the Bronx on a recent morning only because the emergency room at the Lincoln Hospital Center usually is so overcrowded that she could not wait. Still, she stood in line at the mill with two of her four children for two hours, waiting to see a doctor for a severe respiratory infection. Three minutes after she finally entered, she came out with prescriptions for three popular and expensive drugs.

The drugs, given to many patients at this clinic, were Naprosyn, Tagament and Proventil. Naprosyn is an anti-inflammatory drug that can cause internal bleeding. Tagamet is used for ulcers or the type of bleeding that can be caused by improper or extensive use of Naprosyn. Proventil has been highly successful in treating asthma.

"[The doctor] took my temperature and gave me blood tests," she said. "She really checked me out."

But many health professionals say it is not possible to receive real care—good or bad—in such a brief visit. Mill doctors rarely bother to learn results of the tests they order for patients. Even when they do receive test results from the labs, state investigators say, the doctors frequently fail to inform patients of abnormal findings.

The office Mendez visited, on the Grand Concourse in the South Bronx, appears to close whenever an unusual looking person—a white man in a tie, for example—arrives. "They're not stupid," said Anjean Carter, medical director for the Community Service Society, a local health-advocacy organization. "They know who is there for treatment and who is there to shut them down."

Repeated attempts by a reporter to speak with doctors at four separate offices in the Bronx were refused by a receptionist who said the doctors were not in. On two such visits to the Grand Concourse office, an employee ran out and drew the metal gates to the ground as a reporter attempted to enter. On another occasion, when the doctor was not yet at the office, there were rodents in the tiny examination room and used syringes on the floor.

New York state does not release records of Medicaid investigations, but several case studies were made available by the House Government Operations subcommittee on human resources and intergovernmental relations, whose chairman, Ted Weiss (D-N.Y.), has held hearings on the quality of Medicaid physicians in the poores urban areas.

The pictures that emerge from these reports are similar. "All patients made only one visit," said a typical state health department study on Robert Rozefort, a New York doctor excluded from the Medicaid program last year after a lengthy review. "Histories were illegible, no real records, or exams. There were no lab tests ordered or recorded nor were diagnoses validated," which means there was no continuity in the charts nor were there second visits to make certain that initial diagnoses were correct.

"There is a monotonous quality to these charts," the study said. "Eight of 10 patients complain of asthma, and five of 10 complain of back pains. Almost all were given Tagamet and Proventil for uninvestigated complaints. These drugs potentiate [multiply] the effects of cocaine. This is grossly sustandard care." Rozefort could not be reached for comment. Although the state decided to withdraw permission for him to receive Medicaid reimbursement, no other action was taken.

Because of the welter of licensing regulations and a cumbersome appeals process, attempts to remove physicians from the Medicaid program can take years. Any licensed doctor may treat Medicaid patients; physicians are free to take a few patients, many or none.

The wide disparity in fees discourages many competent and reputable doctors from treating those often most in need of basic care. Many reports have shown the sharp statistical relationship between low-income and perilously bad health care. Yet, in its most recent report to Congress, the Physician Payment Review Commission found that 44 states have severe problems finding doctors willing to participate in the Medicaid program. Low fees were cited as the reason in almost every case.

In New York, whose Medicaid reimbursement rates are the nation's second-lowest behind West Virginia, doctors receive $15 for a routine electrocardiogram. But a doctor treating a patient on Medicare, the federal health program for the elderly, would receive $45 for precisely the same service. If the patient had private insurance or paid himself, the bill would be more than $100. For an initial office visit, a doctor can receive $63 under Medicare in New York, more than five times what Medicare pays.

According to the New York City Health Department, more than 530,000 people are eligible to receive Medicaid in the Bronx alone, about as many people as live in Boston. But in its most recent survey of health-care delivery to New York's poor, the Community Service Society could identify only six private physicians willing to provide a full range of medical services in the area's most ravaged neighborhoods.

"Look around and you will quickly find that the primary health-care network has been destroyed," said Bruce Vladek, president of the United Hospital Fund, a nonprofit health-advocacy group. "A system has been constructed that automatically scares away the people it is supposed to attract."

Low pay is only the most obvious reason. Doctors who work in the poorest neighborhoods also must contend with crime. They pay higher insurance premiums because their neighborhoods are more dangerous. Away from the customary affiliations with solid hospitals, they often lose their link to the newest trends in medicine.

Here and in many other states, there has long been steady resistance to the idea of raising fees to attract better physicians, not only because of costs during a budget crisis, but, more important, because many legislators also fear it is at least as likely to provide greater incentives for the worst abusers.

In the past, young doctors with the best intentions have come to Central Harlem and the Bronx, where the hypertension death rate is more than 1,000 times higher than the nation as a whole and mortality rates have far more in common with sub-Saharan Africa than with most of New York City.

Often, they say they want to practice where black men are many times more likely to die needlessly from preventable heart disease than residents in Zip codes only a mile away. In many cases, these physicians are idealistic, young and say they have an obligation to society that they want to fulfill.

"My entire goal in life was to become a doctor and return to the Bronx to treat my people," said Luis A. Diaz Jr., 38. Born and raised in the South Bronx, he spent his youth watching classmates slowly disappear, lost to drugs and guns and, more recently, to AIDS.

After much struggle and many false steps, he accomplished the first part of his dream in 1981, graduating from Tufts Medical School although he never officially graduated from college. For several years, he worked in one of the Bronx's few community health-care clinics, the Morris Heights Health Center, receiving a solid salary to provide quality health care. But the long hours, lack of continuity and difficulty clinic doctors have in establishing firm ties with patients, who might see one doctor one day and another the next, got to him.

More than once, he says, he was offered jobs by owners of the Medicaid mills, through advertisements and acquaintances at the hospital where he trained.

"Two-, three-thousand dollars a week for three days' work," he said, sadly shaking his head. "They just wanted me to front by signing prescriptions and making an occasional visit. That's a lot of money. But what they were doing in the mills was everything I was against. Sixty patients an hour. Even whores spend more time with their clients."

Finally, he decided to open his own office, with a colleague in pediatrics. He said he craved the time to treat patients properly, advise them on preventive medicine and above all to follow them over the course of their illnesses.

"I want to make a difference," he said. "I know it sounds stupid, but I thought I could."

But not with Medicaid patients. Despite his professed desire to treat the people with nowhere else to turn, Diaz quickly realized that, if he hoped even to pay the rent on his modest office, Medicaid patients were luxuries that he simply could not afford.

"You should see the look on people's face when we tell them we don't take Medicaid," he said, sitting in his neat examination room, brightly decorated with charts that explain how various organs work. "They look at me like I am scum. They don't want to hear about my wife and three kids. It's a betrayal.

"I tell them I am treating the working poor, who have no insurance at all," he continued. "But they don't care, and I don't blame them. The fact is, I refuse to treat the poorest patients. It makes me sick I don't have a choice.

• Mr. PACKWOOD. Mr. President, Medicaid expenditures have been increasing at a rate of 20 to 25 percent a year and are placing tremendous pressure on State budgets that are already stretched thin. In part, this has resulted from a series of Medicaid expansions passed by this Congress in such areas as maternal and child health, and long-term care for the elderly and the mentally retarded. In addition, all over the country, States are being sued by hospitals and nursing homes on the grounds that their Medicaid payments are inadequate.

That is why I am proud to introduce today, with Senators DURENBERGER and MOYNIHAN, the Medicaid Managed Care Improvement Act of 1991. Managed

care, or coordinated care, is one of the few tools available to States to control costs without cutting benefits or restricting eligibility. And in many places, where State payments are so low that most providers refuse to participate in Medicaid, coordinated care may be the only way to guarantee that a welfare mother will be able to access a physician who will take care of her and her children.

Yet Federal policy discourages Medicaid Programs from using managed care. Even though HMO's have been available for more than 50 years and are well accepted in the private sector, States are forced to go through a lengthy and arduous waiver process before they can contract with such plans for Medicaid beneficiaries. Indeed, at a time when States have broad discretion to determine who to cover under Medicaid, what services to provide, and what to pay for services, the Federal Government insists on micromanaging State decisions regarding managed care.

By eliminating the requirement for Federal waivers, our bill, the Medicaid Managed Care Improvement Act of 1991, establishes managed care as a regular part of the Medicaid Program. States seeking to contract with HMO's would be able to do so without having to meet the 75/25 rule or the requirements for statewideness and comparability of benefits. Instead, States are required to develop strong quality assurance systems to monitor the care provided in managed care plans.●

● Mr. McCAIN. Mr. President, I rise today as a cosponsor and strong supporter of the Managed Care Improvement Act.

This legislation, which would enhance the ability of States to experiment with managed care in the context of their Medicaid Program, offers great hope to States and the Federal Government in bringing the growth in Medicaid costs under control.

Mr. President, as many of my colleagues know, Arizona has had a managed care Medicaid Program for nearly a decade—the Arizona Health Care Cost Containment System. AHCCCS, as it is known to those familiar with it, enjoys great support among Medicaid beneficiaries in Arizona and has been very successful in containing the growth in costs so many other States have experienced. Its success has been the subject of a number of recent articles.

I believe managed care does have a place in controlling costs and ensuring access to essential health care services for our Nation's poor. Arizona's program has demonstrated it.

But doing this has not been easy. The program functions under a section 1115 waiver, which has brought with it an enormous morass of studies, evaluations, and other administratively burdensome requirements. In spite of all this, it has been a very beneficial endeavor. It is AHCCCS' success that makes possible the legislation I am introducing today with Senators MOYNIHAN, DURENBERGER, and others.

I believe that as the cost growth in Medicaid remains largely unbridled for other States, more and more will look to the positive experience Arizona has had in applying managed care to Medicaid. I believe this legislation will give them the flexibility to experiment with this critical alternative.

On this note, I am very grateful to my colleagues from New York and Minnesota for including language in this legislation that will permit the Secretary of Health and Human Services to make a Medicaid demonstration program permanent if it has proven to be fiscally and programatically successful. This is critical, as we should permit those States that break new ground in this area and succeed in making their program permanent.

In conclusion, Mr. President, I would like to express my appreciation to my colleagues from New York and Minnesota for the time they put into crafting this legislation. I encourage all of my colleagues to consider signing onto this important legislation.●

By Mr. MITCHELL:

S. 2078. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of a principal residence by a first-time home buyer; to the Committee on Finance.

CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY A FIRST-TIME HOMEBUYER

Mr. MITCHELL. Mr. President, I am introducing legislation today, along with Senators SHELBY, REID, DIXON and INOUYE to establish a $1,000 tax credit for first-time home buyers. This legislation is designed to achieve two very important objectives. First, the bill provides critical financial assistance to enable young families to purchase a first home. Second, the bill will stimulate an important industry which has traditionally led the national economy out of a recession.

The fastest and most direct way to help many average income Americans is to help them become homeowners. Interest rates today are at their lowest point in years, but the lack of income growth has prevented middle income families from accumulating the savings necessary to purchase a first home.

In fact, since 1980 the home-ownership rate among young families has fallen almost 20 percent. According to the Census Bureau, only nine percent of today's renters can afford a median-priced home in the community where they live. Statistics from the Harvard Joint Center for Housing Study indicate why this has occurred. In 1970, first-time home buyers paid 16.2 percent of after-tax household income on housing. Today, first-time home buyers spend 29 percent of after-tax income on housing. These percentages are based on total household income and contradict the trends we might expect as millions of more families become two-income households.

My legislation addresses these alarming statistics by providing downpayment assistance in the form of tax credits to families who want to buy a first home. The bill provides a permanent $1,000 tax credit for the purchase of a first home for taxpayers with adjusted gross income under $40,000. The value of the credit is phased out until income reaches $50,000.

By making homes affordable to millions of Americans, the tax credit will also address the dire condition of our housing construction industry by increasing the demand for new homes. The home building industry is suffering through a depression in many areas of the Nation, with high unemployment rates among construction workers, and thousands of builders in bankruptcy. Residential construction is now at its lowest level since the Second World War.

Housing construction has led this country out of each recession since World War II but that has often required specific Federal policies to encourage home buying. The tax credit that I am proposing is similar to a temporary credit enacted in 1975 to encourage home purchases. That credit successfully stimulated the housing industry and the national economy. I believe my legislation will do the same.

I invite Senators to cosponsor this bill. I hope that we can get this legislation enacted into law in the near future.

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. 2078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence during the taxable year, there shall be allowed to such individual as a credit against the tax imposed by this subtitle for such taxable year an amount equal to $1,000.

"(b) INCOME LIMITATIONS.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) to any individual whose adjusted gross income for the taxable year exceeds $50,000.

"(2) PHASE-DOWN OF CREDIT.—The $1,000 amount set forth in subsection (a) shall be reduced by $10 for each $100 (or fraction

thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $40,000.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of such residence.

"(B) DATE OF ACQUISITION.—For purposes of subparagraph (A), the term 'date of acquisition' means the date—

"(i) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(ii) on which construction or reconstruction of such a principal residence is commenced.

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(3) PURCHASE.—The term 'purchase' means any acquisition of property, but only if the basis of such property in the hands of the person acquiring it is not determined—

"(A) in whole or in part by the reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(B) under section 1014(a) (relating to property acquired from a decedent).

"(4) TREATMENT OF MARRIED INDIVIDUALS.—The adjusted gross income of any individual for any taxable year shall include the adjusted gross income of such individual's spouse for such spouse's taxable year corresponding to the taxable year of the individual. For purposes of the preceding sentence, marital status shall be determined under section 7703; except that an individual shall not be treated as being married if such individual would not be treated as being married under section 21(e)(4).

"(5) JOINT PURCHASES.—If a residence is purchased together by 2 or more individuals for use as their principal residence—

"(A) such individuals shall be limited to 1 credit under this section for such purchase and the amount of such credit shall be allocated among such individuals in the manner prescribed by the Secretary,

"(B) no credit shall be allowed under this section for such purchase unless all of such individuals are first-time homebuyers, and

"(C) the aggregate adjusted gross income of all of such individuals shall be taken into account in determining the amount of the credit allowable under this section for such purchase."

(b) CLERICAL AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Purchase of principal residence by first-time homebuyer.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to principal residences purchased after November 26, 1991.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2079. A bill to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes; to the Committee on Energy and Natural Resources.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. JEFFORDS. Mr. President, I am pleased to rise today, along with the senior Senator from Vermont, to introduce legislation which would create the first national park in my home State of Vermont.

I would like to commend the senior Senator from Vermont for the work he has done over the course of time to make this event possible. I know he has worked very hard to ensure that we be graced with this national park. It has been a pleasure working with him on it.

Let me explain just a little bit about it, because it is kind of a novel situation. It will probably be one of the smallest, if not the smallest, national parks in the United States. It will consist of about 450 acres of woods, old farm fields, carriage roads, walking paths, a quiet pond, and scenic hilltops in the heart of the Green Mountain State.

Laurence and Mary Rockefeller, residents of Woodstock, VT, have earned over the years a well-deserved reputation as two of America's great preservationists. Now they wish to give to America their home and the land that surrounds it. I hope we in Congress can accommodate them, for it is the Nation that stands to gain.

The Rockefellers live in an historic house dating back to the early 19th century, a house once lived in by the first of America's conservationists, George Perkins Marsh. Indeed, old boundary markers high in the hills behind the house still bear the Marsh name. Later the home was owned by Frederick Billings, a railroad pioneer, who had much to do with the settlement and development of the great American West.

In fact, Billings, MT, is named after his family. A biography has just been published about Billings. For the first time, this country is coming to understand his contributions.

Mary French Rockefeller grew up in that great house, overlooking the green valley of the winding and clear Ottauquechee River and the houses and spires of Woodstock. Later she met and married the Dartmouth College roommate of her brother, John French. And still later the Rockefellers made their home in what Woodstock residents call "The Mansion." So it remains.

At this time, I would be happy to yield to my senior colleague from Vermont, so that he may participate before I go on, and give further history of this great mansion.

If the Senator from Vermont [Mr. LEAHY], would like to participate at this point, I would certainly appreciate it.

Mr. LEAHY. Mr. President, I rise to join my Vermont colleague, Senator JEFFORDS, in introducing a bill to authorize the long-overdue establishment of Vermont's first National Park Service unit—the Marsh-Billings National Historical Park in Woodstock.

We take this action today, on what may be the last day of this session of the Congress, to allow us several weeks before the next session to describe and explain the many positive features of this bill to our fellow Senators. As soon as possible, we want to do the work necessary to have the bill speedily taken up and reported by the appropriate committee in the Senate—the Energy and Natural Resources Committee—for passage early in 1992.

The primary purpose of the new park is to interpret the history and evolution of land conservation stewardship in America. The Marsh-Billings property is a highly appropriate setting for this activity, as it is the birthplace of George Perkins Marsh—statesman, linguist, and a pioneering American conservationist.

It is also the former home of Frederick Billings—conservationsist, philanthropist, pioneer in reforestation and scientific farm management—who applied and refined the principles of sound land management introduced by George Perkins Marsh.

Many months ago, I spent significant time at the Marsh-Billings home in Woodstock with its present owners, Mary and Laurence Rockefeller, and Secretary of the Interior Lujan. We began to plan for the introduction of the legislation, and for the long term, when this important property will be open to the American public. Without the generosity of the Rockefellers, who are donating the property and establishing endowments to pay for ongoing preservation, maintenance, and property taxes, none of this would be possible.

It is ironic that Vermont—a national leader in historic preservation, forest stewardship, and natural resource conservation activities—is without any kind of National Park Service installation. I believe that the time, the property, and the circumstances are now right to change this situation by passing the Marsh-Billings National Historical Park Act early in 1992.

This is an extraordinary property—a mansion, related buildings, and approximately 500 acres of rolling hills and forests with scenic views. Laurence and Mary Rockefeller have my great admiration, and strong support for what they are working to accomplish for the National Park System in Woodstock. On an emotional level, I know how much this beautiful property means to them. They were married there before I was born. On our visits there, Senator JEFFORDS and I have seen and felt their great fondness for the home and land and all its historic heritage.

This new piece of legislation represents an outstanding opportunity to preserve the heritage of an important earlier era, left to us by two founders of the American conservation movement. If this house and land are not available for the American public to visit and appreciate, someday only

books will be available to portray this sense of place and era. There is a very real need for this type of preservation, and this opportunity to place a real treasure within the public trust must not be missed.

George Perkins Marsh and Frederick Billings are significant figures in Vermont's history, and I am pleased to be able to act to preserve their legacy. I have viewed and sensed a great deal of the remarkable heritage of these two men in that house and on those grounds, and look forward to sharing that with my fellow Vermonters and Americans.

I believe that the Marsh-Billings National Historical Park will be yet another jewel in a State blessed with many jewels. It will be the product of a working partnership between the local Woodstock community, and State and local government. It will be established under a long-term financial arrangement that is very fair and reasonable for the American—and the Woodstock—taxpayer. And it will be a tribute to the generosity, foresight and dedication of two extraordinary people, Laurence and Mary Rockefeller.

Mr. President, I very much look forward to working with my colleagues toward passage of the Perkins-Marsh National Historical Park Act in 1992.

Mr. JEFFORDS. Madam President, the Rockefellers would give the great house, now a national historic site, and the lands around it to the people of America. The property is a fairyland of formal gardens, pristine woods, fields still farmed, a deep and clear pond, high ledges with long views and old Billings family carriage trails that now make superb hiking and riding paths.

And just across the road is the Billings Farm Museum, one of this country's best living history places, a working farm and preserve of the family farm heritage. Americans can visit this repository of an earlier way of life and then go across the road to visit the home of some of America's great families. And they could walk about one of the finest bits of Earth on this continent in the quiet of rural Vermont, if we make real the dreams of the Rockefellers.

This would be a small national park, but to paraphrase Daniel Webster, there would be those who love it. Indeed, this is a place all America could come to love.

I want to briefly explain what this bill would do. It would establish the Marsh-Billings National Historical Park, which would consist of land donated by the Rockefellers. The park would contain two zones, a historic zone and a protection zone, and be surrounded by a scenic zone of private land with easements to preserve the natural beauty beyond the protection zone. The Secretary of the Interior is required to develop a management plan for the park within 3 years of enactment of the legislation.

As we all know, well-meaning gifts of property and physical plant can often lead to substantial operating costs. The commitment and generosity of the Rockefellers in creating this park is reflected by two funds they have offered to establish. This is truly a unique situation in which the Rockefellers have committed to preserve the integrity of their land and the town.

The first fund will be a tax fund to ensure that the town of Woodstock does not lose its tax base by the establishment of the park. The Rockefellers will continue to make payments in lieu of taxes as long as they remain in residence. Then the Park Service will make payments for 5 years as required by law. At that time, the town will be able to draw on this tax fund, which will be funded before the Rockefellers terminate their residency, to cover the loss in taxes that would occur when the Park Service completes its payments.

The second fund established in this bill would cover the cost of maintenance and preservation of the mansion and the surrounding grounds. This fund will be used in conjunction with the National Park Service's annual budget for the park. The Rockefellers have committed to covering the cost the maintenance and preservation of the park through this fund.

The Rockefellers have also agreed to cover half of the cost of the general management plan required in the bill. This is truly an amazing act of generosity. Not only are they willing to donate their land, which is valued at $10 million, they have agreed to establish two funds to protect both the town and the park. I am deeply appreciative of their commitment.

The people of Woodstock have expressed support for this initiative, as well as their strong interest in working with the Rockefellers and the National Park Service in developing a plan that will best suit the town. Given the substantial amount of land that will be donated, establishment of the park could have a major impact on the town, especially with any increasing number of visitors. I feel strongly the people of Woodstock must be a part of this process, for they will be the ones who can best determine the impact a park will have on the town.

I hope we approve this legislation and make this extraordinary gift to America a reality. It is seldom that this Congress gets such an opportunity. It is an act of generosity and farsightedness that deserves our enthusiastic support. If we so act, generation on generation of citizens will have a place to go and understand the kind of place from whence America came. It is the kind of place America must never let go.

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. 2079

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 "Marsh-Billings National Historical Park Act."

SEC. 2. PURPOSES.

The purpose of this Act are to—

(1) interpret the history and evolution of conservation stewardship in America;

(2) recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of "Man and Nature," statesman, lawyer and linguist;

(3) recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller and Laurence Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT, ACQUISITION AND PURPOSES.

(a) There is hereby established the Marsh-Buildings National Historical Park (hereinafter referred to as the "park") as a unit of the National Park System, consisting of an historic zone and a protection zone.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 606; 16 U.S.C. 461-467).

(c) The park shall consist of no more than 560 acres in the historic zone and no more than 95 acres in the protection zone, all in Windsor County, Vermont, as generally depicted on the map entitled Marsh-Billings National Historical Park Boundary Map, dated 11/19/91. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(d) The historic zone shall include the Marsh-Billings Mansion and surrounding buildings and the area known as Mt. Tom. The primary purpose of the historic zone shall be for preservation, education and interpretation. The Secretary is authorized to acquire lands and interests therein in the historic zone by donation or with donated funds.

(e) The protection zone shall include the areas presently occupied by the Billings Farm and Museum. The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such manner and by such means as will continue or permit current and future compatible uses.

(f) The Secretary is directed to pursue protection and preservation alternatives for the protection zone, working with affected State and Local Government units and affected landowners, to develop and implement land use practices consistent with the purposes of this Act. The Secretary is authorized to accept donations of lands and interests in lands within the protection zone; further, the Sec-

retary is authorized to acquire such lands and interests therein by means other than donation, if the Secretary determines that the lands are being used, or that there is an imminent threat that the lands will be used, for any purpose that is incompatible with the purposes of this Act.

SEC. 4. SCENIC ZONE.

There is hereby established a scenic zone, which shall include the lands generally depicted on the map entitled Marsh-Billings National Historical Park Scenic Zone Map, dated 11/19/91. The purposes of the scenic zone shall be to protect portions of the natural setting beyond the protection zone which are visible from the Marsh-Billings Mansion, by such means and in such manner as will permit current and future compatible uses. The Secretary is authorized to acquire scenic easements by donation within the scenic zone.

SEC. 5. COOPERATIVE AGREEMENTS.

(a) The Secretary may enter into cooperative agreements with such persons or entities as he may determine to be appropriate for the preservation, interpretation, management and operation of, and provision of educational and recreational uses for, the properties in the park and the scenic zone.

(b) The Secretary may, through cooperative agreements with owners or operators of land and facilities in the protection zone, provide for facilities to support activities of the historic zone.

(c) The Secretary may not expend appropriated funds in direct support of commercial enterprises, other than pursuant to a concession contract, entered into in accordance with the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20–29g), provided that existing commercial activities may be continued, insofar as they interpret the historic purposes of the site, by public or private non-Federal entities through cooperative agreements.

SEC. 6. ENDOWMENT.

The Secretary is authorized to receive and expend funds from an endowment to be established with The Woodstock Foundation or its successors and assigns, subject to the condition that payments therefrom shall be expended exclusively as the Foundation or its successors and assigns may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediately surrounding property, except that all such expenditures shall be consistent with the general management plan for the park.

SEC. 7. USE AND OCCUPANCY.

(a) When acquiring any land pursuant to this Act, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for noncommercial residential purposes for a term not to exceed twenty-five years or for the life of the owner or owners.

(b) The Secretary may acquire lands in the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the grantor, his successors and assigns.

SEC. 8. GENERAL MANAGEMENT PLAN.

Within three years from the date funding is made available for the purposes of this section, by donation or otherwise, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

By Mr. LEVIN (for himself and Mr. DURENBERGER):

S. 2080. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

PREEMPTION CLARIFICATION AND INFORMATION ACT

• Mr. LEVIN. Mr. President, since 1789, Congress has enacted approximately 350 laws explicitly preempting State and local authority; over half of these laws having been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress's intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, it is left to the courts to decide whether or not preemption was intended and, if so, to what extent.

While we don't have any accurate data as to how many cases there have been where the courts have found preemption by implication, we do know they are numerous and that they form an increasingly significant portion of cases before the courts. According to a recent report by the Appellate Judges Conference of the American Bar Association, "Compared to 20 years ago, the number of preemption cases on the Supreme Court's docket has increased by a factor of four." This trend is not expected to abate.

Today, along with Senator DURENBERGER, I am introducing legislation to require that in order for there to be Federal preemption of State and local law, Congress must include an explicit statement to that effect in any bill it passes, unless of course, there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. This would close the back door of implied Federal preemption and put the responsibility for determining whether or not State and local governments should be preempted back in Congress where it belongs.

Article VI of the Constitution, the Supremacy Clause, states that Federal laws made pursuant to the Constitution, "shall be the supreme Law of the Land." In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at standards by which to judge whether or not Congress intended, by implication, to preempt State or local authority.

Of course if Congress clearly states its desire to preempt State and local authority or where there's a direct conflict that cannot be reconciled, then the question of preemption is resolved. But, in those cases in which the Federal law is not explicit regarding preemption of State and local authority, the matter can often end up in the courts. This is especially true in those cases in which the Federal Government sets a floor or ceiling for a certain activity but is silent with regard to whether or not, or to what extent, a State or local government can go further than the Federal Government requirement—above the floor or below the ceiling.

For example, if a Federal law sets a ceiling of 10 parts per billion of a certain toxic substance in drinking water, but is silent on the issue of whether or not, or to what extent, a State or local government could require stricter curbs on this toxin, the issue of State or local authority may very well end up subject to judicial interpretation. Similarly, if a Federal law sets a minimum of at least 10 parts per billion of an important additive to drinking water—like flouride—but is silent on whether or not, or to what extent, a State or local government could require greater amounts of the substance in drinking water, the courts would be left to resolve that issue. In both of these cases, our bill would permit tougher State laws, unless preemption were explicit or these was a direct conflict. These are the types of cases the courts have been considering in increased volume over the past 10 years.

A recent Supreme Court decision over the regulation of pesticides by local governments, Wisconsin versus Public Intervenor, describes the three standards by which, absent explicit preemptive language, congressional intent to preempt may be inferred. The three tests are as follows:

> * * * if a scheme of Federal regulation is 'so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it,' if 'the Act of Congress * * * touch[es] a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject,' or if the goals "sought to be obtained" and the "obligations imposed" reveal a purpose to preclude state authority.

We believe that if we in Congress want Federal law to preempt State and local government from legislating in an area, we should be clear about that. If we set a floor or a ceiling but are silent on actions which certainly meet but then go beyond the Federal requirement, State and local governments should be allowed to act as they deem appropriate. Our silence should not result in State and local governments having to fight these types of battles in the courts, and courts should not have to read the tea leaves to discern what we in Congress intended. Too much is at stake in these cases.

Our bill seeks to address this situation by requiring that—

> [n]o statute, or rule promulgated under such statute, shall preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless the statute ex-

plicitly states that such preemption is intended or unless there is a direct conflict between such statute and a State or local law, ordinance, or regulation so the two cannot be reconciled or consistently stand together.

Upon passage of this bill, a clear statement of intent to preempt will be the standard by which Federal preemption is to be judged: If there is no such statement or a direct, unreconcilable conflict, there is no preemption.

It will force Congress to think through the issue of preemption and whether or not it is appropriate for the matter at hand. The question of preemption will require debate and resolution at the front end of the process rather than after-the-fact guesswork. It places responsibility for the debate and resolution of the preemption question where it should be, with the legislature, not the judicial branch.

Our legislation also requires the Congressional Research Service, at the end of each Congress, to compile a report on laws passed in which statutory preemption is explicit and on all Federal cases in which preemption of State or local authority has been an issue. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

We have worked closely with the Advisory Commission on Intergovernmental Relations in devising this legislation. This organization has done a great deal of work in this area. Moreover, legislation in this area has been endorsed by the National Conference of State Legislators, the Intergovernmental Affairs Committee of the Council of State Governments, the United States Conference of Mayors and the Appellate Judges Conference of the American Bar Association.●

● Mr. DURENBERGER. Mr. President, I am pleased to join with my colleague, the distinguished junior Senator from Michigan, in introducing the Preemption Clarification and Information Act of 1991.

The Founding Fathers established in the Constitution a joint role for the States and the Federal Government. The powers of the Federal Government, including its role in regulating interstate and foreign commerce, maintaining the military, and entering into treaties, are clearly outlined in the body of the Constitution. When there is a question over jurisdiction, however, the tenth amendment prescribes that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Yet, Mr. President, the issue of Federal preemption of State and local authority has increasingly dominated intergovernmental relations. In spite of what is known as the supremacy clause of article VI, which proclaims that the laws enacted by the Congress will be the supreme law of the land, wrangling between State and Federal authority has only increased during the past half-century.

In the judgment of this Senator, the questions over preemption issues have not been as much related to the merits of the legislative differences, but have instead been focused on whether, and to what extent, preemption was intended by the Congress. Unfortunately, Mr. President, it is not the Congress which has determined preemption issues, as intended under the supremacy clause, it is the courts. When the Congress does not express its intent clearly enough, it abdicates its role and powers to the courts which are left to determine Congressional intent.

The Senator from Michigan and I do not intend to create new powers for the States or for the Congress, nor do we intend to usurp powers from State or local governments. Our purpose is to ensure that the Congress makes its intent clear when preempting State or local law. When it does not, this legislation ensures that the benefit of the doubt lies with the State or local government.

It is our hope that the Preemption Clarification and Information Act of 1991 will minimize litigation congesting the courts, will help to end the need for the courts to speculate and try to discern congressional intent, and will reduce the erosion of State efforts to work their will on issues with which they share legitimate interests with the Federal Government.

I encourage my colleagues to join us in supporting this effort to more carefully discharge the constitutional duties of the Congress.●

By Mr. JEFFORDS.

S. 2081. A bill to sell agricultural commodities to the Union of Soviet Socialists Republics so as to promote local food distribution and production and the operations of privately owned agricultural enterprises; to the Committee on Agriculture, Nutrition, and Forestry.

SALE OF AGRICULTURAL COMMODITIES TO THE SOVIET UNION

Mr. JEFFORDS. Madam President, I also intend to introduce another bill today. It is very interesting being in the Senate and having an opportunity to sit on two committees which deal with problems that sometimes interlock. I am here today to give a suggestion of how we can take a series of problems and resolve them with one bill.

Just the other day we took a considerable amount of time to talk about the serious problems we have in the dairy industry. The most significant aspect of those problems is the amount of surplus of goods we have hanging over the market and deflating the price our dairy farmers receive.

One of the ways that we have traditionally been able to get rid of those surpluses so the market can raise dairy prices is to ship them overseas and donate them or sell to a willing buyer. That is one of the aspects of this bill.

A problem which we have all been reading about in the media is the possible starvation of citizens in the Soviet Union. In relation to that, there is actually the possibility of two problems. First is the lack of food; and the second, the inability to distribute the available food to the people of the Soviet Union. Without correcting these problems we may end up with a serious problem of starvation. And that of course is of great significance and importance to this country because if that does occur, the very fragile union and the fragile situation we have could even go so far as to reverse itself. People need food, and at a time when their lives are threatened they can sometimes revert back to those things which they have tried to get away from.

Another problem we have is that the citizens in the United States that are not very pleased about sending money over to the Soviet Union at a time when we are having difficult times at home with unemployment and our own problems ensuring that everyone has adequate food. However, I do not think we need to choose between these problems. We certainly do have food and money available in this Nation to take care of our own if properly utilized. We have to keep this in mind when we design a program to provide aid to the Soviet Union. Related to this problem of providing assistance to the people of the Soviet Union is the credit restrictions we have in our law. We basically have to guarantee, or have to receive a guarantee, that the loans or the goods that are delivered will be actually paid for.

A while back, we had a hearing where former Ambassador Jack Matlock testified and put out a very interesting suggestion of how we might try to overcome some of these problems. He suggested that rather than just giving away the food, we could loan it to the Soviet Union with the understanding that the following things would occur:

First of all, that the food would be made available to the citizens, but it would be done in a way so that the value of the food products would be converted into the local currency, and instead of taking that money back, put it into a fund to be set up as a free enterprise fund. You would deliver the dairy products and they would be paid for in rubles, but the rubles would remain in the Soviet Union, put into a fund like our loan funds we have for businesses in this country and be made available for specific purposes, especially related to setting up private businesses to distribute food within the Soviet Union. It would be a teaching

fund, in a way, to teach the Soviet Union how to utilize the free enterprise system in order to make their system work better. So the opportunities now are truly great, and yet we venture into unchartered territory. We must not hesitate. Rather, in the American tradition, let us reach out eagerly and in peace across the Atlantic and beyond the Urals. Let's build markets for our goods. And in this Thanksgiving season, let us take our agricultural bounty and lend it to the Soviets. This is the right thing to do and the smart thing to do for us, our farmers, and the Soviet people.

The bill I am introducing capitalizes on the ideas of Ambassador Matlock. The program would use commodity credits to establish a free-enterprise fund for Soviet entrepreneurs. Under the program, the Soviets would be required to establish a revolving loan fund in exchange for food from the Commodity Credit Corporation's [CCC] stocks of dairy and other products. In practice, at the time of a CCC sale, the Soviet Union would deposit the ruble value of the food they wish to buy into a free-enterprise fund. Entrepreneurs could borrow from the fund, with preference given to those in food distribution or production. When the term of the CCC loan expires, the Soviet Union would be required to repay the United States, either in real dollars or in an equivalent amount of marketable commodity such as oil or gold.

Under this program, American farmers would be given a break, Soviets would eat this winter, the United States would be paid for what it provides, and Soviet entrepreneurs would be given a fighting chance. No new money need be expended from the U.S. Treasury, and no dollars would leave the United States.

Ambassador Matlock suggested this. I asked him at that time, "Isn't there availability of goods right now that we could transfer?"

He said, "No, the Soviets have been in such a desperate situation, they have already committed their oil and other natural resources they have for purposes of obtaining credit for other essential items. So we might have to wait."

But different from the Marshall plan and others, and especially in view of the huge natural resources in the Soviet Union, it seems to me, in taking Ambassador Matlock's suggestions, the better thing to do would be to ensure that we get repaid sometime.

It does take some faith. There is no question about that. It takes faith that the Soviet Union will survive but the law allows that funds will be provided to protect ourselves.

But it seems to me, here we are going to get $2 for every $1, and that $1 will come back, eventually. So, hopefully, the net impact upon our national debt should be zero. Not only do the Soviets get the value of that food being present now, but they also get the value of those funds equal to the value in their own currency utilized to loan out to create a free enterprise situation.

We have a firm in Vermont—Geonomics—which is studying the monetary and financial systems of the Soviet Union. We submitted the plan to them and they heartily endorsed it and said this is the kind of innovative concept we need to solve the various problems I have discussed.

One, of course, it would unload the surplus dairy products that we have, making it possible for our farmers to increase their revenues. Second, it would assist in feeding the people of the Soviet Union, to prevent starvation in winter; set up the mechanism to create the free enterprise systems necessary to improve their food distribution. It would also not be a program that raises a red flag to the American public: "Here we are just giving money away," but rather we would be loaning the money out with the expectation, assuming our faith in the free enterprise system is adaptable to the Soviet Union, that would result in getting paid back in the future.

So I offer this—perhaps not just in its limited form as we have for agricultural products, but also as a model, an innovative model—thanks again to Ambassador Matlock for his suggestion—that may allow us to help the Soviet Union get them on their feet and let them learn about the free enterprise system. At the same time, banking on their ability to be able to survive and improve their lot with the free enterprise system, and given their vast natural resources, the most natural-resource-endowed country in the world, to repay us in the future. We can always use it, I am here.

The first step in supporting democratic reform is to ensure that the Soviets do not starve this winter. History shows that economic distress combined with dashed hopes for political change are the conditions most likely to provoke unrest. Let's not allow shortages of milk and bread—of which we have so much—to become the curse of democracy. Let's help the Soviets in a way that can also help American farmers, and doesn't strain the American taxpayer.

CONCLUSION

The melting of the cold war has left us hopeful, surprised, and full of ideas, yet short of confident plans. Action seems stymied both by the uncertainty of future developments in the Soviet Union and by the absence of an overarching strategy to replace containment. I would argue that we do not have time to stall. We have the chance to shape a new Europe where democracy, free markets, and peace flourish: A Europe which is a good place for American business and a market for United States agricultural products.

I appreciate the time of my colleagues here. I hope this bill will make a significant contribution, not only to my dairy farmers but also to world peace, and to the Soviet Union.

With that, I ask unanimous consent 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. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OF AGRICULTURAL COMMODITIES TO SOVIET UNION TO PROMOTE LOCAL FOOD DISTRIBUTION AND PRODUCTION.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended by adding at the end the following new title:

"TITLE VII—SALE OF AGRICULTURAL COMMODITIES TO SOVIET UNION TO PROMOTE LOCAL FOOD DISTRIBUTION AND PRODUCTION

"SEC. 701. SHORT TITLE.

"This title may be cited as the 'Food for Enterprise Act'.

"SEC. 702. DEFINITIONS.

"For purposes of this title:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—

"(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary of Agriculture determines meet the purposes of this title; and

"(B) such other edible agricultural commodities as may be acquired by the Secretary of Agriculture or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under section 416(b) of the Agricultural Act of 1949.

"(2) MARKET RATE.—The term 'market rate' means, with respect to financing, any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing under this title) that the United States Government pays on outstanding marketable obligations of comparable maturity.

"(3) PETROLEUM PRODUCT.—The term 'petroleum product' means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

"(4) UNION OF SOVIET SOCIALIST REPUBLICS.—The term 'Union of Soviet Socialist Republics; means the country recognized by that name by the United States or any successor country recognized by the United States.

SEC. 703. ESTABLISHMENT OF PROGRAM.

"(a) AUTHORITY FOR PROGRAM.—Notwithstanding any other provision of law, the President is authorized to establish a program for the sale on credit terms of surplus agricultural commodities owned or controlled by the Commodity Credit Corporation to the Government of the Union of Soviet Socialist Republics to meet the emergency food needs of that country if such Government meets the conditions of section 704. Such program shall be implemented by the Secretary of Agriculture.

"(b) BILATERAL AGREEMENT.—To carry out subsection (a), the Secretary of Agriculture

may negotiate and execute an agreement with the Government of the Union of Soviet Socialist Republics to finance the sale and exportation of agricultural commodities to such Government.

"(c) REPAYMENT TERMS.—Such agreement shall require that the payment for agricultural commodities be made as follows:

"(1) The payment to the United States of principal shall be deferred for such number of years after delivery of the commodities as is set forth in such agreement and may only be paid—

"(A) in United States dollars; or

"(B) in an amount of gold, petroleum products, or other marketable commodity of equivalent value, to be held and disposed of in accordance with section 705.

"(2) The payment to the United States of interest shall be made at market rates, shall be due on the date that the principal is due, and may only be paid—

"(A) in United States dollars; or

"(B) in an amount of gold, petroleum products, or other marketable commodity of equivalent value to be held and disposed of in accordance with section 705.

"(d) TERMS OF DELIVERY.—Delivery of the commodities shall be made in accordance with the terms of the agreement.

"SEC. 704. TERMS AND CONDITIONS OF SALES.

"The conditions referred to in section 703(a) are that the Government of the Union of Soviet Socialist Republics—

"(1) upon receipt of the agricultural commodities, shall establish an interest-bearing account (which may be referred to as the "Free Enterprise Fund") into which shall be paid an amount of local currency equal to the full market value of such commodities, as determined by the agreement but at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the Union of Soviet Socialist Republics and that are no less favorable than the highest exchange rate obtainable by any other country;

"(2) shall use the Free Enterprise Fund only for loans to nongovernment Soviet entrepreneurs to finance—

"(A) the development of a private distribution system and food processing and food storage systems; and

"(B) the operations of privately owned agricultural enterprises;

"(3) shall cover into the Free Enterprise Fund the repayment of such loans, which amounts shall be available for the same purposes for which amounts in such Fund are otherwise available;

"(4) shall, for the purpose of meeting its emergency food needs, resell the agricultural commodities within the Union of Soviet Socialist Republics for local currency, which may be used as reimbursement to the Government for amounts paid into the Free Enterprise Fund under paragraph (1); and

"(5) shall agree that failure to comply with any of the conditions described in paragraphs (1) through (4) shall render the principal and interest obligations of the Union of Soviet Socialist Republics pursuant to the agreement due immediately, without regard to paragraph (1) or (2) of section 703(c).

"SEC. 705. DISPOSAL OF BARTERED COMMODITIES.

"(a) ROLE OF SECRETARY OF THE TREASURY.—Any gold, petroleum product, or other marketable commodity acquired by the United States in the Union of Soviet Socialist Republics pursuant to paragraph (1)(B) or paragraph (2)(B) of section 703(c) shall be held by the Secretary of the Treasury for disposal in accordance with this section.

"(b) SALE OF COMMODITIES.—The Secretary of the Treasury shall provide for the timely sale of all gold, petroleum products, or other commodities received under subsection (a). All moneys received from the sale of such items shall be covered into the miscellaneous receipts account of the Treasury of the United States.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section.".

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2082. A bill relating to the taxation of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

DISABILITY BENEFITS TAXATION ACT

• Mr. DODD. Mr. President, I rise today to introduce a most important piece of legislation for over 1,000 retired police officers, firefighters and their widows in my home State of Connecticut. I am pleased to be joined in this effort by Senator LIEBERMAN.

The State of Connecticut, in an effort to address the serious problem of job-related hypertension among law enforcement officers, adopted the Heart and Hypertension Act. This State law allows police officers and firefighters who become disabled or die as a result of hypertension or heart disease to claim worker's compensation benefits, which are excluded from Federal taxes under Internal Revenue Code, section 104. Over the last 2 years, 1,110 officers or their survivors have retired or claimed this benefit under this statute.

Unfortunately, in July 1991, the IRS issued a private letter of ruling concluding that these benefits are taxable and has begun an investigation to identify those individuals who received these benefits. Although the State is working to correct the language of the statute to meet IRS requirements and protect future retirees, the current IRS ruling threatens officers who have received these benefits during the past 2 years with back taxes, penalties, and interest.

While I am pleased the State is moving ahead to correct this problem, I am deeply concerned for those unknowing retirees and widows who have, unaware of the taxability of this income, accepted these benefits and now stand possibly liable for back taxes, as well as interest and penalties through no fault of their own. In this regard, this legislation would exempt these benefits from retroactive taxes, penalties, and interest.

Mr. President, this is not an issue of great national magnitude, but for those 1,100 retired officers and widows this is a matter of utmost importance. I am hopeful that the appropriate committees will give this measure their early attention during the next session and we can move ahead toward a speedy passage of this legislation.•

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2083. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

S. 2084. A bill to provide for a minimum Medicare payment level of 90 percent for rural referral centers allowable capital-related cost; to the Committee on Finance.

MEDICARE PAYMENTS TO RURAL REFERRAL CENTERS

• Mr. CRAIG. Mr. President, today Mr. SYMMS and I are introducing two bills that are of great importance to the citizens of our State, Idaho—and to citizens across the Nation who live in rural areas. These measures address a very pressing concern: The future provision of health care in rural America.

The first bill deals with a sunset provision of law which must be extended by the end of fiscal year 1992, if this Nation's rural referral centers are to continue meeting the needs of their patients. This provision, which I refer to as the rural referral grandfather clause, provides these unique hospitals with a reimbursement rate comparable to that of their urban counterparts.

I introduced similar legislation in the 101st Congress, and a provision extending the grandfather clause through fiscal 1992, was included in the Omnibus Reconciliation Act of 1989. Now it is time to address this problem once again. My bill would simply extend the grandfather clause till fiscal year 1995, when the urban-rural differential will be phased out and reimbursements will be more equitable for rural hospitals.

In my State of Idaho and in 41 other States, rural referral centers are the cornerstones of rural health care. In some communities, they are the sole source of health care—the only source of health care for other communities in their region.

Rural referral centers provide a larger variety of specialized services and are therefore reimbursed from Medicare funds at a rate higher than that given to small rural hospitals. The larger rural referral centers must also pay salaries and expenses comparable to urban hospitals. If they are to continue offering the much needed, specialized care, rural referral centers must be reimbursed at a rate which properly reflects their costs. This legislation is fundamentally important to these hospitals if they are to be allowed to continue operating until the urban-rural differential is phased out.

The second bill my colleague from Idaho, Mr. SYMMS, is joining me in introducing makes a minor adjustment to the recently completed Medicare capital payment regulations. Our legislation would simply change the regulations by providing rural referral centers with the same 90 percent payment floor being provided for sole community providers.

Hospitals designated as "sole community providers" provide essential ac-

cess to patients in predominately rural environments. They have been provided a capital payment floor of 90 percent, which is necessary to ensure that Medicare capital payments to those hospitals are adequate to secure access to essential care for rural America. Rural referral centers have a similar role in playing a major part of health care delivery in rural areas. Not only do they serve a large area, they also provide a wider range of care than do sole community hospitals. Therefore, given the unique role these facilities play in rural health care, I hope my colleagues will join in supporting this legislation to provide rural referral centers with a payment floor of 90 percent.

An article I once read on rural hospitals in Smithsonian magazine always sticks in my mind, because it did an excellent job of highlighting the importance of those institutions:

> A rural hospital, then, may be a place where nothing "special" ever happens. Where no one is a number; where everyone knows your name, tolerates your quirks and shares your griefs; where the nurses celebrate your birthday. Where when you telephone to say you feel sick and wish to be admitted, they turn down your bed and have the florist deliver a half-dozen pink carnations to your room. Where visiting hours do not matter even if they are posted—relatives and friends come and go as they please; where a turned-on light over your door instantly brings a nurse to your bedside. Where the kitchen staff makes bread and pies from scratch, and real mashed potatoes, and if you don't like the evening menu, someone will run to the corner and bring you a pizza with mushrooms and onions—and no anchovies.

Mr. President, rural referral centers are more than just health care centers—they are an important thread in the fabric of rural society. America's rural hospitals continue to face financial difficulties, difficulties that threaten not only their existence, but also the existence of the communities they serve. Medicare payments have long been inequitable to our rural referral centers. Let us protect them and the people they serve, until the present inequities in the system are phased out.•

By Mr. MITCHELL (for Mr. PRYOR, for himself, Mr. DOLE, Mr. COCHRAN, Mr. BOND, Mr. SHELBY, and Mr. BOREN)

S. 2085. A bill entitled the "Federal-State Pesticide Regulation Partnership Act of 1991"; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL-STATE PESTICIDE REGULATION PARTNERSHIP ACT OF 1991

• Mr. PRYOR. Mr. President, today I am introducing an important piece of legislation with the intention of rectifying a serious problem that has recently arisen in our efforts to protect consumers from potential harm from the use of pesticides and agricultural chemicals. This bill, the Federal-State Pesticide Partnership Act of 1991, will provide a national framework which will allow for and emphasize a scientifically sound regulatory approach by creating national uniformity in dealing with this issue.

The need for this legislation surfaced this summer when the Supreme Court ruled that the Federal Insecticide, Fungicide and Rodenticide Act, or FIFRA, does not preempt local governmental regulation of pesticide use in Wisconsin Public Intervenor, et. al versus Mortier, et. al. Under current law, pesticides are regulated by EPA under FIFRA with secondary enforcement reserved for or delegated to the individual States. This well-coordinated regulatory partnership between the Federal Government and the States has been the backbone of FIFRA since at least 1972. Prior to the decision, most had assumed that local governments were without authority to regulate on their own. The Court concluded, however, that while congressional committee reports arguably supported the concept of Federal preemption over local regulation of pesticide use, the express language of the statute itself did not provide sufficient justification for preempting local regulation. In reference to this disregard for legislative history, Justice White's opinion concluded, "* * * Congress is free to find that local regulation does wreak such havoc and enact legislation with the purpose of preventing it. We are satisfied, however, that Congress has not done so yet." Clearly, the Court recognized that national uniformity is not something Congress is precluded from enacting.

The decision of the Court essentially created over 83,000 local jurisdictions that are now free to regulate various aspects of pesticide use. Imagine the enormity of that number, especially when compared to the confusion and inconsistency that has resulted from just five Federal agencies regulating farmers' use of wetlands. As a staunch believer in States rights, I harbor reservations over the Federal preemption of almost anything, but in this case, it is clearly in the interest of the American public to create national uniformity. Without such jurisdiction, the regulation of pesticides will be left in the hands of governmental bodies with the least access to scientific input and the latest regulatory process which licenses pesticides for safe use. Furthermore, local regulation will interfere with the established Federal-State partnership that exists for all other aspects of pesticide regulation under FIFRA. There is the strong likelihood for conflicting and overlapping regulation as communities, townships, cities, counties, and even water conservation districts could enact their own regulations without regard for the regulations of neighboring or overlapping geographical jurisdictions.

Farmers and business people who rely on access to and use of EPA-approved pesticides will be faced with trying to comply with thousands of different regulations. For anyone operating across jurisdictional lines, these varying regulations will obviously create an overwhelming burden, and as a consequence, will surely drive up the prices of the goods and services provided by these interests. The last weight our farmers and small businesses need cast upon them, especially during economic times such as these, are numerous and conflicting regulations. Since the decision, almost 100 cities and towns and counties are considering adopting or have already adopted their own regulations. To date, no two are alike. Worse yet, many local jurisdictions have left technical, scientific, and regulatory decisions in the hands of town engineers and parks department employees since they do not have EPA scientists at their disposal. The trouble this will cause for farmers and small businesses is obvious, but it should not be assumed by anyone that this is only a rural problem. This will have an equal impact on such businesses as home pest controls, lawn care operations, florists, right-of-way maintenance companies, and school cleaning services, any and all of which operate frequently in urban areas.

Mr. President, this problem carries serious risks. Our public is now subjected to the decisions of regulating bodies that simply do not have the scientific expertise to carry out decisions that could effect the health of its citizens. In addition, the tremendous costs which consumers will be required to bear will be a certain result from farmers and companies, when able, having to adjust to so many conflicting and confusing rules in order to be in compliance with an untold number of agencies.

This complex and technical arena of pesticide regulation is one which requires not only the input from the best and brightest, but consistency as well. The only sure way to provide such consistency is through national uniformity. We owe this to the public Mr. President, and it is our responsibility to deliver this to them in a timely fashion, because this is a contemporary problem that the Senate should not delay in addressing.

For the record, I ask unanimous consent to include a list of the many groups that support my legislation, as well as an editorial from the Wall Street Journal from November 21, 1991.

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

COALITION FOR SENSIBLE PESTICIDE POLICY

Agricultural Alliance of North Carolina.
Alabama Agricultural Chemical Association.
All-America Rose Selections.
American Agri-Women.
American Association of Nurserymen.

American Farm Bureau Federation.
American Sheep Industry.
American Society of Agricultural Consultants
American Sod Producers Association.
American Soybean Association.
American Wood Preservers Institute.
Animal Health Institute.
Arizona Pest Control Association.
Arkansas Agricultural Pesticide Association.
Associated Landscape Contractors of America.
Associated Landscape Contractors of Massachusetts.
California Association of Nurserymen.
Chemical Manufacturers Association.
Chemical Producers and Distributors Association.
Chemical Specialties Manufacturers Association.
Chocolate Manufacturers Association.
Colorado Pest Control Association.
Connecticut Nurserymen's Association.
Connecticut Pest Control Association.
Corn Refiners Association.
Delaware Association of Nurserymen.
Delmarva Agricultural Chemical Association.
Eastern Regional Nurserymen's Association.
Florida Nurserymen and Growers Association.
Florida Pest Control Association.
Garden Centers of America.
Georgia Green Industry Association.
Georgia Pest Control Association.
Golf Course Superintendents Association of New Jersey.
Hawaii Agricultural Alliance.
Hawaii Pest Control Association.
Idaho Soil Fertility and Crop Protection Association.
Illinois Fertilizer & Chemical Association.
Illinois Landscape Contractors Association.
Illinois Pest Control Association.
Indiana Pest Control Association.
Industrial Biotechnology Association.
Institute of Shortening & Edible Oils.
International Sanitary Supply Association.
International Society of Arboriculture (New Jersey Chapter).
Iowa Fertilizer and Chemical Association.
Iowa Nurserymen's Association.
Iowa Pest Control Association.
Kansas Fertilizer and Chemical Association.
Kansas Grain and Feed Association.
Kansas Termite & Pest Control Association.
Kentucky Nurserymen's Association.
Kentucky Pest Control Association.
Landscape Contractors Association, MD-DC-VA.
Landscape Ontario Horticultural Trades Association.
Louisiana AG. Industries Association.
Louisiana Pest Control Association.
Maryland Alliance for Responsible Regulation of Pesticides.
Maryland Nurserymen's Association.
Maryland State Pest Control Association.
Massachusetts Arborists Association.
Massachusetts Biotechnology Council.
Michigan Agri-Business Association.
Michigan Alliance for the Rational Approach to Pesticides [MARAP].
Michigan Nursery and Landscape Association.
Michigan Pest Control Association.
Millers National Federation.
Minnesota Biotechnology Association.
Minnesota Pest Control Association.
Minnesota Pesticide Information and Education.
Mississippi Nurserymen's Association.
Mississippi Pest Control Association.
Missouri Association of Nurserymen.
Missouri Pest Control Association.
Montana Agricultural Business Association.
National Agrichemical Retailers Association.
National Agricultural Aviation Association.
National Agricultural Chemicals Association.
National-American Wholesale Grocers Association.
National Arborist Association.
National Association of Plant Patent Owners.
National Association of State Departments of Agriculture.
National Association of Wheat Growers.
National Broiler Council.
National Cattlemen's Association.
National Christmas Tree Association.
National Confectioners' Association.
National Corn Growers Association.
National Cotton Council of America.
National Council for Environmental Balance.
National Fertilizer Solutions Association.
National Fisheries Institute.
National Food Processors Association.
National Forest Products Association.
National Grain and Feed Association.
National Grange.
National Landscape Association.
National Pest Control Association.
National Pork Producers Council.
Nebraska Fertilizer and Ag-Chemical Institute.
Nebraska State Pest Control Association.
New England Nurserymen's Association.
New England Pest Control Association.
New Jersey Nursery and Landscape Association.
New Jersey Pest Control Association.
New Jersey Turfgrass Association.
New York State Nursery/Landscape Association.
New York State Pest Control Association.
North Carolina Landscape Contractors Association.
North Carolina Pest Control Association.
North Dakota Agricultural Association.
Ohio Agrobusiness Association.
Ohio Grain & Feed Association.
Ohio Nurserymen's Association.
Ohio Pest Control Association.
Oklahoma Fertilizer and Chemical Association.
Oklahoma Pest Control Association.
Oregon Agricultural Chemicals Association.
Oregon Association of Nurserymen.
Oregonians for Food and Shelter.
Pennag Industries Association.
Pennsylvania Agronomic Products Association.
Pennsylvania Nurserymen's Association.
Pennsylvania Pest Control Association.
Pest Control Operators of California.
Pest Control Operators of Oregon.
Pesticide Association of New York State.
Pesticide Association of North Carolina.
Professional Lawn & Pest Applicators of Idaho.
Professional Lawn Care Association.
Responsible Industry for a Sound Environment.
Rocky Mountain Plan Food and Agricultural Chemicals Association.
Society of American Florists.
South Carolina Pest Control Association.
South Dakota Fertilizers and AG Chemical Association.
South Dakota Nurserymen's Association.
Southern Agricultural Chemicals Association.
Southern Nurserymen's Association.
Tennessee Pest Control Association.
Texas Association of Landscape Contractors.
Texas Association of Nurserymen.
Texas Pest Control Association.
The Alliance for Environmental Concerns.
The Alliance of Rhode Island Professional Pesticide Applicators.
United Egg Producers.
United Fresh Fruit and Vegetable Association.
United States Canola Association.
United States Chamber of Commerce.
Virginia Pest Control Association.
Washington Friends of Farms and Forests.
Washington State Nursery & Landscape Association.
Washington State Pest Control Association.
West Virginia Nurserymen's Association.
West Virginia Pest Control Association.
West Virginia Vegetation Management Association.
Wholesale Nursery Growers of America.
Wisconsin Agri-Business Council.
Wisconsin Fertilizer and Chemical Association.
Wisconsin Forestry/Right-of-Way/Turf Coalition.
Wisconsin Landscape Contractor's Association.
Wisconsin Nurserymen's Association.
Women Involved in Farm Economics.

[From the Wall Street Journal, Nov. 21, 1991]

SILENT HARVEST

Bugs are back in the news. California's winter crop has been decimated by a whitefly infestation. Perhaps $100 million of cantaloupes, cauliflower, broccoli and lettuce lie ruined. Probable causes of the blight are warm weather, possibly an intensive type of agriculture that provides hosts for the insects virtually year-round—and the flies' resistance to pesticide. The devastation of these crops raises anew the question of whether this country's recurring phobias over chemicals and the regulatory apparatus that politics has erected around the development of new agricultural chemicals leave the country poorly prepared to deal with problems such as an onslaught of whiteflies.

The institution created to protect us from chemicals is the Environmental Protection Agency. One can argue that the EPA is to agriculture what the Food and Drug Administration is to pharmaceuticals—a drag on the introduction of scientific technology.

It helps to be mindful that an agency like this one to some extent reflects the collective acts of the U.S. Congress. And most agencies have a variety of divisions, some disposed to letting private producers flourish, others antagonistic to the interests of industry. That said, let's see how the EPA figures in the future of the U.S. supply of fresh fruits and vegetables.

In the infamous case of Alar, the agency's carcinogen-assessment staff and ultimately the top administrators played ball with the scaremongers who eventually won the removal of this apple harvest-enhancer from use.

Since that occurred in early 1989, the case against Alar has been progressively discredited, but the verdict of popular fear seems to be permanent and the chemical is unlikely

to return. The result has been a significant drop-off in output of some varieties, such as the McIntosh, that are most prone to fall to waste when ripe. Earlier picking schedules of more common types have gotten major producers around Alar's absence but may be shortening the retailing calendar.

Outright bans are rare. Chemicals regulation usually slows innovation more quietly, by imposing barriers to new applications. Consider the case of the whitefly and NTN-3383, a promising alternative to existing pesticides that is being developed by Mobay Corp., a unit of BayerUSA.

On average, such a product seeking EPA "registration," or approval, faces a five- to 10-year process costing $35 million to $50 million, by industry estimate. This typically includes more than 100 different tests, plus followups, documented in excruciating detail. One, the so-called avian field study, will have cost Mobay $2 million, according to development manager Walt Mullins. As the name suggests, it's an open-area test for harm to birds, to avoid another Silent Spring (if there was a first one). Problem is, the results of such a sample are so vague—by nature, you might say—that "you can't say for certain" that even the placebos used are harmless to birds, according to Mr. Mullins.

Because most crops consumed fresh are only lightly dusted with pesticides, they are called "minor uses" by the agricultural-chemical makers. Not much of any single compound is sold, at least compared with the stuff used on the big commodity crops such as wheat, corn and soybeans. So in many cases it just doesn't pay to spend up to $50 million before even chancing the marketplace. Mobay believes it is lucky with NTN, that it may be useful on hundreds of different plants and even home lawns, so that it can be sold in sufficient volume to cover the costs. But that's exceptional.

The testing threshold has been steadily raised through episodes such as the Alar travesty. But that doesn't mean that previously approved substances are home free. Under legislation Congress enacted three years ago, the EPA must re-register agricultural chemicals OK'd before 1984. The industry estimates that'll run $8 million to $10 million apiece. About 400 compounds are vying for renewal. Half again as many won't even be put to the test, though many of those are no longer used anyway. The apple industry alone has lost about 15 chemicals in the past few years, a major Washington state grower says.

Thus, the regulatory meter is rapidly running up the tab on test dollars that could be going into finding new, possibly safer products to increase the supply and decrease the price of an undeniably healthful component of our nation's diet—fresh fruits and vegetables. Costs are driven up by an often vain pursuit of the finer and finer measurements of safety that advanced science permits.

Agriculture is a critical but hardly unique example of this unproductive obsession. Some way out—a new Congress, a more resolute executive branch, a media more skeptical of scares or even a creditable scientific appeals body—needs to be found so that costs can be better equated with the benefits of avoiding harm from real toxic threats. At present, the whiteflies are winning.•

By Mr. BRADLEY:

S. 2086. A bill to amend the Internal Revenue Code of 1986 to provide for individual development accounts, and for other purposes; to the Committee on Finance.

INDIVIDUAL DEVELOPMENT ACCOUNT ACT OF 1991

• Mr. BRADLEY. Mr. President, I rise to introduce legislation that offers a new way of thinking about how to expand our economy so that no one is left out. Our Government's approach toward poor families has, so far, had only one dimension—increasing short-term income, spending, and consumption.

We continue to be surprised when even aggressive income-maintenance efforts fail to reduce the level of poverty in America significantly. Yet the fact is that families cannot spend or consume their way out of poverty. Joining the economic mainstream requires savings, assets, and investment. Individual development accounts will give some of the poorest Americans a chance to build assets so that they can take the next step on the ladder of self-sufficiency: A first home, a college education, or a secure retirement.

Our current welfare system not only does nothing to help people develop assets for the future, it actively penalizes those who try. On the other hand, the Federal Government spends more than $100 billion a year to help better-off families accumulate savings and assets, especially through the deduction for home-mortgage interest and tax benefits for retirement savings. Now we are considering restoring enhanced deductibility for individual retirement accounts for first-time home buyers, higher education and retirement. Most of these policies have helped to relieve financial pressures for families and individuals who already possess significant assets—at most, 40 percent of the population. It's time to ask why we don't offer the same incentives and opportunities to those who don't already have $2,000 or more set aside. Individual development accounts would mirror expanded individual retirement accounts for those who don't already have the savings.

The bill I am introducing today would authorize $100 million for a broad-based demonstration of the merits of individual development accounts. Established community organizations would use the Federal demonstration grant funds, along with State and private contributions, to subsidize individual development accounts so that those who are making an effort to save are able to save about $2,000 a year. Anyone in a household with an income below 200 percent of the Federal poverty line and a net worth below $20,000 would be eligible for an IDA subsidy. The very poorest, those with income of 50 percent of the poverty level or less, would be eligible for a 9-to-1 match up to $1,800. In other words, if the poorest poor could save $200 in their IDA, the participating organization would match it with $1,800 for a total investment of $2,000. At the top end, people with incomes between 116 and 200 percent of the poverty level would be eligible for a 1-to-5 match. They would have to save $1,650 from their disposable income in order to receive a $350 subsidy that would bring the total to $2,000.

Personal contributions to an IDA would be tax deductible up to $2,000 a year. Funds withdrawn for one of the three legitimate purposes—first-home purchase, higher education, and retirement—would not be included in the gross income of the IDA holder. Withdrawals for any other purpose would trigger severe tax penalties and require forfeiture of all deposit subsidies.

The legislation I am introducing today should be the beginning of a transformation in our thinking about welfare and economic opportunity in America. Instead of just helping people survive day-to-day, we can help people build a strong, secure future for themselves and their children. Curing poverty by building assets is a broad strategy that goes beyond IDA's. My colleague from Iowa, Senator GRASSLEY, has introduced legislation that would change the AFDC system so that poor people could build a small investment in a microenterprise—a business with five or fewer employees—and become economically self-sufficient without penalty. I am proud to join Senator GRASSLEY in cosponsoring this overdue initiative.

Microenterprises, individual development accounts, and other initiatives to help poor people invest rather than consume, are the best way to end poverty, rather than just alleviate its consequences. Assets and investments make people stakeholders in our society, and our society is strongest when everyone has a stake in it.

I ask unanimous consent that a short technical description of individual development accounts and the demonstration program be included in the RECORD.

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

INDIVIDUAL DEVELOPMENT ACCOUNTS

Definitions. An Individual Development Account (IDA) is an optional, earnings-bearing, tax, benefitted account in the name of one person. An IDA would be held in a licensed, federally insured financial institution. Amounts in an IDA can be withdrawn without penalty only for the following designated purposes: (1) first-home purchase; (2) post-secondary education (college/long-term training); and; (3) retirement. An IDA can also be transferred without penalty to one's spouse or dependent for the same uses.

Contributions and tax benefits. There is no limit on the amount of funds that may be deposited into an IDA, and deposits may come from a variety of sources. The amount allowable as a tax deduction for amounts paid into an IDA, however, shall not exceed $2,000 per year (indexed for inflation), and shall be permitted for only the person in whose name the account has been established. (Married persons filing jointly could each take the full deduction, provided each is eligible.) Earnings on deposits to an IDA would also be exempt from taxation.

Withdrawals and Penalty for Non-Designated Use. Amounts withdrawn for des-

ignated purpose and will not be included in the gross income of the person in whose name the IDA has been established. Withdrawals from an IDA will be paid directly to the institution providing the designated service (e.g., to the mortgage provider for first-home purchase, to the university for post-secondary education). Withdrawals for any non-designated use (except in the case of death or disability) would; (1) trigger a 10 percent penalty; (2) require the inclusion in gross income of all amounts previously deducted or excluded; and (3) require the forfeiture of all deposit subsidies.

Deposit Subsidies. In order to stimulate savings of about $2,000 per year per person for any of the designated purposes, deposits into an IDA would be matched in accordance with the table below. All matching amounts would be deposited directly into an IDA and would come form an IDA Reserve Fund established by the project participating in the demonstration.

Income[1]	Matching ratio	Maximum match
50 percent or less	9 to 1 (900 percent)	$1,800
51 or 85 percent	5 to 1 (500 percent)	1,650
86 or 125 percent	2 to 1 (200 percent)	1,400
126 or 160 percent	1 to 2 (50 percent)	700
161 or 200 percent	1 to 5 (20 percent)	350

[1] Income of the individual as a percentage of the Federal poverty threshold.

DEMONSTRATION PROJECTS

General. Demonstration projects (conducted by private, non- and for-profit organizations) will be established to determine: (1) the social, psychological, and economic effects of providing individuals with limited means an opportunity to accumulate assets and; (2) the extent to which asset-based welfare policy may be used to enable individuals with low income to achieve economic self-sufficiency.

Applications. Grants shall be awarded on a competitive basis. Successful applicants will have received financial commitments from the State and private entities to carry out the project and will have demonstrated, in the judgment of the Secretary, an ability to: (1) assist participants in achieving self-sufficiency through the establishment and use of IDA and; (2) responsibly administer the project. Applicants must be submitted no later than April 1, 1992. Approval will be no later than June 1, 1992, with the project beginning on July 1 of that year.

IDA Reserve Fund. Each project participating in the demonstration would establish an IDA Reserve Fund which consists of Federal, State, local, corporate, and private contributions as well a any funds originating from a non-designated use of an IDA. From the Reserve Fund, deposit subsidies would be made directly into an IDA.

Persones Eligible to Participate. The participating organization shall determine who may participate in the demonstration, but in all cases the individual selected will be a member of a household whose income is not more than 200 percent of the Federal poverty threshold and whose net worth is not more than $20,000. Net worth is defined as the sum of the market value of assets owned by every member of the household minus liabilities owed by the Household. Net worth (for purposes, of the demonstration) excludes the first $35,000 of home equity, equity in a vehicle and equity in personal items (furniture, clothing, and jewelry)

Asset Tests in Other Programs. Funds in an IDA account (which are by definition restricted) shall be disregarded in determining eligibility for all means-tested public assistance programs.

General Oversight. A panel (established by the Secretary) composed of Federal and State officials, business leaders, and social policy innovators shall monitor the progress and provide general oversight of all of the demonstration projects. The panel will also develop general investment guidelines for amounts in IDAs and IDA Reserve Funds.

Evaluation. An independent research organization shall evaluate the demonstration projects, individually and as a whole. The research firm will be selected by the panel.

Authorization of Appropriations. Not more than $100,000,000 for each of the fiscal years 1992–1996 are authorized to be appropriated to carry out the project.•

By Mr. SIMON:

S. 2087. A bill to prohibit certain uses of the terms "Visiting Nurse Association," "Visiting Nurse Service," "VNA," and "VNS"; to the Committee on the Judiciary.

PROHIBITION OF CERTAIN USE OF TERMS

• Mr. SIMON. Mr. President, today I introduce legislation that will ensure that consumers and the medical community have the information they need to differentiate clearly between traditional, community-based visiting nurse associations [VNA's] and visiting nurse services [VNS's], which are charitable, nonprofit organizations, and the more recent nontraditional agencies which are private or for-profit. The purpose of this legislation is consumer protection, not commercial protection.

Since their founding more than 100 years ago, VNA's and VNS's have accepted the mission of providing home health care to all, regardless of ability to pay. These agencies annually provide home care to more than 1,500,000 men, women, children, and infants in urban and rural communities in 45 States. As a result of close ties to the communities which they serve, through voluntary boards of directors, local funding, and other volunteers, VNA's and VNS's work with other community organizations to offer such services as hospice care, meals-on-wheels, adult day care, mental health services, and sick and well child care. Services to the poor who are ineligible for Medicaid or Medicare are subsidized with donations from private contributors and charitable organizations and a small number of private-pay patients. Traditional VNA's and VNS's have trained countless numbers of physicians and nurses, many of whom continue to provide home health care.

For many years, VNA's and VNS's were the only organization providing home health care. Since 1981, however, when home health care services became eligible for Medicare or Medicaid reimbursement, hundreds of private and/or for-profit agencies have entered the home health care field. The success of VNA's and VNS's has made them models for home health care organizations. Some of these new companies have taken the name Visiting Nurse Association or Visiting Nurse Service, thereby taking advantage of the accumulated goodwill of the traditional VNA's and VNS's.

So far, instances of actual misrepresentation have been few. Still certain problems have arisen. Nontraditional home care organizations that are mistakenly perceived as traditional VNA's or VNS's may siphon off those patients who are reimbursable or can pay for themselves, leaving traditional VNA's and VNS's with the expensive and untenable task of caring only for the uninsured poor. The traditional VNA or VNS in this situation must either begin to turn needy patients away or accumulate mounting debts.

Patients and physicians who mistakenly believe that every organization calling itself a visiting nurse association or visiting nurse service follows the traditional VNA mission are sometimes confused when, for instance, a patient's Medicare coverage ends and the proprietary agency ends its services, leaving the patient to be cared for by a traditional VNA, or to fall through the cracks. A few physicians have complained that their patients were not receiving prescribed home health care, because a nontraditional organization had taken the case and not provided the same level of care that a traditional VNA or VNS would be expected to provide.

This legislation provides name protection to traditional VNA's and VNS's similar to what Congress has granted to other charitable organizations such as the Red Cross, 4-H, Boy Scouts, Girl Scouts, and Future Farmers of America. While agencies that have already been using the VNA/VNS name are grandfathered, new agencies that do not carry out the traditional VNA/VNS's mission will be precluded from using the name. This reasonable bill will help traditional VNA's and VNS's to continue to provide the charitable and necessary services they have been providing for over 100 years. Companion legislation has already been introduced in the House by Representative STAGGERS. I commend this bill to my fellow Senators and I urge its prompt passage.

I ask unanimous consent that the full 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. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF CERTAIN USE OF TERMS "VISITING NURSE ASSOCIATION", "VISITING NURSE SERVICE", "VNA", AND "VNS".

The Attorney General may—

(1) impose on any person who is not a visiting nurse association or visiting nurse service, and knowingly commits any of the violations described in section 2, a civil penalty that does not exceed $1,000 for each such violation; and

(2) enjoin any such person from committing any such violation.

SEC. 2. VIOLATIONS FOR WHICH CIVIL PENALTY MAY BE IMPOSED.

For purposes of section 1, a violation shall be any of the following;

(1) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the goods or services are produced or endorsed by a visiting nurse association or visiting nurse service.

(2) Use of the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term, in commerce or in connection with any goods or services in a manner that falsely suggests, or causes any confusion, mistake, or deception, that the person is associated in any way with a visiting nurse association or visiting nurse service.

SEC. 3. PROCEDURES FOR IMPOSITION OF CIVIL PENALTIES.

The Attorney General shall establish standards and procedures governing the imposition of civil penalties under section 1. The standards and procedures shall provide for the imposition of a penalty only after the person referred to in such subsection has been given an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

SEC. 4. AVAILABILITY OF OTHER REMEDIES.

The remedies provided under this Act shall be in addition to the remedies provided by any other law.

SEC. 5. REGULATIONS.

The Attorney General shall issue any regulations necessary to carry out this Act.

SEC. 6. DEFINITION.

For purposes of this Act, the term "visiting nurse association", "visiting nurse service", "VNA", or "VNS" means a community-based home health care provider comprised of at least a medicare-certified home health agency that is—

(1) controlled, either directly or at the corporate level, by an independent, self-perpetuating, and voluntary board of directors;

(2) is exempt from Federal taxation under section 501(a) of the Internal Revenue Code of 1986, and

(3) is described in section 501(c)(3) of such Code.

SEC. 7. EFFECTIVE DATE.

(1) IN GENERAL.—This Act shall take effect on the expiration of the 6-month period beginning on the date of the enactment of this Act.

(b) EXCEPTION.—This Act shall not apply to any person referred to in section 1 who has used the term "visiting nurse association", "visiting nurse service", "VNA", "VNS", or any colorable imitation of any such term continuously for at least 2 years prior to the date of the enactment of this Act.●

By Mr. PELL (by request):

S. 2088. A bill to authorize the establishment of a Beringian Heritage International Park; to the Committee on Foreign Relations.

BERINGIAN HERITAGE INTERNATIONAL PARK ACT OF 1991

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize the establishment of a Beringian Heritage International Park.

This proposed legislation has been requested by the Department of the Interior, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the Assistant Secretary of the Department of the Interior to the President of the Senate, which was received on November 8, 1991.

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

S. 2088

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 "Beringian Heritage International Park Act of 1991."

SEC. 2. FINDINGS.

The Congress finds that—

(1) environmental protection and the preservation of our natural and cultural heritage are goals shared by the United States and the Soviet Union, and goals which provide exceptional opportunities for improving peaceful cooperation;

(2) Beringia formed the link between the continents of Asia and North America that resulted in the peopling of North America;

(3) existing United States and planned Soviet national park units in the area of the Bering Strait display complementary resources of shared international significance and provide an excellent foundation for a United States-Soviet Union international park; and

(4) the establishment of a United States-Soviet Union international park in the area of the Beringian region of Alaska and the Soviet Far East would enhance the conservation, management, and understanding of shared resources and would symbolize our Nations' commitment to environmental protection and the preservation of the common natural and cultural heritage of the region.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to foster a climate of understanding and cooperation between the United States and the Soviet Union;

(2) to improve the bases for conservation and management of existing United States National Park System units in Beringia;

(3) to promote the protection, and public understanding and enjoyment of Beringia's unique environmental, natural and cultural values; and

(4) to authorize United States participation in the establishment and administration of an international park in Beringia.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Beringia" means that area of land and water in Alaska and the Soviet Far East located in the vicinity of the Bering Strait, including the Seward Peninsula in the United States and the Chukotskiy Peninsula in the Soviet Union;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Park" means the Beringian Heritage International Park, authorized to be established under section 5 of this Act; and

(4) the term "Commission" means the Beringian Heritage International Park Commission, authorized to be established under the provisions of section 7 of this Act.

SEC. 5. ESTABLISHMENT OF PARK.

Upon enactment by the proper authority of the Soviet Union of a similar provision respecting the Soviet Far East portion of Beringia, and upon proclamation of the President of the United States, which proclamation is hereby authorized, the Bering Land Bridge National Preserve in the State of Alaska shall thereby be established as part of an international park to be known as the Beringian Heritage International Park.

SEC. 6. AUTHORITIES.

(a) Upon establishment of the Beringian Heritage International Park under section 5 of this Act, the Secretary is authorized—

(1) in consultation with the Secretaries of State, and Treasury, and the Attorney General, to enter into bilateral agreements with the appropriate officials of the Soviet Union, to facilitate international travel to the units of the Park and the exchange of equipment, materials, and information by and among native people and persons having an interest in the Park, either as scientists, tourists, or government officials;

(2) to enter into cooperative agreements with other Federal agencies, State and local governments, native corporations, universities, and other entities, including equivalent Soviet entities, for the purposes of gathering and sharing environmental information, establishing binational cultural programs to reestablish traditional relationships, conducting research including joint research to advance public knowledge of the peopling of North America, performing resource management activities, providing mutual training opportunities, and enhancing tourism or for other similar purposes;

(3) to establish and operate in cooperation with equivalent Soviet entities, a center or centers for research and public information, the purpose of which shall include but not be limited to the collection, storage and translation of technical information, promotion of cultural activities, and the production of exhibits. Such centers may be established through cooperative agreements with existing institutions;

(4) to investigate the suitability and feasibility of securing additional international designations for the Park, including but not limited to joint World Heritage Site designation; and

(5) to receive and provide funds, equipment and in kind services in support of the Park, from or to the appropriate entities of the Soviet Union.

(b) ADDITIONAL UNITS.—The Secretary may propose such legislation as may be appropriate to designate additional units of the Park from among lands that are part of the National Park System.

(c) ANILCA.—Nothing in this act shall be construed to add to or diminish the authorities of the Secretary under the provisions of the Alaska National Interest Lands Conservation Act (16 USC 3101 *et seq.*) with respect to the acquisition, operation, and management of units of the National Park System in Alaska.

SEC. 7. BERINGIAN HERITAGE INTERNATIONAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT.—Effective upon issuance of the Presidential proclamation under

section 5 of this Act, there is hereby established a Beringian Heritage International Park Advisory Commission which shall advise the Secretary and the Park's Soviet administrative authority on matters pertaining to the identification, protection, and preservation of the Park's natural and cultural heritage.

(b) MEMBERSHIP.—The Commission shall consist of twelve members, of whom six shall be the United States members and six shall be the Soviet Union members.

The United States members shall be appointed as follows:

(1) the Secretary, or his designee;

(2) one individual from among recommendations submitted by the Governor of Alaska, to be appointed by the Secretary;

(3) two Alaska natives from among recommendations submitted by NANA (North Native Association) and Bering Straits Native Corporations, to be appointed by the Secretary;

(4) one individual from among recommendations submitted by the Secretary of the Smithsonian Institution with a background in anthropology, to be appointed by the Secretary; and

(5) one individual from among recommendations submitted by the Director of the National Science Foundation, with a background in the natural sciences, to be appointed by the Secretary.

(c) ALTERNATES AND VACANCIES.—The Secretary shall designate an alternate to act in the stead of each member appointed by him. Alternate members representing the United States shall be appointed, and vacancies on the Commission filled, in the same manner in which the original appointment was made. Alternate members shall have the same authorities and responsibilities as regular members.

(d) TERMS.—Members of the Commission shall be appointed for terms of 3 years and may be reappointed. A member appointed to fill a vacancy occurring before the expiration of the term of which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member of the Commission appointed for a definite term may serve until the member's successor has taken office.

(e) COMPENSATION.—Members of the Commission representing the United States shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) CO-CHAIRS.—The Commission shall have Co-Chairs, one from the United States and one from the Soviet Union. The Co-Chairs shall be elected by the members of the Commission. The term of the Co-Chairs shall be 2 years.

(g) QUORUM.—A simple majority of the members shall constitute a quorum, but a lesser number may hold meetings.

(h) MEETINGS.—The Commission shall meet at the call of the Co-Chairs, or a majority of its members, but not less than once a year. Meetings will alternate venue between the United States and the Soviet Union.

(i) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Subject to appropriate restrictions for reasons of national security, upon request of the Commission, any Federal agency may provide to the Commission information, personnel, and services to assist in carrying out its duties under this Act.

(j) ADMINISTRATION OF COMMISSION.—Except as otherwise provided for in this Act, the administration of the Commission shall be in accordance with the provisions of the Federal Advisory Committee Act (5 USC App. Sec. 1 et seq.).

(k) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 10 years after the date of the Presidential proclamation establishing the Park. The Commission may be extended by the Secretary and the Park's Soviet administrative authority for a period of not more than 5 years beginning on the date of termination if both parties determine that there is a continuing need for the Commission's advisory services.

SEC. 8. CONSULTATION.

Prior to entering into a bilateral agreement with the Soviet Union under section 6(a)(1) of this Act, the Secretary shall consult with the Secretary of State with respect to the effect of such agreement on the foreign policy of the United States. In all other respects, the Secretary shall consult with the Secretary of State as the Secretary may deem appropriate. The Secretary shall consult with the Secretaries of State, Treasury, and Transportation, the Attorney General, and the heads of other Executive Agencies, as appropriate, for the purposes of ensuring that impediments to cross-border travel between the designated park units, for purposes related to the functioning of the Park, will be lessened and, to the extent practicable, removed.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1—Provides that Act may be cited as "Beringian Heritage International Park Act of 1991."

Section 2—Sets forth Congressional findings that—

(1) environmental protection and preservation of heritage are goals shared by United States and Soviet Union;

(2) Beringia formed link between Asia and North America that resulted in peopling of North America;

(3) existing United States and planned Soviet park units in Bering Strait area display complementary resources of shared international significance and provide excellent foundation for United States-Soviet Union international park; and

(4) establishment of international park would enhance conservation, management, and understanding of shared resources and would symbolize Nation's commitment to environmental protection and preservation of common heritage of region.

Section 3—Sets forth purposes of Act as being—

(1) to foster understanding and cooperation between United States and Soviet Union;

(2) to improve conservation and management of existing National Park System units in Beringia;

(3) to promote protection, public understanding, and enjoyment of Beringia's environmental, natural, and cultural values; and

(4) to authorize United States participation in establishment and administration of an international park in Beringia.

Section 4—Defines following terms:

(1) "Beringia" means area of land and water in Alaska and Soviet Far East in vicinity of Bering Strait, including Seward Peninsula in United States and Chukotskiy Peninsula in Soviet Union;

(2) "Secretary" means Secretary of the Interior;

(3) "Park" means Beringian Heritage International Park, authorized under section 5; and

(4) "Commission" means Beringian Heritage International Park Commission established under section 7.

Section 5—Provides that upon enactment by proper Soviet authority of similar provision respecting Soviet Far East portion of Beringia, and upon proclamation of the President of the United States, hereby authorized, existing Bering Land Bridge National Preserve in Alaska shall thereby be established as part of international park known as Beringian Heritage International Park.

Section 6—Authorities.

(a) Upon establishment of Park, Secretary is authorized—

(1) in consultation with State, Treasury, and Attorney General, to enter into bilateral agreements with Soviet officials to facilitate travel to units of the Park and exchange of equipment, and materials, and information by and among native people and scientists, tourists, or government officials;

(2) to enter into cooperative agreements with other Federal agencies, State and local governments, native corporations, universities and other entities, including equivalent Soviet entities, for purpose of gathering and sharing environmental information, establishing bi-national cultural programs, conducting research, including joint research, performing resource management activities, providing mutual training opportunities, and enhancing tourism or other similar purposes;

(3) to establish and operate in cooperation with equivalent Soviet entities a center or centers for research and public information, purpose of which shall include without limitation promotion of cultural activities and production of exhibits. Centers may be established through cooperative agreements with existing institutions, such as, in the United States, the University of Alaska and existing interagency visitor information facilities;

(4) to investigate suitability and feasibility of securing additional international designations for the Park, including without limitation joint World Heritage Site designation; and

(5) to receive and provide funds or in-kind services in support of the Park, from or to the appropriate Soviet entities.

(b) Authorizes Secretary to propose legislation to designate additional units of the Park from lands that are part of National Park System.

(c) Disclaims any addition to or diminishment of Secretary's authorities under ANILCA respecting acquisition, operation, and management of National Park System units in Alaska.

Section 7—Beringian Heritage International Park Advisory Commission.

(a) Establishes Commission effective upon proclamation, and sets forth purpose as advising the Secretary and the Park's Soviet administrative authority on matters pertaining to identification, protection, and preservation of the Park's natural and cultural heritage.

(b) Sets forth 12 members, 6 from the United States and 6 from the Soviet Union. The United States members to be as follows:

(1) Secretary, or designee;

(2) one from Governor of Alaska's recommendations, appointed by Secretary;

(3) two Alaska natives from NANA and Bering Strait Native Corporation's recommendations, appointed by Secretary;

(4) one from Smithsonian Institution's recommendations, with background in anthropology, appointed by Secretary;

(5) one from National Science Foundation's recommendations, with background in natural sciences, appointed by Secretary.

(c) Provides for alternate members and filling vacancies.

(d) Sets terms of members at 3 years.

(e) Prohibits payment of United States members for service on Commission, but authorizes travel expenses and per diem.

(f) Establishes Co-Chairs, to serve 2-year terms.

(g) Establishes a simple majority as quorum.

(h) Requires meetings to be held at call of Co-Chairs, but not less than once a year. Meetings to alternate venue between the U.S. and the Soviet Union.

(i) Directs Secretary to provide staff and technical assistance as he considers appropriate, and authorizes any Federal agency to provide information, personnel, and services.

(j) Makes applicable Federal Advisory Committee Act to administration of Commission, except as otherwise provided in this Act.

(k) Provides for termination of Commission after 10 years from Presidential proclamation, but authorizes extension for not more than 5 years if both the Secretary and the Parks Soviet administrative authority determine there is continuing need.

Section 8—Requires Secretary to consult with Secretary of State before entering into bilateral agreement with Soviet Union; in all other respects he shall consult with Secretary of State as he deems appropriate. Directs Secretary to consult with Secretaries of State, Treasury, and Transportation, Attorney General and heads of other Executive agencies for purpose of ensuring that impediments to cross-border travel between park units, for purposes related to functioning of park will be lessened and, to extent practicable, removed.

Section 9—Authorizes appropriation of such sums as may be necessary.

U.S. DEPARTMENT OF THE INTERIOR
Washington, DC., November 8, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft bill, the "Beringian Heritage International Park Act of 1991." Also enclosed is a section-by-section analysis of the bill.

We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed bill would authorize the President, upon enactment of similar authority by the appropriate Soviet authorities, to establish by proclamation the Bering Land Bridge National Preserve in Alaska as the United States unit of an international park to be known as the Beringian Heritage International Park. Upon establishment, the Secretary of the Interior would be authorized, pursuant to cooperative agreements, to facilitate visitor access, coordinate U.S. and Soviet park management objectives and programs, share park environmental and interpretive information, establish bi-national cultural programs, conduct joint research, provide training opportunities, and join in the establishment and operation of centers for research and public information. An advisory commission would be established, composed of United States and Soviet appointees, to advise administrative authorities of both nations on the identification, protection, and preservation of the International Park's natural and cultural heritage. Provisions are included in the bill for early and continuing consultations between the Secretaries of the Interior and State as appropriate.

The purpose of this measure is to foster cooperation between the United States and the Soviet Union in interpreting, studying, and preserving a resource and heritage shared by our two nations in the Bering Strait region. Thousands of years ago, the first North Americans crossed a newly emerged Bering land bridge, following earlier movements of land mammals and plants. The people on each side of the bridge remained joined after a shallow sea formed, and are today united by language, tradition and environment.

Natives of Beringia continue to share common Yupik and Inupiat languages. Walrus and whales remain a vital part of the diet and social fabric of the native people. Archeological sites in both countries show dramatic similarity.

In 1987, under authority of the 1972 United States-USSR Agreement on Cooperation in the Field of Environmental Protection, a working group developed a specific theme for research, conservation, and management of the Beringian heritage. In 1989, a joint Soviet and American planning team assessed parks or potential protected sites on both the American and Soviet coasts of the Bering Sea. The team prepared a joint report recommending to its respective governments that an international park—embodying an existing national park in the United States and a newly created preservation unit in the Soviet Union—be designated by the national legislatures. The report and its recommendations were formally endorsed by Presidents Bush and Gorbachev in June 1990. Enactment of the enclosed bill would fulfill that goal on behalf of the United States. Similar legislation is being prepared by the Soviet counterpart authority for enactment by the appropriate Soviet authorities.

Establishment of the Bering Land Bridge National Preserve as a component of this proposed international park will not change the management or public use of the existing national preserve. The preserve was established as a unit of the National Park System by section 201 (2) of the Alaska National Interest Lands Conservation Act (ANILCA), approved December 2, 1980 (94 Stat. 2371). An area of 2,457,000 acres of public land on the Seward Peninsula of Alaska, the preserve is an ideal place in which to launch an international cooperative effort to recognize, protect and interpret selected elements of the Beringian heritage. One of the major purposes of the preserve, as set forth in ANILCA, is "to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian continent." Management of the preserve will continue to be accomplished by United States personnel and in accordance with the laws and regulations currently applicable to the preserve.

Operation and management of the national preserve are budgeted at $493,000 for fiscal year 1992. We estimate that, as a consequence of its designation as part of a Beringian Heritage International Park, as proposed herein, additional funds will be budgeted in future years to support increased U.S./Soviet cooperation in management and research. Other costs associated with this proposal are $100,000 per year, beginning in the second year, to support activities of the International Park Advisory Commission and up to $1.5 million per year, after the fourth year, for expanded cooperative research activities.

Construction, including planning, of research and public information center(s), authorized in section 6(a) of the bill, is estimated to cost approximately $12 million. Planning for this facility is expected to begin in the third year following enactment. Operation of the Research Center(s) is expected to begin in the eighth year following enactment at a cost of $500,000 and to cost up to $1 million per year by the tenth year.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

MIKE HAYDEN,
Assistant Secretary.●

By Mr. NICKLES (for himself, Mr. PACKWOOD, and Ms. MIKULSKI):

S. 2089. A bill to repeal exemptions from civil rights and labor laws for Members of Congress; to the Committee on Government Affairs.

CONGRESSIONAL AND PRESIDENTIAL ACCOUNTABILITY ACT OF 1991

● Mr. NICKLES. Mr. President, today the bill I send to the desk is intended to eliminate the double standard which presently exists for the Congress in certain labor and civil rights laws it has passed in the last 50 years.

Traditionally Congress has exempted itself from civil rights, health, safety and many labor laws which have been applied to the Federal executive and judicial branch as well as the private sector. This idea that Congress should not impose laws on the Nation that it will not live under itself is not a new one. A quote by James Madison in the Federalist Papers clearly states this; "Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society."

This piece of legislation would make Congress, all its intrumentalities and certain executive branch employees subject to all regulations and remedies contained in the following laws: the National Labor Relations Act of 1935, Fair Labor Standards Act of 1938, Equal Pay Act of 1963, Civil Rights Act of 1964, Age Discrimination Act of 1967 and amendments of 1975, Occupational Safety and Health Act of 1970, Equal Employment Opportunity Act of 1972, Rehabilitation Act of 1973, American with Disabilities Act of 1990, Privacy Act of 1974, and title 6 of the Ethics in Government Act of 1978.

My distinguished colleague, Senator GRASSLEY, has worked tirelessly to make Congress face up to this double standard and do something about it. His success has been limited by those who continue to argue on the basis of

constitutional arguments on which there is little guidance. In fact, the little guidance that does exist in case law of the last 3 years indicates that the courts would sustain the validity of congressional coverage of laws.

The real issue here is that it is about time Congress led by example and not by exemption. if we are going to impose these standards, remedies, and procedures on Federal agencies, State and local governments, and the private sector, we must impose them on ourselves.

If business runs afoul of any of the laws listed in my bill, they face Federal court litigation and endless bureaucratic headaches. Congress has exempted itself from the above-mentioned laws completely or has limited redress to be determined by an internal mechanism. Would we allow major corporations to set up their own rules for dealing with complaints under these laws? The answer is obviously, no.

Congress must no longer tell the American public that we are exempt from the laws which we pass in this Chamber everyday. Therefore, I encourage my colleagues to support this important piece of legislation.●

● Mr. PACKWOOD. Mr. President, I rise today together with Senator NICKLES to introduce the Congressional Accountability Act of 1991. This bill would extend the Protections of all the major discrimination and labor laws to congressional employees.

For the last 50 years, Congress has protected itself from many laws that would establish fair labor practices. Congress passed legislation establishing minimum wage and a maximum work week—and exempted itself. Congress passed legislation establishing equal pay for the same job—and exempted itself. Congress passed legislation prohibiting discrimination based on race, gender, religion or handicap, and legislation to protect the right to organize and bargain—and exempted itself from it all.

When Congress passed the Civil Rights Act of 1991, we made significant headway by including Senator GRASSLEY'S amendment which extends protection of antidiscrimination laws to Senate employees and gives them the right to go all the way to the court of appeals. I commend Senator GRASSLEY for his efforts, and I supported his amendment. But I believe we need to go farther, toward full parity of rights between congressional employees and other Government and private sector employees. That is what the Congressional Accountability Act would do. There is no excuse for Congress to protect all workers except its own. Those people with whom we work each day and upon whose judgment and efforts we depend, should not be treated as second class citizens.

Let's take a look at the laws we are talking about. The National Labor Relations Act—should our employees be allowed, if they want, to organize and join a union? Why not? It is allowed at every other level of Government, in almost every State I know of. Is it going to hurt the operation of the Congress if our employees are allowed to vote on whether or not they want to join a union? I think it would not hamper our effectiveness at all.

Equal pay—why on earth would we even argue whether we should have equal pay for men and women for the same job? That falls under the Equal Pay Act. Surely no one would object to that, from the standpoint of decent morality.

Discriminating on the basis of race, sex, religion, national origin, handicap: Anything wrong with saying you cannot do that? Age discrimination—I would like to think most of us by now have discovered there are many people, including some who have retired, who are willing to come to work, and they make excellent employees.

So go right through the list of the things that the Congressional Accountability Act is talking about, and say to yourself: Would my office be hampered if these laws applied? I would answer that if you say, "yes," my office would be hampered, then there is something wrong with the way you are running your office.

One argument that will be offered against the Congressional Accountability Act is that it is unconstitutional for a variety of reasons: The separation of powers, the speech and debate clause. I don't think that is true. Courts have not ruled squarely on the issue of applying any of the laws covered by this legislation to Congress. Although arguments could be made both ways, caselaw suggests that there are no clear constitutional prohibitions to such applications.

If we pass this bill and this issue goes to the U.S. Supreme Court and the Court says this is unconstitutional there is nothing we can do about that short of amending the Constitution. But I think what we are suggesting is constitutional. I think the court would say Congress has the power to allow itself to be treated, not necessarily as we treat the private sector, but to allow ourselves to be treated as we choose to be treated.

So put aside the argument as to whether or not this is constitutional. Put aside the argument as to whether or not we should treat ourselves like we treat private industry. This legislation should be adopted because it is a simple matter of fairness and decency.

I look forward to working with Senator NICKLES and my colleagues toward passage of this legislation.●

By Mr. AKAKA:

S. 2090. A bill to amend the Harmonized Tariff Schedule of the United States with respect to knit sweaters assembled in Guam; to the Committee on Finance.

TARIFF FOR KNIT SWEATERS ASSEMBLED IN GUAM

● Mr. AKAKA. Mr. President, today I am introducing legislation to make certain necessary technical changes to the tariff for knit sweaters assembled on the island of Guam.

Currently, knit sweaters from Guam receive duty-free treatment under a temporary duty suspension provided until October 31, 1996. Present law requires that the duty-free knit sweaters from Guam be assembled exclusively by United States citizens, nationals, or resident aliens.

This requirement was established at a time when there existed an ample supply of U.S. and resident alien workers on the island. Now, however, Guam enjoys a flourishing economic boom, and is suffering from a serious labor shortage. This 100 percent local labor requirement for sweater manufacturers creates a very real problem which threatens to end apparel manufacturing on the island. At present, there are not enough available U.S. citizens or resident aliens to support full production at even one garment factory.

The sole garment manufacturer on Guam, Sigallo-Pac, has been forced to curtail the production of sweaters because of this serious shortage of workers, despite the fact that Sigallo-Pac pays its assembly employees in excess of $7 per hour. Most workers have been attracted to employment opportunities in the hotel industry and government sector.

Sigallo has reached the point where the company will not be able to continue operations in Guam much longer at the current level of production. This would be unfortunate for Guam, since as I indicated earlier, Sigallo is the only apparel manufacturer on the island and but one of a few nontourist industry employers. Their operation contributes to the health and diversity of Guam's economy, giving the island a broader employment base.

The bill I am introducing simply provides that the duty suspension for knit sweaters assembled in Guam will apply to sweaters in which at least 50 percent of the assembly production workers are U.S. citizens, nationals, or resident aliens, rather than the current 100 percent requirement. Further, this legislation incorporates safeguards to prevent any misuse of this change, including a requirement that the assembly workers be paid at least the U.S. minimum wage.

Enactment of this legislation will permit Sigallo-Pac to supplement their work force with a small number of temporary H-2 workers, approximately 40 people, to meet production requirements.

This bill has the support of the Governor of Guam, the Honorable Joseph F. Ada, and a companion measure has

been introduced in the House by my good friend, Congressman BEN BLAZ. I will be seeking expeditious consideration of the bill in the Senate.●

By Mr. DECONCINI (for himself Mr. KENNEDY, Mr. SIMON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. BRADLEY, Mr. ADAMS, Mr. KOHL, Mr. CRANSTON, Mr. KERRY, and Mr. INOUYE):

S. 2091. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption democratic rule in Haiti; to the Committee on the Judiciary.

TEMPORARY PROTECTED STATUS FOR HAITIANS

● Mr. DECONCINI. Mr. President, I am pleased to introduce today, with Senators KENNEDY, SIMON, D'AMATO, MOYNIHAN, BRADLEY, ADAMS, KOHL, CRANSTON, and KERRY, the Temporary Protected Status for Haitians Act of 1991. This legislation will assure that Haitians in the United States, or in United States custody, will be protected until democratic rule is restored in Haiti. Those Haitians who are in our custody and control include those on board United States flag vessels, and those at Guantanamo Bay, Cuba, or elsewhere.

The crisis facing Haitian refugees is a real one. Since September 30, 1991, when the military ousted the first democratically elected President of Haiti, Jean-Bertrand Aristide, Haitians have become the innocent victims of continuous and random violence. Their basic freedoms have been lost. Many lives have been lost. And many others have been imprisoned, have gone into hiding or have fled their tiny island on rickety boats where their personal safety is further endangered on the high seas.

As a nation, we have a moral responsibility to protect those Haitians who have sought refuge from the turmoil in their homeland. Rather than turning them away from America to face an unknown fate, we can demonstrate our compassion toward the Haitian refugees by granting them temporary protected status. The Attorney General can do this, today, and I have urged him to do so. But Congress does not have to sit idly by while the administration chooses not to take action on this issue. We can send a clear message now by enacting the bill I am introducing today.

As my colleagues know, I played an instrumental role in enacting the temporary protected status provisions of the Immigration Act of 1990. This new law is meant to protect nationals from a designated State who do not fit the textbook definition of "refugee" or "asylee," but need temporary protection from armed conflict or other extraordinary conditions that threaten their safety. Haitians in this country and in our custody certainly merit temporary protection from the violence caused by the illegal seizure of power by the military in Haiti.

My bill specifically designates Haiti under section 244A of the Immigration and Nationality Act. Nationals of Haiti who are in the United States or in United States custody as of November 26, 1991, will be eligible for temporary protected status [TPS] for 1 year from the date of enactment of this bill. Haitian nationals would register for TPS benefits and would be given work authorizations.

The registration system provides a means by which the United States can maintain accurate records of Haitians in this country while at the same time provide them with safe haven. In addition, it will facilitate the return of Haitians when the period of temporary protected status expires.

I would like to point out that this legislation is not a substitute for political asylum. It would not grant permanent resident alien status for Haitians. They would not be eligible for any program of cash assistance under Federal law, except for treatment of an emergency medical condition. They may also be deemed ineligible for public assistance by a State or any political subdivision of a State which furnishes such assistance. All Haitians would remain subject to Federal and State laws, and would be subject to deportation for violations. Because the bill is limited to refugees currently residing in this country, or in United States custody, it offers no incentive to those who are not here on or before November 26, 1991.

What this bill will provide is a temporary safe haven in the United States until conditions in Haiti permit refugees to return to their home country safely. At the same time, it will allow for better management of those refugees who choose to remain in this country while peace negotiations continue. Haitians need and deserve our help and protection. This bill provides a positive resolution to this crisis. It also strongly encourages other members of the Organization of American States to protect Haitian nationals who have fled that country.

Mr. President, I urge my colleagues to support this urgent legislation. We all hope that peace and constitutional order will be restored in Haiti. Until that time, however, it is unconscionable for us not to do what we can to provide safe haven for Haitians.

I respectfully ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 2091

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 "Temporary Protected Status for Haitians Act of 1991".

SEC. 2. TEMPORARY PROTECTED STATUS FOR HAITIANS.

(a) DESIGNATION.—Haiti is designated as of November 26, 1991 under subsection (b) of section 244A of the Immigration and Nationality Act.

(b) PERIOD OF DESIGNATION.—The designation under subsection (a) shall remain in effect for one year from the date of the enactment of this Act.

(c) ALIENS ELIGIBLE.—In applying section 244A(c)(1)(A) of the Immigration and Nationality Act pursuant to the designation under this section—

(1) nationals of Haiti who are in the United States, or who are in the custody or control of the United States, (including on Coast Guard vessels on the high seas) as of November 26, 1991, are considered to meet the physical presence requirement of clause (i) of such section; and

(2) the continuous residence requirement of clause (ii) of such section shall not apply.

SEC. 3. U.S. POLICY REGRADING PROTECTION OF HAITIANS BY OTHER MEMBERS OF THE ORGANIZATION OF AMERICAN STATES.

It is the policy of the United States to strongly encourage members of the Organization of American States to protect nationals of Haiti who have fled that country.●

● Mr. KENNEDY. Mr. President, over the past 2 weeks the Nation has witnessed one of the most shameful episodes in our immigration history. Hundreds of Haitians are fleeing the brutal military dictatorship that overthrew the democratically elected Aristide government and has since been ruling the country through fear and oppression. Yet, not only has the administration turned a cold shoulder to the Haitian boat people, but it also began to return them to Haiti until the courts intervened.

I believe we are obliged to open our doors, in cooperation with other governments in the region, to those seeking haven from the oppression and violence. Both our traditions and international law dictate that we must do all that we can to protect the Haitian refugees. And we must redouble our efforts to restore democracy and stability to that beleaguered country.

There is ample authority under current law for the administration to provide asylum and safe haven to the Haitian boat people. The administration should be exercising its authority now, in cooperation with our allies in the hemisphere, the Organization of American States, and the U.N. High Commissioner for Refugees.

However, as the administration has steadfastly refused to act under current law to admit Haitians, I am pleased to join with Senator DECONCINI today in introducing legislation to require the Attorney General to use his existing authority to grant "temporary protected status"—or temporary safe haven—to Haitians in the United States.

I believe this step is minimally necessary to respond to the tragedy of the Haitian boat people.

Last week, I called on the administration to work together with other

governments in the region to develop a regional burden-sharing response to the boat people crisis.

But so far, the administration's definition of burden-sharing seems to be to accept only 75 Haitians, while urging other governments to accept the remaining thousands. Clearly, until the administration demonstrates its seriousness by taking a fair share of the Haitian boat people, we cannot expect other governments in the region to take seriously our calls for a regional response.

For the moment, the courts have properly stepped in and restrained the administration from its rash policy of sending Haitian refugees back to the abhorrent conditions they risked their lives to flee. I urge the administration to reject its cruel policy of forcibly returning the Haitians.

The United States should be intervening on behalf of the boat people instead of against them. Failure to assist them may well result in their further oppression in Haiti. It will also undermine our authority to speak up on behalf of other refugees in other parts of the world who face similar tragic circumstances in the future.•

• Mr. SIMON. Mr. President, I am pleased to join my friends, the Senator from Arizona, Senator DECONCINI and the chairman of the Immigration and Refugee Affairs Subcommittee, Senator KENNEDY, in introducing temporary protected status legislation for Haiti.

The military coup in Haiti represents a sad chapter in Haiti's history. Less than 1 year ago, the free election of President Aristide gave many in Haiti hope for a better future. The violence in Haiti indicates that this military junta has very little support among the people.

I support the administration's decision not to recognize this military coup and to withhold assistance to Haiti while this illegitimate government is in power. So far, the Organization of American States [OAS] has provided an effective forum to coordinate political, diplomatic and economic pressure on Haiti to reserve the events of the coup. American cooperation with the OAS will be crucial in peacefully resolving this crisis.

The crisis with Haitian boat people, however, cannot await the political process. We need to address this problem immediately and the legislation we introduce today begins to do so. This humanitarian and constitutional crisis calls for our understanding and help. Last year, as part of the Immigration Act 1990, Congress enacted a provision to grant temporary protected status to nationals of certain countries who were fleeing places in turmoil. This provision of law allows them to remain in the United States for a specified period of time, authorizes them to work, and keeps them from being forcibly returned to their country of origin.

The situation in Haiti makes it appropriate for that country to be designated for temporary protected status. The bill we introduce today protects from deportation those Haitian nationals who are in the United States or in United States custody or control as of today's date. This includes those Haitians who are on Coast Guard vessels on the high seas.

Mr. President, it is important, in enacting this legislation, that the United States does not inadvertently encourage Haitian nationals to flee their country. Countless individuals who take boats to get out of Haiti do not make it to safety. Upon the enactment of this legislation, the Voice of America should broadcast in all appropriate languages the eligibility requirements of the bill in order to fully inform the Haitian people who is eligible and who is not. This should not be a bill for false hope. It must be a bill for real protection.

Although the United States cannot accept everyone who wishes to enter our country, the situation in Haiti is unique and these people should not be abandoned or forcibly repatriated to face a government the U.S. does not even recognize. This legislation also encourages other members of the OAS to take in Haitians that have already set sail. The United States has a proud heritage of protecting and accepting those fleeing persecution. Together, on a regional basis, we must continue that partnership for Haitian nationals.•

By Mr. PACKWOOD:

S. 2092. A bill to minimize the impact of Federal acquisition of private lands on units of local government, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL LAND ACQUISITION IMPACT RELIEF ACT

• Mr. PACKWOOD. Mr. President, I am today introducing legislation to protect counties and municipalities from the impacts of Federal acquisition of private land.

My home State of Oregon is over 50 percent owned by the Federal Government. Some counties in Oregon are 75 percent or more federally owned. Every time a Federal agency accumulates another parcel of private land, local communities are harmed. First, the local property tax base is reduced. Hospitals, school districts, fire departments, sheriffs' departments and other essential public service entities, which depend on local property taxes, lose part of their operating budget. Second, local jobs and income are reduced, and opportunities for business development are lost.

Unfortunately, acquisition frequently occurs without even adequate consideration of the various community impacts and the wishes of local citizens.

Currently, the Federal Payments in Lieu of Taxes Act of 1976 [PILT] does compensate units of local government for a portion of lost property tax revenues. However, there are several problems with PILT. For instance, PILT contains a payment ceiling which arbitrarily limits payments to heavily impacted units of local government, especially those units with small populations. In addition, PILT payments have not kept pace with inflation. I am pleased to note that pending legislation by my colleague, Senator GARN of Utah, would increase the PILT authorization and adjust future payments to reflect increases in the Consumer Price Index. I fully support his efforts in this regard.

However, in my view, the PILT concept is no longer adequate to protect local communities from the effects of continued acquisitions of private land by Federal agencies. My bill—which is entitled the Federal Land Acquisition Impact Relief Act of 1991 seeks to address this situation as follows:

First, my bill would force Federal agencies to recognize the local impacts of private land acquisitions. Prior to any land acquisition, my bill would require the relevant Federal agency to conduct an economic impact analysis. The agency would be required to analyze and document the impacts of acquisition in terms of the tax payment losses to units of local government, the impact of tax payment losses on the delivery of essential public services, the effects of acquisition on local employment and income, and the limitations which Federal acquisition would impose on community and business development.

Second, my bill would require the Federal Government to make tax equivalency payments to each unit of local government affected by an acquisition of private land within its jurisdiction after October 1, 1992. In other words, all land already in Federal ownership would remain subject to PILT. All land acquired after October 1, 1992 would be subject to the new formula. The tax equivalency payment would be equal to 100 percent of the local property taxes which would otherwise be due if the land remained in private hands.

The purpose of my bill is to ensure fair treatment for local communities. My bill would not prevent the Federal Government from acquiring private land when it is clearly in the public interest.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 2092

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 "Federal Land Acquisition Impact Relief Act of 1991."

SEC. 2. FINDINGS.

Congress finds that—

(1) land that is held by agencies of the Federal Government does not fully contribute to the tax base of overburdened units of local government;

(2) further acquisitions of private lands by Federal agencies have the potential to impose severe hardships on units of local government; and

(3) when it is clearly in the national interest for the Federal Government to acquire private lands, other than by a contemporaneous exchange involving Federal land, Federal agencies should minimize the impact of Federal acquisition on units of local government.

SEC. 3. DECLARATION OF POLICY.

It is the policy of Congress that—

(1) Federal agencies should not acquire private land, other than by exchange, unless the acquisition is clearly in the national interest;

(2) the acquisition of private land by a Federal agency should be based on a careful analysis of the full range of the benefits and costs of Federal acquisition; and

(3) the acquisition of private land by a Federal agency should not result in a net loss of local tax revenues to the relevant unit of local government.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" has the same meaning as is provided for "Executive agency" in section 105 of title 5, United States Code.

(2) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) any county, municipality, or other political subdivision of a State, having authority under the laws of the State to levy and collect taxes upon real property; or

(B) the District of Columbia.

(3) REAL PROPERTY TAXES.—The term "real property taxes" means all taxes, whether ad valorem or otherwise, applicable with respect to real property, including special assessments, assessments for benefit, or other changes of general application against land in favor of a State or local governmental unit.

(4) STATE.—The term "State" means any of the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory and possession of the United States.

SEC. 5. ECONOMIC IMPACT ANALYSIS.

(a) IN GENERAL.—Prior to each acquisition of private land by an agency, the head of the agency shall prepare an economic impact analysis in accordance with this section.

(b) CONTENTS.—In preparing the economic impact analysis, the head of the agency shall, at a minimum, analyze—

(1) the extent to which alternative means to Federal acquisition are available to serve the Federal resource management objectives at issue;

(2) any tax payment loss to the relevant unit of local government;

(3) the effects of the tax payment loss on the delivery of governmental services by the unit;

(4) the effects on local employment and income; and

(5) any potential limitations that the Federal acquisition would pose for future community expansion.

(c) CONSULTATION.—The agency shall consult with the relevant unit of local government during the preparation of the economic impact analysis.

(d) NOTICE AND COMMENT.—The agency shall provide an opportunity for notice and comment in connection with the preparation of the economic impact analysis.

SEC. 6. TAX EQUIVALENCY PAYMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—For each parcel of private land acquired by an agency after October 1, 1992, other than by contemporaneous land exchange, the head of the agency shall pay annually to the unit of local government in which the parcel is located an amount equal to the real property taxes computed on the current market value of the parcel, as determined in accordance with paragraph (2).

(2) CURRENT MARKET VALUE.—

(A) INITIAL VALUE.—The initial current market value of a parcel shall be equal to the purchase price per acre multiplied by the number of acres acquired by the Federal Government.

(B) ADJUSTMENTS.—The unit of local government may adjust the current market value of a parcel to reflect adjustments in the current market value of other lands within the jurisdiction.

(3) SPECIAL FORMULAS.—In computing a tax equivalency payment under this subsection, special farm or forest use formulas, which may vary from State to State, shall not be applied to the value of the parcel.

(b) FAILURE TO PAY.—If for any reason the head of an agency fails to make a payment required under subsection (a), the unit of local government may file a civil action against the agency, and a district court of the United States shall have jurisdiction to enforce this section.

SEC. 7. EFFECT OF OTHER LAWS.

If for any fiscal year a payment described in section 6(a) is made to a State or unit of local government with respect to a parcel of land described in section 6(a)(1), such payment shall be reduced in proportion to the payment in lieu of real property taxes, if any, which is made with respect to the same parcel of land under any other federal law.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

In each fiscal year, there are authorized to be appropriated to each agency such sums as are necessary to carry out this Act.

SEC. 9. EFFECTIVE DATE.

This Act shall become effective on October 1, 1992.•

By Mr. SIMON (for himself Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 2094. A bill to repeal sections 601 and 604 of the Emergency Unemployment Compensation Act of 1991, relating to student loan provisions; to the Committee on Labor and Human Resources.

REPEAL OF CERTAIN STUDENT LOANS

• Mr. SIMON. Mr. President, I rise to introduce a bill to repeal two misguided student loan provisions that were included in the unemployment compensation bill that the President signed 10 days ago.

The first provision I wish to address requires credit checks of student loan applicants over 21 years old. While this may appear reasonable at first blush, a careful examination of the issue reveals significant problems that the administration apparently failed to consider. Had this proposal been thoroughly reviewed, I doubt the idea would have been pursued.

As I said on the Senate floor when the unemployment insurance bill was being considered, to believe that we can save money to provide unemployment compensation by denying people the chance to go to college, is the most shortsighted policy I can imagine.

People who apply for student aid may not have perfectly clean credit records. Indeed, that's one reason we guarantee the loans—people who have been unemployed, or on welfare, or just scraping by can have the opportunity to get some further education, some job training, and improve themselves and their income. Some will end up failing and may default on their loans, but we have to provide them with opportunity. Overall, we as a nation benefit through increased productivity and tax revenues, and reductions in welfare payments. Rather than denying people the opportunity to enrich their lives and improve the productivity of our Nation, we should concentrate our efforts on ensuring repayment of loans. For example, a provision to ensure payment through wage garnishment was included in the unemployment insurance bill. This is a much more productive way to address the issue.

If this were the only problem with the credit check provision, it might be difficult to muster enough sympathy in Congress in order to repeal it. But there are at least two other major problems. First, and perhaps most importantly, many students without credit problems will be wrongly accused and will be denied their loan and their college education. Credit reports have a very high error rate. Researchers at Consumers Union, the publisher of Consumer Reports magazine, found errors in nearly half of the credit reports they examined. Moreover, a credit services company—part of the industry we're entrusting with this new responsibility—surveyed 1,500 reports and found serious errors in more than 40 percent of them. The credit reporting industry itself has reported that of the 9 million consumers who requested a copy of their credit reports in 1 year, 3 million of them made corrections.

If they were easy to correct, these errors might not be a major problem. But they aren't. The U.S. Public Interest Research Group [U.S. PIRG], the national association of State PIRG's, recently reviewed complaints about credit reporting agencies that had been filed with the Federal Trade Commission. U.S. PIRG found that consumers had contacted the credit bureau an average of five times over a period of 6 months, and the errors were still not corrected. This problem was featured in a recent column by Jack Anderson and Dale Van Atta, and I ask unanimous consent that it be included in the RECORD at this point.

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

[From the Washington Post, Nov. 18, 1991]

CREDIT BUREAU RECORDS OFTEN INACCURATE

(By Jack Anderson and Dale Van Atta)

When Ken Arsenian applied for his first credit card, he had every reason to expect that the application would sail through. But he hadn't counted on the record turning up a department store bill that the credit bureau said he failed to pay in 1975, when he was 6 years old.

Arsenian, a college student in California, discovered that bills dating from childhood were not the only mistakes on his record. There were a host of other bad debts blamed on him, none of which were actually his. Now, no matter what Arsenian does to clear the record, he can't. He demands corrections, and other mistakes creep in. He can't get a credit card. One bank refused to let him open a checking account. He can't even get a loan to buy a car.

"Each time I apply for a credit card just to see what happens, my report comes up with more derogatories on it," Arsenian told our associate Scott Sleek.

Arsenian is a victim of a centralized system of credit reporting that puts the financial records in the hands of a few companies that make mistakes, and those mistakes are not easily corrected.

One of the three major companies that compile personal financial data, TRW, turned a whole town into victims of the same system. In Norwich, Vt., 1,500 residents were all listed in TRW's records as tax dodgers. A TRW subcontactor had mixed up the list of the town's taxpayers with those who had tax liens against them.

That and other cases have been documented by the U.S. Public Interest Research Group, a private watchdog organization. Among its findings was this unsettling fact: 33 percent of all credit reports contain serious mistakes, despite the claims of the credit bureaus that their error rate is low.

The most common mistake is for the bureaus to mix up the records of people with the same name. John Doe, upstanding citizen, gets saddled with the credit report of John Doe, ex-convict and deadbeat.

One man lost his job after a credit bureau wrongly reported to his employer that he had a felony cocaine conviction. Another man was saddled with a delinquent car loan dating back to when he was 2 years old. A college student was denied credit because the records said she was married to a man who was actually her father, who had a temporary tax problem four years earlier.

Eugene Wolfe, 74, of Washington, has been trying to clear his record for five years. He applied for a small bank loan in 1986 and discovered the debts of another Eugene Wolfe had been mingled with his own. Wolfe—the one who pays his bills—thought he had corrected the report, but the old information popped up in his file again last year. When he went to the credit bureau to straighten things out, he says he got the brushoff. He couldn't get past underlings to speak to anyone in authority.

"It was clear their purpose in life was to get rid of any complainers," Wolfe said.

Sen. Alan Dixon (D-Ill.) is drafting legislation to reinforce the existing laws that are supposed to protect consumers. Among the changes to be included are allowing consumers to have easier access to their files and prohibiting the release of investigative reports without the consumer's permission.

Second, a cornerstone of Federal policy on higher education is that the process of applying for financial aid is both free and as simple as possible. Requiring students to pay up to $25 for a credit check places a barrier to higher education that will prevent many people, particularly those most in need of additional education, from pursuing their dreams. And the charge is potentially much higher than $25, because if the student is denied and needs a cosigner, he or she will need to pay again to get a credit check for the cosigner.

The other provision that my bill would eliminate requires a confession of judgment by the borrower. This means that a student, in getting a loan, would be required to sign a statement confessing guilt in the event of a default. The borrower essentially signs away his or her rights. Both the Congressional Budget Office and the Office of Management and Budget determined that any savings from this provision would be negligible, so the only reason to support this provision would be if you believe that rights and due process should not extend to recipients of financial aid.

Mr. President, these two student loan provisions, placed into the unemployment insurance bill without hearings or analyses, are counterproductive. As the U.S. Student Association said, these changes "will shut people out of higher education and increase the unemployment and work force problems of this country. Surely this is not the intent of Congress." I intend to move to strike these provisions at the earliest opportunity.●

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 2095. A bill to amend the Internal Revenue Code of 1986 to provide a refundable income tax credit for health insurance premiums, to provide for the creation of individual medical care savings accounts, to repeal certain tax benefits relating to medical expenses, and for other purposes; to the Committee on Finance.

AFFORDABLE HEALTH INSURANCE TAX ACT

Mr. SYMMS. Mr. President, every day I read another story about the health care crisis in America. I believe it. We do have a health care crisis, in fact, we have a number of them.

One crisis is that employer costs are going up like a rocket. Another is that we're spending a large and increasing share of our national product on health care, which is a related but separate problem from cost escalation.

Then there's the problem that we still have 30 million plus people who are uninsured. That's not quite a crisis because many, if not most, of these people have access to health care.

In Idaho as in many rural areas, as in many inner cities, there is a crisis in the lack of available health care even if the people needing care have insurance.

THE NEW HEALTH CARE CRISIS

In recent weeks, a new dimension has been added to the overall health care problem. We have a new crisis, which is that virtually every proposal to date would make matters worse. I know my colleagues don't like to hear it, but so far just about every plan and program moves us further down the road to socialized medicine. It's a little bit like the drunk who wakes up with a hangover and figures he needs another drink, like the old saying goes "a little hair of the dog that bit ya."

Mr. President, if a medium dose of bad medicine makes you sick, why in the world would anyone think a bigger dose would cure?

Some of my colleagues have begun pushing the Canadian system. Frankly, I can't understand how anyone could adopt that system now that the evidence is coming in.

For example, Ed Hazelmeyer of the Heritage Foundation recently wrote about a fellow up in Toronto who was told he needed coronary bypass surgery or he'd die, that is the fellow in Toronto, not Ed Hazelmeyer. This isn't the kind of thing you delay. In this country, if your doctor tells you on Tuesday that you need a bypass operation, then you may be in the operating room by Thursday.

The guy in Toronto waited 4 months. His operation was postponed 11 times because of a lack of beds in the intensive care unit. At one point he waited in the hospital for 13 days before being discharged without surgery. When he finally had the operation, a once healthy man with a fixable problem had been so weakened that he died 8 days after the operation. That's a sad story, but what makes it even sadder is that it's not a rare story.

Another idea that gets tossed around in the health care debate is cost containment. Cost containment sometimes means encouraging people to watch what they are paying, but more often means Government price controls. Price controls? You'd think we'd of learned by now. But price controls are a key part of current efforts and would expand significantly under the Kennedy-Mitchell proposal.

Many people have suggested we need to expand the Medicaid Program to deal with some of our health care problems. This is truly an incredible proposition. Medicaid is already growing at over 20 percent a year. I don't see that this is solving any problems. And yet an even faster expansion is to cure our health care systems's ills?

Another version of socialized medicine that some of my friends on the other side of the aisle have supported is the Kennedy pay or play. This system is really clever. Every employer gets a choice. Either accept the Federal requirement of providing health care in-

surance for your employees or pay an enormous tax.

I'll say one thing for pay or play: Small businessmen in mob-run cities all over the country will understand it. Either pay protection money or your business gets burned to the ground. Pay or play is legislated extortion. Either play by our rules or we'll tax you into the ground.

The one thing all these plans have in common is an enormous increase in Government. Somehow, Government regulators in health care are supposed to do better than the bureaucrats that've brought us such proud moments as the S&L mess and Pentagon overruns.

I understand we all want to do better in getting the health care crisis under control But wishing for better results while ignoring our history lessons is only going to give us a more painful lesson, regulators and bureaucrats are far more adept at creating messes than they are at cleaning them up.

THE HEALTH CARE MARKET

The one phrase we don't hear very often is "Health Care Market." And that should tell us where the real problems are. We don't look at it as a market where people are buying and selling health care services. The only time market forces seem to enter the debate at all is in the context of something that needs to be reversed or stopped.

Doctors, nurses, hospitals, drug companies, insurance companies, Federal, State and local governments, and, yes, even the patients, are participants in a market. And like any market, this one is subject to the normal laws of economics, the law of supply and demand, of scarce resources, of price signals and adjustments.

It shouldn't surprise anyone that the market isn't functioning properly when you realize how the Federal Government dominates the market, deciding who can do what and at what price.

Suppose you go to the doctor and he says he's not sure what the problem is, so he needs to run a few tests. Likely as not, the Federal Government through Medicare has determined what he can charge for those tests, and which tests to do.

If your doctor has some idea which test is most likely to yield results, and if he knows you had to pay all the costs yourself, he'd probably sit down with you and explain it all. That's pretty much what happens now in the one area of medicine pretty much left alone by insurance and Federal meddling—plastic surgery.

Instead, the doctor knows your insurance will cover just about everything. He also has control over has own income since he can order the extra tests, and he knows he can protect himself from future law suits if he does every test possible. He also knows that he isn't violating the hypocratic oath because it's always possible the extra tests will turn something up.

This is just one example, but it's not hard to see what the cost of a whole system set up this way is going to do. It can only go up.

Government control of market almost always fails. That's the lesson of the latter half of this century. It's the message shouted loud into the next century. It seems to be understood everywhere except the U.S. Congress.

Yes, Government controls fail, but it's important to remember why they fail. They fail because Washington doesn't understand a very important law of economics, which goes: Whenever Government interferes with the normal forces of the marketplace, eventually those forces will overcome the interference.

It's true that this market has some very distinctive characteristics, little matters like life and death. But it's a market just the same. As the debate moves forward, we must never forget that we're talking about reforming the way Government interferes with the market.

In considering the various proposals to date and to come, the starting point has to be with the marketplace. Does the proposal move us further down the road of Government intervention? Does it just rejigger the controls to compensate for the ways the market's attempted to skirt the old controls? Or does it shift the focus away from Government and toward individual decisions?

As the debate moves forward, let me take a moment to tick off what I think are the key points to focus on:

QUALITY OF CARE

First, the American people have the best health care services available anywhere. The trouble is we also have the most expensive health care services anywhere, whether measured in terms of what we pay as individuals or in terms of what we pay as a nation. On its face, that shouldn't surprise anyone. If you have the best of something you probably should expect to pay the most for it. You wouldn't expect to be able to buy a Lincoln Continental for the same price as the old Chevy Chevette, would you?

I don't think there's much sentiment out there to reduce the quality of health care just to lower its cost, which is what makes the Canadian system so frightening. While you might get some cost containment in the short run, it comes at a terrible cost in terms of quality of service.

Nevertheless, I think it's equally clear we are paying too much and we surely need to do what we can to lower costs or, more accurately, to reduce their rate of increase. The point is, it's a truism that as the quality of something improves you tend to pay more for it.

DEMOGRAPHICS

Second, another source of the problem is the aging of America. As we get older as a Nation, we have an increasing share of the population demanding health care services and the types of services themselves tend to be more expensive. Again, looking at this as a marketplace, as we get older as a nation we shift the demand curve further and further outward. And like any market, when you increase demand you get an increase in price.

LITIGATION CRISIS

Third, our national love affair with suing people has had an enormous impact on the escalation of health care costs. Every doctor, nurse, hospital and so on buys enormous amounts of insurance to protect themselves from the scourge of litigation. The annual cost of that insurance often runs into the hundreds of thousands of dollars. I am told that a typical insurance policy for an obstetrician in Washington runs around $100,000 annually.

In my own State of Idaho, 34 percent of obstetrician-gynecologists had stopped practicing obstetrics by 1986, and it's not like we had that many in the first place.

The liability problem is not primarily a matter of competence, either. Of course there are some bad doctors out there, just as their are a few bad accountants, lawyers, and so on. But according to one study by the American Medical Association, 77.6 percent of the obstetricians have been sued at least once.

Who pays these high-flying insurance costs? It's not the doctors and nurses, and it's not the insurance companies by the large. It's you and I. We pay the costs through higher health care insurance costs.

The other problem with the medical liability crisis follows from the first. Because of all these suits, there's a lot of defensive medicine. A 1987 AMA study put the cost of defensive medicine at about $14 billion annually. I wouldn't be surprised if that number had doubled since then.

HEALTH INSURANCE

Fourth, one advantage to looking at escalating health care costs through the prism of the marketplace is that it helps you to focus on the underlying problem. Let's take a look at how the health insurance market works.

Mr. Jones walks into a doctor's office with a medical complaint. The doctor checks to see whether Jones has health insurance. Assuming he does, the doctor then proceeds to run this test and that, prescribing various treatments and medication along the way. Mr. Jones, of course, has checked his insurance policy and he knows that after a $200 deductible, all his costs are covered by the insurance. So what does he care what it costs.

What's wrong with this picture?

As a description of what happens, there's very little wrong with the picture. But as a model of economic behavior, it's a prescription for disaster

because the person demanding the services doesn't care about their costs as long as his insurance will cover them.

Anytime you separate the person making the payments from the person taking the services, you destroy the market discipline that would otherwise constrain runaway price increases. And that's exactly what's happened.

Once again, the problem is Government interference, only this time it comes through the Tax Code. Because of the exclusion for employer-provided health insurance, we've moved the question of prices about as far from the consumer of health care as possible without going to national health care, and we've created an incentive to purchase insurance that's as rich as possible.

The only way to correct this problem is to get the individual more involved in the actual purchasing, not just the demanding of health care. We have to return normal market discipline to health care. Only by making the patient aware of the choices and the costs can we slow down what is now a runaway train.

Many people have told me that you can't put market discipline into health care demand. If somebody needs an operation to stay alive, they say, he's going to have that operation if he can.

This is true, of course, as far as it goes. But it really doesn't go very far. Even under one current system, patients make decisions about whether to undergo a procedure or not. The reality is there are a great many medical decisions that aren't black and white. Even in medicine we usually have options. If Mr. Jones had to pay a significant share of the costs and there were choices to be made, is there any reason to believe he wouldn't take cost into account?

Because we often make choices in medicine, it's not difficult to bring market discipline back into health care. It doesn't matter that there are instances, even a majority of instances, in which there's only one choice. Remember your economics. Market discipline operates at the margin. It's not the first decision that affects prices, it's the last. If we can make patients cost conscious, we can affect the decisions at the margin and we can restore normal market forces to health care.

THE SYMMS SOLUTION

I am today introducing legislation, along with my colleague Senator CRAIG, to address some of these problems, specifically the over-reliance on third-party insurance.

Let me state at the outset that I'm not opposed to health insurance by any means. Health insurance is vital. The problem is not health insurance as such, but the veil we've erected through employer-provided health care between the insured and the insurer.

The problem is that we've distorted the market incentives for health care. Basically, the Tax Code either encourages you to buy too much insurance, or none at all. If you buy too much, then you're going to use health care services without being a consumer of health care. If you buy no insurance, then you put off needed preventive medicine, and when the problem gets totally out of hand you become a burden on everyone else who shares your costs.

There are two main pieces to my proposal. First off, I think we need to encourage people to save for their out-of-pocket expenses as much as possible. In effect, we should be insuring ourselves for the small stuff.

We can do this with what I call individual medical accounts. If you contribute $1,000 to an IMA, you can exclude the full amount from your taxable income, much as an individual retirement account. Unlike an IRA, however, using my individual medical account, if you make a withdrawal to pay out-of-pocket medical expenses you aren't taxed on the amount withdrawn.

By encouraging people to save for their own medical expenses, the IMA will encourage people to buy insurance with higher deductibles. This will lower insurance costs dramatically. And it'll encourage people to be more cost conscious in their health care purchases because a greater share will be paid by the individual.

The second part of my proposal deals with employer-provided insurance. Let's look at Ms. Smith. Ms. Smith's employer provides health insurance. If she's a typical employee, she has no idea what that insurance costs. And because health insurance premiums are tax exempt, she has every reason to encourage her employer to pay more of her compensation through health insurance than through wages.

So, under current law, Ms. Smith only knows she is better off with what I call a Cadillac insurance plan: low deductibles, little or no copayment, and broadest possible coverage. The problem isn't so much that she is able to exclude the cost of her health insurance, it's just that there's no limit.

A related problem with health insurance today is that it's unaffordable to millions of Americans. Typically, these are people who don't have employer-provided health insurance and so don't enjoy tax-exempt status for their insurance premium. They are the unemployed, the self-employed, and employees of small businesses. Because of their employment status, they pay income tax on the cost of their health insurance. That means they pay 40 percent or more in pretax terms for their health insurance.

Let me tell you how I propose to solve these two problems. First of all, my proposal provides taxpayers with a 15 percent tax credit for health insurance. Such a credit will give everyone access to the same tax benefit irrespective of their employment status. A tax credit will also move the calculation of the tax benefit from the books of the employer to the individual purchasing the insurance, again making the individual more of a consumer and not just a user of health care.

To encourage people to use their tax benefit wisely and to keep costs down, the credit is limited. Under my proposal a certain amount of health insurance is subject to the credit. The credit should cover the costs of a Chevrolet-type plan. If people want to pay more for Cadillac plans, they're welcome to do so, but they shouldn't get a tax credit for all of it. Limiting the amount of insurance qualifying for the credit will also encourage people to raise their deductibles and to use their IMA to pay out-of-pocket expenses.

Also, the amount of credit available varies according to whether the tax filer is an individual, a couple, or a family with children. And there is an additional credit amount if the taxpayer buys long-term care insurance. The problem of long term care is going to grow rapidly as the average age of our citizens continues to grow. A credit for long-term care insurance, if enacted now, will encourage people to buy the insurance now rather than waiting until this becomes an enormous public problem.

We often hear about the 33 million or so uninsured. About two-thirds of the uninsured have incomes below 150 percent of the poverty level. Because of recent changes to the tax laws, these people also don't pay much, if any, Federal income tax. This means a nonrefundable tax credit doesn't do these people much good. So I see no choice but to make the credit refundable so the poor have a fair shot at buying health insurance.

However, making the credit refundable still doesn't go far enough. We have looked at the demographics of the uninsured population. And if you break that population down by income and by age, and then you ask what the effect would be if you enacted my proposal as introduced, then you could probably expect to reduce the rolls of the uninsured by about 10 million people.

A roughly one-third reduction in the uninsured is a great accomplishment, Mr. President. We achieve this result largely because the self-employed and those workers whose employers don't provide health insurance benefits would finally be able to afford health insurance.

But I don't believe that's good enough, particularly since it's the truly poor who would remain uninsured. The reason is simple enough. The poor often simply do not have sufficient disposable income to buy insurance, even with a 15 percent credit.

Mr. President, the fact is we pay for the health costs of the poor one way or another. We either pay through Federal programs like Medicaid, or we pay

through higher insurance premiums. Neither makes much sense if there's an alternative, and I believe there is an alternative.

My proposal would give individuals at or below the poverty level a 100 percent credit for the costs of their health insurance. This credit rate then declines to 50 percent and then 15 percent as the taxpayer's income increases. In effect, if they buy the insurance the Federal Government will cover its costs. This is the only way I know to ensure that the poor are properly part of our health care system without an enormous increase in the Federal health care bureaucracy.

Again, looking at the demographic picture of the uninsured we find that by increasing the credit rate for the truly poor we will encourage a additional 10 million Americans, an additional one-third of the uninsured to buy health insurance. I believe, therefore, that my bill would result in a total of some 20 million people who are currently uninsured enjoying the benefits and certainty that comes from holding health insurance policies.

To pay for the individual medical account and the tax credit, I propose repealing the exemption for employer-provided health insurance. Businesses would continue to be able to deduct these expenses as they do today, but individuals would see the amounts paid on their behalf added to their gross income for income tax purposes. So there wouldn't be any immediate impact on businesses.

Before I go on, let me relay a short story. When I first began talking about this package the Associated Press ran a story with the headline "Symms Proposes to Tax Health Benefits." I am not proposing to tax health care benefits, I am proposing to shift the tax benefits so that all Americans can share in them. For the typical taxpayer, there should be no impact on his or her net tax liability once you take into account the combined effect of the IMA, the tax credit, and the repeal of the employer-provided health insurance exclusion.

By including the amount employers pay for health insurance in the employee's taxable income, beneficiaries would finally see how much their insurance costs. This kind of awareness is essential if we're going to get the individual back into his natural role of price monitor.

I include two other revenue offsets in my bill both of which are health care related. First, my bill would repeal the deduction available to itemizers for out-of-pocket health care costs in excess of 7.5 percent of adjusted gross income. This deduction provides a tax incentive not to buy health insurance and not to save for health care costs. It is, therefore, inconsistent with the goals of this legislation and would no longer be appropriate if the health insurance tax credit and the individual medical account became law.

The second offset is the repeal of the supplemental health insurance tax credit which was established as part of the Omnibus Budget Reconciliation Act of 1990. This credit, which piggybacks on the earned income tax credit, is designed to encourage lower income individuals to purchase health insurance, particularly for their children. However, such an encouragement would no longer be needed, and would, in fact be redundant, if my bill were to pass.

It is my hope that this bill is neutral with respect to the Federal deficit. We have three revenue sources, two of which are substantial. I hope to have authoritative estimates from the Joint Tax Committee and the Congressional Budget Office soon so we will know whether we need to tighten some of the parameters in the bill, or whether we have room to relax them to some extent.

I wish to make one last point, Mr. President. The central issue is whether we try to move in the direction of more or less Government meddling in the market for health care. The pay or play and the Canadian system proposals move in the direction of radically increasing Government involvement. Most of the other current plans move in no direction at all, but merely tinker to a greater or lesser degree. My plan moves in the clear direction of less Government involvement by reducing the distorted incentives in the market for health insurance. Which plan do you think is most consistent with the lessons of recent history?

By Mr. GRAHAM (for himself, Mr. DECONCINI, Mr. COATS, and Mr. CRANSTON):

S. 2096. A bill to establish a period of congressional review for proposed arms sales to countries other than NATO allies or major non-NATO allies; to the Committee on Finance.

S. 2097. A bill to require a report regarding proposed sales to countries of the Persian Gulf and the Arabian Peninsula of defense articles pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Finance.

ARMS SALES LEGISLATION

Mr. GRAHAM. Mr. President, this is a time in which delicate peace process negotiations are underway for the Middle East. The American people, and the Congress, need more time to be able to review one of the most significant elements of America's contribution to stability in that region or instability: The United States sale of arms.

I am introducing two bills today which I believe will accomplish this goal of getting a greater understanding and opportunity for the American people and the Congress to be knowledgeable about, to understand, to be a meaningful participant in U.S. policy relative to arms sales in the Middle East.

The first bill would extend the mandatory congressional review period of weapons sales to countries other than NATO allies or major non-NATO allies to 30 session days. Current law stipulates 30 calendar days. That 30 calendar days, in my view, does not give the Congress enough time to consider these sensitive sales, not enough time because the 30-day clock keeps ticking whether we are in session or not. If the President was to submit an arms sale agreement tonight, Mr. President, it will go into effect before the end of this year and under our current schedule, before the Congress would have a meaningful opportunity to consider it.

The second bill would require that the administration report to Congress on how each proposed arms sale to the Persian Gulf and Arabian Peninsula would affect regional military balance.

The administration would also be required to analyze the impact of the proposed sale on multilateral efforts to control arms on a regional basis and on our attempts to secure bilateral security agreements in the area.

Mr. President, the administration continues to pursue seemingly contradictory goals in the Mideast when it comes to arms control. On the one hand, President Bush said on March 6 of this year that it would be "tragic if the nations of the Middle East and Persian Gulf were now, in the wake of war, to embark on a new arms race."

On the other hand, his Defense Secretary, Mr. Richard Cheney, told the House Foreign Affairs Committee, just 2 weeks after the President made that statement, "I think that our objective shouldn't be arms control per se, our objective ought to be security for our friends and allies."

So far, I believe the President's Defense Secretary seems to be winning the debate with the President because the administration has pumped into this region almost 7.5 billion dollars' worth of arms since the first of March.

The most recent sale was a $365 million arms package to Saudi Arabia that the administration sent up just before our August recess. Because of current law, most of the 30 calendar days ran out during the recess while Congress was unable to analyze the implications of that arms sale.

Those of us not on the oversight committees simply did not have appropriate time to carefully consider this sale. The American people are precluded from any understanding of the rationale of this sale.

Mr. President, this sale, in and of itself, on analysis appeared not to be a backbreaker. It included 2,000 MK-84 bombs, 2,100 CBU-87 cluster munitions, 770 AIM-7M Sparrow air-to-air missiles, laser guided bomb components, and miscellaneous munition components, spare and repair parts.

The President is now proposing to sell Patriots to Saudi Arabia. Given that this weapon is a defensive one, I support this particular sale.

But whether any of us support particular sales or not, Congress needs more time to consider each proposed sale on its merits.

I am concerned that, without any well-defined strategic rationale, we continue to pump billions of dollars into this volatile region.

To be exact, about $7.5 billion since the spring. Let me run down the list of the dollar value of some of the arms that have been sold:

March 1, $1.6 billion to Egypt;

March 22, $919 million to Saudi Arabia;

June 11, $150 million to Bahrain;

June 11, $682 million to the United Arab Emirates;

July 11, $473 million to Saudi Arabia;

July 19, $150 million to Oman;

July 19, $250 million to Morocco;

July 19, $146 million to Egypt;

July 23, $2.8 billion to Turkey; and

The most recent sale, July 24, $365 million to Saudi Arabia.

That is $7.5 billion worth in less than 8 months. I accept that dollar value in and of itself does not present a complete picture of each sale. Many of these sales consist of spare parts and other acceptable items. But dollar value is certainly one important indicator of what is happening here.

I believe that the major arms suppliers to the region—the United States, the Soviet Union, China, the United Kingdom, and France—are making some progress on developing ways to control arms sales.

Representatives from each of the five have now met twice to hammer out arms control agreements. Much remains to be done, however. And I question whether the administration is attaching the necessary priority to the issue.

I ask unanimous consent that a September 22, 1991, Washington Post article addressing the question of priority be printed in the RECORD.

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

WHAT ABOUT ARMS CONTROL?

(By Michael Nacht, Jay Winik, and Alan Platt)

In its headlong rush to convene the Middle East peace conference, the Bush administration is giving short shrift to arms control in the region. That is a serious mistake: Reducing the capabilities and incentives for states in the region to wage war is not only an urgent concern but one that can be usefully addressed even if a peace conference bogs down.

The administration has taken some initiatives to stem the flow of new ballistic missiles into the Middle East, and the president himself has stated that arms control should be a priority. But these efforts have not received the sustained high-level attention and support required to produce results. And even if these efforts were successful, they would still be woefully inadequate.

The Middle East remains virtually the only region where war is still a legitimate and widely used means of achieving political ends and where all the major powers have important ties and interests. Even if all outside arms shipments to the region ceased tomorrow, the region would be the most heavily armed in the world today. What must be found are measures that inhibit and ultimately delegitimize aggressive war as an instrument of policy.

Virtually all observers of the Middle East have rightly noted that it will take years, if not decades, for deep-seated differences between Arabs and Israelis to be overcome. Even if the peace conference were successful—a big if—this sobering reality will not change. Israeli officials have quietly speculated that increased Syrian-Israeli tensions could result from a stalemated peace conference. Should the peace process fail, another war is likely. Whatever the outcome, in the absence of arms control, regional hostility will loom as a cloud threatening reconciliation in the region.

The notion of applying arms control to the Middle East, is often greeted with skepticism based upon three arguments: that arms control is a Western concept inapplicable in the Middle East; that there is no experience with arms control in the region; and that even after the Gulf War there is no evidence of support in the Middle East for such measures. All three arguments are erroneous.

It is true that modern arms control was conceptually developed in the United States and Great Britain in the late 1950s and early 1960s. But this does not make it ill-suited for the Middle East. East-West arms control has had to cover a far broader range of issues and technological esoteric than would be necessary in the Middle East, from strategic and theater nuclear arms to space weapons to a myriad of conventional systems.

The immediate requirements for arms control in the Middle East, however, need not be nearly so comprehensive and arcane. Rather, smaller attainable steps such as confidence-building measures, taken by the regional states themselves, hold far greater promise than they did in the U.S.-Soviet and European contexts.

The bitterness of the Arab-Israeli dispute is not necessarily a block to useful arms negotiations—no more than was the once bitter enmity between the West and the Soviet bloc. Indeed, arms control has often been more effective between adversaries than allies, because its potential payoff is most obvious and the interest of the parties is correspondingly intense. Particularly in times of crisis, arms control can prevent escalation of conflict from political miscalculations or the perception of one side that another has acquired new, first-strike weapons systems. At a minimum, arms control measures could delay or prevent a new round of qualitative weapons competition and military maneuvers which, if left unchecked, would likely bog down the peace process or serve as a catalyst for renewed conflict.

There is, moreover, greater experience with arms control in the Middle East than is commonly acknowledged. The disengagement-of-forces agreements concluded in 1974 and 1975 between Egypt and Israel and between Israel and Syria specified a number of quantitative and geographical limitations on weapons deployments. The 1979 peace treaty between Israel and Egypt also included many such provisions. Over the years, a series of tacit understandings about acceptable military actions has also evolved.

More importantly, arms control is today being accorded far greater attention in the region. United Nations Security Council Resolution 687, which is unprecedented in its scope, seeks to construct an elaborate arms control regime. It calls for the destruction of Iraq's weapons-grade nuclear material and chemical and biological weapons, research sites, equipment to develop weapons of mass destruction and all ballistic missiles with ranges exceeding 150 kilometers. Not unlike the European theatre, a weapons data base is called for, as are intrusive methods of verification and rigorous measures to enforce compliance.

Both in Egypt and Israel, at the Al Ahram and Jaffe strategic study centers respectively, independent experts are, for the first time, exploring regional arms control measures. And in terms of declaratory policy, Egyptian President Hosni Mubarak has called for the elimination of all weapons of mass destruction from the Middle East, while Israel has publicly supported the concept of a nuclear-free zone.

Agreement on a series of confidence-building measures must undergrid any arms control regime. These would reduce the likelihood of war by fostering what experts call "transparency of capabilities and intentions."

The Middle East's historical record demonstrates that ambiguity about intentions has repeatedly led to war. In 1967 Egyptian troops massed against Israel. Uncertain as to Egypt's intentions, Israel struck preemptively, thus beginning the Six Day War. In 1973, Egyptians and Syrians conducted a deceptive maneuvers. Israel chose a wait-and-see attitude, only to be caught off guard when the combined Arab armies attacked. And in August 1990, Iraq employed similar tactics against Kuwait. In each of these cases, military action, whether defensive or preemptive, was seen as the only viable option for ending the crisis.

Among specific measures, that should be considered are: hotline agreements; risk-reduction centers; establishment of keepout zones and demilitarization of critical terrain; and requirements for pre-notification and explanation of military exercises above agreed-upon limits. Clear violations would create a "political trip-wire" designed to bring immediate international pressure to bear before aggressive hostilities break out.

Collectively these measures would go a long way toward making the use of war a far more difficult course for resolving political differences. Over time, states in the region would have far greater confidence in the diplomatic process and would also have greater incentives to make concessions for peace. Moreover, in due course arms-reduction agreements that could lend further stability to the region would have a better chance of success.

While the administration has been slow to articulate a policy for arms control in the Middle East, this approach has already been endorsed by an international group of regional and security specialists. In a recent report published by the United States Institute of Peace, they state: "The Gulf War has created a rare opportunity for serious initiatives on arms control in the Middle East. . . . Arms control measures should be pursued in parallel with the peace process."

The winter 1991 issue of Daedalus, the prestigious journal of the American Academy of Arts and Sciences, reflecting on 30 years of arms control, notes the imperative of disseminating the lessons of arms-control practice to the Middle East. Indeed, no less a

hawk than Israel's Ariel Sharon has openly observed that arms control, not a continued arms race,cold help bring peace to the Middle East.

What must be emphasized is that trust is not a necessary pre-condition for effective arms control. Control does not automatically translate into arms reductions and disarmament, as is popularly believed. Nor should it necessarily be construed as meaning comprehensive arrangements that are often unattainable. Rather, arms control encompasses those measures that strengthen regional stability and diminish war as an attractive instrument of national policy whether by design or perceived necessity—precisely what is needed now.

Mr. GRAHAM. Mr. President, in the meantime, I believe that the United States has a unique leadership role to play in this regard. I am not so naive as to think that arm sales to this region will come to a miraculous stop if the United States halts sales. But I do believe that, at the minimum, Congress should more carefully consider sales that the administration does propose.

We must insist that the administration present a more detailed strategic rationale for future sales. The administration justified the August Saudi sale by suggesting that "Saudi Arabia needs to replenish inventories expended during operation Desert Storm."

We need to be asking a number of questions.

What were regional inventories before the Persian Gulf war?

What are they now?

What portion of those inventories were actually expended during the war?

How much military hardware have we left in Saudi Arabia, for instance, following our withdrawal from that country after the war?

What are our overall strategic objectives in selling more than $7 billion worth of military hardware in this region since the end of the war?

Just exactly how are these sales going to advance our interests?

Mr. President, Congress has a responsibility to get answers to these questions.

We need a long-term strategy and clear definition of our goals.

The United States has a historic opportunity to change the way we and other major arms suppliers do business in this volatile region. We must not squander that opportunity.

By Mr. KENNEDY (for himself and Mr. SIMPSON):

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges; to the Committee on the Judiciary.

DESIGNATION OF IMMIGRATION JUDGES

• Mr. KENNEDY. Mr. President, I am pleased to introduce today with Senator SIMPSON, the ranking member on the Senate Subcommittee on Immigration and Refugee Affairs, a bill which gives just compensation to immigration judges and members of the Board of Immigration Appeals, in recognition of their important contributions to the immigration adjudication process.

These immigration judges play a vital role as executors of our Nation's immigration legacy, as they often are the final arbiters of the fate of those seeking to build their lives in America.

This bill addresses the failure of Congress to include immigration judges under the Federal Employees Pay Comparability Act of 1990, which increased the pay scales for all administrative law judges. The pay disparity created by this legislation has made it difficult for the Executive Office of Immigration Review [EOIR] to hire and retain the best immigration judges. Already some of the most gifted and dedicated immigration judges have transferred out of EOIR and to other agencies such as the Social Security Administration, where they would be paid at a much higher rate.

In a recent survey by the Administrative Conference of the United States, it was reported that out of approximately 174,240 enforcement cases heard by adjudicators of nine Federal agencies, including the Departments of Defense, Agriculture, Labor, and others, immigration judges presided over 152,400 cases. This breaks down to 71 immigration judges, each responsible for almost 2,500 cases. According to the report, the complexity of these proceedings, "* * * are akin to criminal proceedings * * *" and involve the understanding of "basic human rights and fundamental concepts of due process." At these proceedings, these judges decide whether or not an alien may be deported or excluded from entry into the United States, or whether an individual may be allowed to remain.

Immigration judges possess a special competence that can be acquired only over time. They preside over an area of the law which has quickly grown in complexity—immigration, passport, and nationality cases—making them specialists in this unique area of public service. Only last year, in the Immigration Act of 1990, Congress revised key aspects of the deportation process, thereby adding to the burden which these judges must shoulder.

Immigration judges are selectively chosen based on years of judicial experience and knowledge of immigration law. The decisions made by these judges not only affect countless lives, but have a profound effect on our national immigration policy.

Clearly, the responsibilities and duties of immigration judges are on an equal standing with that of administrative law judges, in terms of both their level of authority and complexity of issues adjudicated.

Although this bill would not raise the salary levels for immigration judges to exactly that of administrative judges, it establishes a special pay scale which is appropriate to the complex subject matter which they must master. I am confident that by correcting the current pay inequity system with just compensation, we will prevent the dangerous current trend of losing our most gifted and well-qualified immigration judges to other Federal agencies.

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. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF SPECIAL INQUIRY OFFICERS AS IMMIGRATION JUDGES.

(a) Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)) is amended—

(1) by striking "special inquiry officer" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(2) by adding at the end thereof the following new sentence: "Such term includes the Chief Attorney Examiner of the Board of Immigration Appeals (as such officer's functions are described in part 3 of title 8 Code of Federal Regulations, as of the date of enactment of this sentence) or any successor officer.

(b) Section 209(a)(2) of such Act (8 U.S.C. 1159(a)(2)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(c) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "special inquiry officers" and inserting "immigration judges".

(d) Section 235 of such Act (8 U.S.C. 1225) is amended—

(1) in subsection (a)—

(A) by striking "special inquiry officers" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(B) by striking "special inquiry officer" and inserting in lieu thereof "immigration judge";

(2) in subsection (b), by striking "a special inquiry officer" each of the two places it appears and inserting in lieu thereof "an immigration judge"; and

(3) in subsection (c)—

(A) by striking "the special inquiry officer" and inserting in lieu thereof "the immigration judge";

(B) by striking "a special inquiry officer" each of the three places it appears and inserting in lieu thereof "an immigration judge";

(e) Section 236 of such Act (8 U.S.C. 1226) is amended—

(1) by striking "special inquiry officer" each of the 10 places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(3) by striking "a" after "decision of" each of the two places it appears and inserting in lieu thereof "an"; and

(4) by striking "A" and inserting in lieu thereof "An".

(f) Section 242(b) of such Act (8 U.S.C. 1252(b)) is amended)—

(1) by striking "special inquiry officer" each of the five places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "A" and inserting in lieu thereof "An";

(3) by striking "a" after "proceeding before" and inserting in lieu thereof "an"; and

(4) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(g) Section 242B(1) of such Act (8 U.S.C. 1252b(d)(1)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(h) Section 273(d) of such Act (8 U.S.C. 1323(d)) is amended by striking "special inquiry officers" and inserting in lieu thereof "immigration judges".

(i) Section 292 of such Act (8 U.S.C. 1362) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(j) Section 4 of the joint resolution entitled "Joint resolution to enable the United States to participate in the resettlement of certain refugees, and for other purposes", approved July 14, 1960 (Public Law 86-648), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(k) Section 2 of the Act entitled "An Act to authorize the creation of record of admission for permanent residence in the case of certain Hungarian refugees", approved July 25, 1958 (Public Law 85-559), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

SEC. 2. COMPENSATION FOR IMMIGRATION JUDGES.

(a) IN GENERAL.—Chapter 1 of the Immigration and Nationality Act (8 U.S.C. 1101-1105a) is amended by adding at the end thereof the following new section:

"COMPENSATION FOR IMMIGRATION JUDGES

"SEC. 107. (a) IMMIGRATION JUDGE SCHEDULE.—(1) For purposes of determining pay for immigration judges there shall be six rates of basic pay for immigration judges, under the Immigration Judge Schedule, the designation of which shall be 'IJ', and each immigration judge shall be paid at one of those rates in accordance with the provisions of this section. Each rate shall be calculated as a percentage of the rate of basic pay designated as "ES-5", as established and adjusted by the President for the Senior Executive Service under section 5382 of title 5, United States Code.

"(2) The 'IJ' designation for each rate of basic pay under the Immigration Judge Schedule and that rate of basic pay expressed as a percentage of the ES-5 rate of basic pay are as follows:

"(A) For IJ-1: 65 percent.

"(B) For IJ-2: 70 percent.

"(C) For IJ-3: 75 percent.

"(D) For IJ-4: 80 percent.

"(E) For IJ-5: 85 percent.

"(F) For IJ-6: 90 percent.

"(b) CONVERSION TO IMMIGRATION JUDGE SCHEDULE.—The Attorney General shall determine which of the rates of basic pay shall be paid to each immigration judge and shall classify immigration judge positions by the rates of basic pay under the Immigration Judge Schedule. The rate of basic pay for each such immigration judge shall, upon the date of enactment of this section, be at least equal to the rate which was payable to that individual immediately before such date.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 106 the following new item:

"Sec. 107. Compensation for immigration judges.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.●

● Mr. SIMPSON. Mr. President, I am pleased to join with Senator KENNEDY, the chairman of the Immigration Subcommittee, in introducing legislation to revise the pay grades of immigration judges and members of the Board of Immigration Appeals.

Immigration judges perform extremely important functions. They hear and decide whether aliens should be deported or excluded from the United States. They hear and decide whether an alien is likely to face political persecution if forced to return to his or her homeland. They determine whether it is safe to release on bond an alien who has been convicted of a felony. There are countless other decisions made by immigration judges, which are reviewed by the Board of Immigration Appeals, that have significant effects on our immigration policy and on our country.

Presently, immigration judges are paid at the GS-15 level. However, a number of Federal agency adjudicators performing similar functions—such as administrative law judges for the Social Security Administration—are paid at a much higher pay rate. As a result, a number of senior immigration judges have been leaving the immigration judge corps because they are well-qualified for these more lucrative agency-adjudicator positions.

I am greatly concerned that, unless this pay inequity problem is solved, we will lose our most qualified immigration judges to other Federal agencies, and the quality of decisions on important immigration cases will diminish.

This legislation takes a reasonable and responsible approach to the problem. While not paying immigration judges exactly as much as administrative law judges now receive, this bill would substantially increase the salaries of immigration judges and board members. It would decrease the incentive for our most talented judges to leave for employment in other Federal agencies, and it will preserve a quality level of adjudication in the increasingly complex arena of immigration law.

I understand that the Congressional Budget Office finds this legislation acceptable under our budget agreement, and I note that this legislation has significant support in the House of Representatives, as well. I urge the adoption of this bill.●

By Mr. DASCHLE (for himself, Mr. SIMON, Mr. WIRTH, Mr. REID, and Mr. HATFIELD):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes; to the Committee on Finance.

RENEWABLE ENERGY AND ENERGY CONSERVATION ACT OF 1991

● Mr. DASCHLE. Mr. President, last June, the Subcommittee on Energy and Agricultural Taxation, which I chair, held 2 days of hearings on tax proposals to promote the development of renewable energy sources and to encourage energy conservation. At the time of those hearings, I expressed my intention to assemble those proposals, improve upon them, if possible, and reintroduce them in a single legislative package.

That process is complete, and I rise today to introduce the Renewable Energy and Energy Conservation Act of 1991.

Any meaningful energy policy must have four legs: First, improved conservation of energy; second, the development of domestic alternative and renewable energy sources; third, better utilization of our fossil resources; and fourth, the developement of strategic petroleum and product reserves in case of emergencies. If any one of these legs is missing, the policy cannot stand.

The Renewable Energy and Energy Conservation Act of 1991 focuses on the first two legs of that policy. Hence, it contains two titles. The first provides tax and tariff measures to promote renewable energy development and production. The second establishes tax incentives for energy efficiency and conservation.

Earlier this year, the Senate Energy Committee adopted a package of measures within its jurisdiction designed to address many of America's future energy needs. While that measure has since faltered, it is by no means dead and is expected to move again next year. The tax proposals found in the legislation I am introducing today are not alternatives to that energy bill. They are an absolutely essential component of it, and of any comprehensive and long-term national energy policy.

Many of my colleagues, including a number of members of the Energy Committee, would agree that energy tax incentives are critical to a well-rounded energy strategy. Chairman JOHNSTON and Senator WALLOP have provided me with many valuable suggestions, and I thank them for their input. Subsequent to that committee's completion of its energy package, a bipartisan group of its members send a letter to Senators BENTSEN and PACKWOOD, the chairman and ranking minority members of the Finance Committee, expressing their support for an array of energy tax incentive measures. Many of those measures are contained in the legislation being introduced today.

Mr. President, it is high time that we take action to address America's need for an energy policy. Due to oil shocks in 1973 and 1979, the Nation was shaken from complacency to confront its vulnerability by conserving energy and de-

veloping alternative sources of energy. But for a decade now, we have floated in limbo. We closed our eyes as oil imports rose, foreign dependency increased, the environment worsened, and alternative energy industries dried up from lack of support. While some of our leaders have clung to the free market as if it were the Holy Grail, our Nation moves farther and farther from a balanced energy policy.

Despite what can be called, at best, a patchwork energy policy today, we have achieved remarkable benefits from modest conservation measures instituted in the 1970's. The country saves an estimated $160 billion annually in energy costs due to conservation measures instituted since 1973. While overall energy consumption in 1973 was virtually identical to 1986, our GNP grew 40 percent during the period.

The strides made in the 1970's and 1980's stemmed from several factors. Oil became more expensive, causing people to use less of it. Congress passed new fuel efficiency or CAFE standards, raising fuel economy from an average of 13 miles per gallon to 27.5 miles per gallon. Homes were weatherized. Refrigerators and other home appliances became more efficient. Energy conservation became a central design for new and existing utilities.

But the progress of the 1970s stalled in the 1980s, when efforts to put our country on a sound energy footing dropped to an unacceptable level. Let's look at some of the accomplishments of the 1980's. The solar collectors on the roof of the White House were taken down and conservation became a campaign word synonymous with weakness. The Department of Energy was slated for elimination. CAFE standards were rolled back. DOE's research and development budget for renewable energy declined drastically from $557 million in 1981 to $78 million in 1989. In 1985, the 40 percent solar tax credit for homeowners expired, turning a $700 million solar industry into a $70 million one and, in the process, putting 35,000 people out of work.

Today, Japan and Germany use half as much energy per dollar of output as the United States. The longer we put off improving the Nation's energy efficiency and developing new sources of energy, the more precarious our position becomes.

We are at a turning point. The course we have been pursuing for the last 10 years is leading to a dead end. The goal of the Renewable Energy and Energy Conservation Act of 1991 is to make sure that the Nation takes a turn for the better and heads down the road to a comprehensive, environmentally sound and forward-looking energy policy.

Finally, nothing is more important to our immediate future than addressing the Federal budget deficit. While several provisions in this legislation may increase revenues, most will not. Therefore, I will request the Joint Committee on Taxation to prepare a section-by-section estimate of the revenue impact of the bill, and, at an appropriate time thereafter, I will recommend a sufficient revenue offset.

Mr. President, I ask that a summary of the bill and its text be printed in the RECORD immediately following my remarks.

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

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Renewable Energy and Energy Conservation Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—RENEWABLE ENERGY TAX INCENTIVES

Subtitle A—Generation of Electricity From Renewable Sources

SEC. 101. MODIFICATIONS OF INVESTMENT TAX CREDIT.

(a) 10-YEAR EXTENSION.—Section 48(a)(2)(B) is amended by striking "1991" and inserting "2001".

(b) INCREASE IN AMOUNT OF CREDIT.—Subparagraph (A) of section 48(a)(2) is amended by striking "10 percent" and inserting "20 percent".

(c) PUBLIC UTILITY PROPERTY ELIGIBLE FOR CREDIT.—Section 48(a)(3) is amended by striking the last sentence thereof.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to periods after December 31, 1991, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 102. ALLOWANCE OF ENERGY CREDIT AGAINST ALL OF REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

(1) REGULAR TAX.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) RULES FOR APPLICATION OF ENERGY CREDIT.—

"(i) IN GENERAL.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and 50 percent of the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) ENERGY CREDIT.—For purposes of this paragraph, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a).".

(2) MINIMUM TAX.—Paragraph (2) of section 55(c) is amended to read as follows:

"(2) CROSS REFERENCES.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provision allowing energy credit against the tax imposed by this section, see section 38(c)(3).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 103. RENEWABLE ENERGY PRODUCTION CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. RENEWABLE ENERGY PRODUCTION CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) the credit amount, multiplied by

"(2) the kilowatt hours of electricity produced through the use of qualified technologies property and—

"(A) which is sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) CREDIT AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the credit amount shall be determined under the following table:

"Taxable year qualified technologies property placed in service:	The credit amount is:
1992–1996	2.0 cents
1997	1.6 cents
1998	1.2 cents
1999	0.9 cents
2000	0.6 cents
2001	0.3 cents.

"(2) CREDIT ADJUSTMENT BASED ON INFLATION.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 1992, the credit amount under paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs.

"(B) PUBLICATION.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor for the preceding calendar year in accordance with this paragraph.

"(C) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1992. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(c) APPLICATION OF SECTION.—This section shall apply with respect to electricity—

"(1) produced with qualified technologies property—

"(A) placed in service after December 31, 1991, and before January 1, 2002,

"(B) for which an energy credit has not been allowed, and

"(2) sold after December 31, 1991, and before January 1, 2009.

"(d) LIMITATIONS.—

"(1) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit allowable under subsection (a) with respect to any qualified technologies property for any taxable year shall be reduced by an amount determined under rules similar to the rules of section 29(b)(3).

"(2) COORDINATION WITH INVESTMENT CREDIT.—No credit shall be allowable under this section for any taxable year with respect to electricity produced through the use of any property if—

"(A) a credit is allowable under section 38 for such property for such taxable year, or

"(B) any business credit carryforward or carryback to such taxable year is allowable to any portion of the basis of such property.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(e) QUALIFIED TECHNOLOGIES DEFINED.—For purposes of this section—

"(1) QUALIFIED TECHNOLOGIES.—The term 'qualified technologies' means—

"(A) solar thermal,

"(B) photovoltaic,

"(C) wind,

"(D) geothermal (other then dry steam geothermal), and

"(E) biomass.

"(2) BIOMASS.—The term 'biomass' means any organic material, including wood and other agricultural crops, which—

"(A) is available on a renewable basis, and

"(B) is—

"(i) produced by a facility used exclusively for growing biomass for energy purposes on a sustained basis; or

"(ii) converted to electricity by a conversion technology with a net heat rate of 10,500 Btu's per kilowatt hour or less.

The term 'biomass' shall not include aquatic plants and waste residues from wood, animal, municipal, agricultural, or other sources.

"(3) DRY STEAM GEOTHERMAL.—The term 'dry steam geothermal' means geothermal produced from a dry steam geothermal reservoir which—

"(A) has no mobile liquid in its natural state,

"(B) has steam quality of 95 percent water or more, and

"(C) has an enthalpy for the total produced fluid at least equal to 1,200 Btu's per pound.

"(f) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity produced within—

"(A) the United States (as defined in section 7701(a)(9)), or

"(B) a possession of the United States.

"(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER—In the case of a qualified technologies property in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from such property shall be allocated among such persons in proportion to their respective interests in the gross sales from such property.

"(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity produced with qualified technologies property to an unrelated person if such electricity is sold to such a person by another member of such group.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(5) FLOW-THRU FOR PUBLIC UTILITIES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations for the flow-thru of credits allowed under this section for public utilities.

"(B) PUBLIC UTILITY.—For purposes of subparagraph (A), the term 'public utility' means a person, State agency, or local unit of government engaged in the sale of electricity."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 30. Renewable energy production credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Alternative Transportation Fuels Tax Incentives

SEC. 111. DEDUCTIONS RELATING TO VEHICLES WHICH MAY USE CLEAN-BURNING FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR PURCHASE OF QUALIFIED CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction for a taxable year an amount equal to the cost of—

"(1) any qualified clean-burning motor vehicle fuel property, or

"(2) any qualified clean-burning motor vehicle refueling property,

the original use of which by the taxpayer begins during such taxable year. In the case of property described in paragraph (2), such deduction shall be allowed only if such cost is paid or incurred in connection with a trade or business of the taxpayer.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY.—The cost which may be taken into account under subsection (a) with respect to each qualified clean-burning motor vehicle fuel property shall not exceed—

"(A) in the case of an automobile, or any truck having a gross vehicle weight rating of 10,000 pounds or less, $2,000,

"(B) in the case of any truck having a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) in the case of any other truck, or any bus, $50,000.

"(2) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-burning motor vehicle refueling property placed in service during the taxable year at the same or related fueling locations shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such locations for all preceding taxable years.

"(B) RELATED LOCATIONS.—For purposes of this paragraph, refueling locations shall be treated as related if such locations—

"(i) are less than 2 miles apart, and

"(ii) are owned or controlled by the taxpayer or any related person.

"(C) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(D) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to ensure that the limitation under this paragraph with respect to refueling locations may not be circumvented.

"(c) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-burning motor vehicle fuel property' means property the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any part or component designed to modify a motor vehicle which is propelled by a fuel which is not a clean-burning fuel so that the vehicle may be propelled by a clean-burning fuel, but only to the extent such part or component is—

"(i) an engine (or modification thereof) which uses a clean-burning fuel, or

"(ii) attributable to the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which uses such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—

"(A) GENERAL RULE.—Property shall not be treated as qualified clean-burning motor vehicle fuel property unless—

"(i) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(ii) in the case of retrofit equipment described in paragraph (1)(A), such retrofit

equipment meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(B) RULES WHERE NO STANDARDS ESTABLISHED.—

"(i) IN GENERAL.—If no standards described in subparagraph (A) have been established specifically with respect to any fuel or any retrofit equipment described in paragraph (1), the Administrator of the Environmental Protection Agency shall establish interim standards for such fuel or retrofit equipment within 60 days of the date such standards are requested by any person.

"(ii) BASIS FOR STANDARDS.—In the case of fuel, any interim standards established under clause (i) shall be equivalent to the standards for gasoline or diesel vehicles or engines of the same class, except that if the ozone forming potential of the fuel is not more than that of gasoline, then, for purposes of any ozone requirement, the hydrocarbon emissions requirement shall be adjusted to qualify the fuel under the hydrocarbon standard. Any such standards applicable to retrofit equipment described in paragraph (1) shall provide for emissions-related certification, testing, and warranty requirements no less rigorous than those applicable to original equipment manufacturers' vehicles.

"(d) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—For purposes of this section, the term 'qualified clean-burning motor vehicle refueling property' means property the original use of which begins with the taxpayer and which is for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied petroleum gas, and

"(C) any fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) COORDINATION WITH BASIS PROVISIONS AND DEPRECIATION ALLOWANCE.—

"(A) REDUCTION IN BASIS.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) COORDINATION WITH SECTION 1245.—For purposes of section 1245, the amount of any deduction allowed under subsection (a) shall be treated as a deduction allowed for depreciation under section 167 (or amortization in lieu thereof) to the extent, but for subparagraph (A), it would otherwise be treated as so allowed."

(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by adding at the end thereof the following new paragraph:

"(14) QUALIFYING CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.—The deduction allowed by section 179A."

(c) EQUIVALENT PAYMENTS FOR PROPERTY OWNED BY STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay to each State or local governmental unit which files a claim under this subsection for any calendar year an amount determined under regulations prescribed by the Secretary equal to the present value of the incremental benefit that would be available under section 179A of the Internal Revenue Code of 1986 if—

(A) all qualified clean-burning motor vehicle fuel property (as defined in section 179A(c) of such Code) held by such unit were used in a trade or business,

(B) such unit was subject to tax under chapter 1 of such Code, and

(C) such year was such unit's taxable year.

(2) TREATMENT AS OVERPAYMENT.—For purposes of any law of the United States, any payment under paragraph (1) shall be treated as a refund of an overpayment of tax imposed by chapter 1 of such Code.

(3) STATE OR LOCAL GOVERNMENTAL UNIT.—For purposes of this subsection, the term "State or local governmental unit" means any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(2)(A)."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for purchase of qualified clean-burning motor fuel and refueling property."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 1992, and before October 1, 2002.

SEC. 112. DEDUCTION FOR 25 PERCENT OF PURCHASE PRICE ON NEW ELECTRIC-POWERED AUTOMOBILES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. ELECTRIC-POWERED AUTOMOBILES.

"(a) GENERAL RULE.—There shall be allowed as a deduction for the taxable year an amount equal to 25 percent of the costs incurred by the taxpayer during such taxable year in purchasing a qualified electric-powered automobile.

"(b) QUALIFIED ELECTRIC-POWERED AUTOMOBILE EXPENSES.—For purposes of this section, the term 'qualified electric-powered automobile' means an automobile (as defined in section 4064(b)(1)(A))—

"(1) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, and

"(2) the original use of which begins with the taxpayer."

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Electric-powered automobiles."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 113. FUEL-USE METHANOL.

(a) IN GENERAL.—Subchapter 1 of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"	9901.00.54	Methanol (provided for in subheading 2905.11.10) or any mixture containing methanol (provided for in heading 2707, 2710, or 3823), if such methanol or mixture is to be used directly as fuel or in producing a mixture of methanol and gasoline or any other mixture to be used as fuel (including motor fuel provided for in subheading 2710.00.15), or is suitable for any such uses	13.21c/liter	Free (A,CA,E,IL)	13.21c/liter	On or before 10/1/2000	
"	9901.00.56	Aliphatic ethers derived from methanol (provided for in 2909.19.10) and any mixtures containing such ethers, if such ethers or mixtures are to be used directly as fuel or in producing mixtures to be used as fuel (including motor fuel provided for in subheading 2710.00.15), or is suitable for any such uses	4.53c/liter	Free (A,CA,E,IL)	4.53c/liter	On or before 10/1/2000	".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE II—ENERGY CONSERVATION TAX INCENTIVES

Subtitle A—Alternatives to Single-Passenger Automobiles

SEC. 201. INCENTIVES FOR VANPOOLING AND LIMITATIONS ON PARKING TAX BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 132(h) (relating to special rule for parking) is amended to read as follows:

"(4) WORKING CONDITION FRINGE INCLUDES CERTAIN TRANSPORTATION SUBSIDIES AND PARKING.—

"(A) IN GENERAL.—For purposes of this section, the term 'working condition fringe' includes—

"(i) parking provided to an employee at a qualified parking facility, and

"(ii) qualified transportation provided by the employer between the employee's residence and place of employment.

"(B) LIMITATION.—Subparagraph (A)(ii) shall only apply to the extent the qualified transportation provided during any calendar month does not exceed $75.

"(C) QUALIFIED PARKING FACILITY.—For purposes of this paragraph, the term 'qualified parking facility' means—

"(i) a parking facility—

"(I) which is located on the premises of the employer,

"(II) which is operated by the employer, and

"(III) substantially all the use of which is by employees of the employer; or

"(ii) a parking facility which is on or near a location from which an employee of the employer commutes to work by mass transportation, vanpool, or carpool.

"(D) QUALIFIED TRANSPORTATION.—For purposes of this paragraph, the term 'qualified transportation' means—

"(i) transportation furnished in a commuter highway vehicle operated by or for the employer, and

"(ii) transportation provided by the employer (whether by payment or reimbursement) on buses, trains, boats, or subways but only if such transportation—

"(I) is available to the general public, and

"(II) is scheduled and along regular routes.

"(E) COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (D), the term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least eight adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half the adult seating capacity of such vehicle (not including the driver)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to parking and transportation provided after December 31, 1991, in taxable years ending after such date.

Subtitle B—Other Conservation Incentives

SEC. 211. ENERGY CONSERVATION SUBSIDIES EXCLUDED FROM INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY AND WATER CONSERVATION SUBSIDIES PROVIDED BY UTILITIES.

"(a) GENERAL RULE.—Gross income shall not include the value of any subsidy provided by a public utility to a customer for the purchase or installation of any energy or water conservation measure.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any subsidy excluded under subsection (a) which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount of any subsidy excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY OR WATER CONSERVATION MEASURE.—For purposes of this section, the term 'energy or water conservation measure' means—

"(1) any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)),

"(2) any commercial energy conservation measure described in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986),

"(3) any specially defined energy property (as defined in section 48(l)(5) of this title as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), and

"(4) any other measure designed to reduce energy or water consumption.

"(d) PUBLIC UTILITY.—For purposes of this section, the term 'public utility' means any person, corporation, State agency or local unit of government, or Federal agency engaged in the sale of electrical energy, gas, or water.

"(e) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.".

(b) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by electric utilities.

"Sec. 137. Cross reference to other Acts.".

(c) The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

Subtitle C—Fuel Efficient and Safe Automobiles

SEC. 221. INCENTIVES FOR SAFE AND EFFICIENT VEHICLES.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by adding at the end the following new subchapter:

"Subchapter D—Vehicle Fees and Rebates

"Sec. 4055. Short title.

"Sec. 4056. Definitions.

"Sec. 4057. Motor vehicle fuel economy and safety taxes and rebates.

"Sec. 4058. Fuel economy tax and rebate formula.

"Sec. 4059. Vehicle safety tax and rebate formula.

"Sec. 4060. Publication and display of formulas.

"Sec. 4060A. Collection and disbursement.

"SEC. 4055. SHORT TITLE.

"This subchapter shall be known as the 'Safe and Efficient Vehicles Incentives Act of 1991'.

"SEC. 4056. DEFINITIONS.

"For purposes of this subchapter—

"(1) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The 'light-duty class' of motor vehicles means all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating.

"(3) The 'medium-duty class' of motor vehicles means all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

"(4) The term 'model year' has the same meaning given such term by section 4064(b)(4).

"(5) The term 'sale' shall include any sale or lease of a motor vehicle subject to this subchapter, but shall not include a rental of less than one month in duration.

"SEC. 4057. MOTOR VEHICLE FUEL ECONOMY AND SAFETY TAXES AND REBATES.

"(a) FUEL ECONOMY.—There are hereby imposed or allowed, as determined according to section 4058—

"(1) a tax on the sale of each new motor vehicle sold in the United States whose fuel economy is less than the sales-weighted average fuel economy of all new motor vehicles within the same class, and

"(2) a rebate for the purchase of each new motor vehicle purchased in the United States whose fuel economy is greater than the sales-weighted average fuel economy of all new motor vehicles within the same class.

"(b) VEHICLE SAFETY.—There are hereby imposed or allowed, as determined according to section 4059—

"(1) a tax on the sale of each new motor vehicle sold in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class, and

"(2) a rebate for the purchase of each new motor vehicle purchased in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class.

"SEC. 4058. FUEL ECONOMY TAX AND REBATE FORMULA.

"(a) IN GENERAL.—The fuel economy tax or rebate for each new motor vehicle shall be determined according to the following formula:

"Tax/Rebate = $10 × [M − M′], where:

"(1) 'M' means estimated annual fuel consumption of such vehicle and shall be equal to 10,000 divided by the MPG rating of such motor vehicle, as determined by the EPA Administrator under section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2033(d)), and

"(2) 'M′' means the sales-weighted average fuel consumption of all motor vehicles in the same class, as determined by the EPA Administrator and reported to the Secretary under such section 503(d).

"(b) DETERMINATION.—If the result of the calculation under subsection (a) is a positive number, it shall be a tax. If the result of such calculation is a negative number, it shall be a rebate.

"SEC. 4059. VEHICLE SAFETY TAX AND REBATE FORMULA.

"(a) IN GENERAL.—The safety tax or rebate for each new motor vehicle shall be determined according to the following formula:

"Tax/Rebate = $10 × [S − S'], where:

"(1) 'S' means the 'composite safety factor' for such vehicle, based on the formula established by section 103(i) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392(i)); and

"(2) 'S'' means the sales-weighted average composite safety factor of all motor vehicles in the same class, as determined by the Secretary of Transportation and reported to the Secretary under such section 103(i).

"(b) DETERMINATION.—If the result of the calculation under subsection (a) is a positive number, it shall be a tax. If the result of such calculation is a negative number, it shall be a rebate.

"SEC. 4060. PUBLICATION AND DISPLAY OF FORMULAS.

"(a) PUBLICATION.—Not later than July 31, 1992, and not later than July 31 of each year thereafter, the Secretary shall publish in the Federal Register and send to each manufacturer or importer of motor vehicles subject to this subchapter the formulae applicable for the calculation of fuel economy and safety taxes and rebates for each class of motor vehicles in the next model year.

"(b) CALCULATION.—The manufacturer or importer of each new light-duty or medium-duty motor vehicle shall calculate the fuel economy tax (or rebate) and the safety tax (or rebate) applicable to each such vehicle according to the applicable formulae published by the Secretary under subsection (a).

"(c) DISPLAY.—

"(1) IN GENERAL.—The manufacturer or importer of each new motor vehicle subject to this subchapter shall include in the label required to be affixed to such vehicle under section 506 of the Motor Fuel Vehicle Information and Cost Savings Act (15 U.S.C. 2006) and in any proposed or final sales contract the following information:

"(A) The fuel economy tax or rebate, as applicable,

"(B) The safety tax or rebate, as applicable, and

"(C) The net tax or rebate, as applicable.

The label shall also include graphic figures showing the relative rank of such motor vehicle to other vehicles in the same class, displayed separately for fuel economy and safety.

"(2) STICKER.—Any person who offers such vehicle for sale shall assure that the required information is prominently displayed on such sticker in bold figures at least the same size as the EPA mileage estimate and in such proposed or final sales contract in bold figures at least twice the size of other dollar figures displayed on such sticker or in such contract. Such information shall also be prominently displayed in any advertisement for such vehicle which includes information on fuel economy.

"SEC. 4060A. COLLECTION AND DISBURSEMENT.

"(a) COLLECTION.—Whenever any person sells a new motor vehicle for which a net tax is due under this subchapter, such person shall collect from the purchaser of such vehicle at the time of purchase the net tax due.

"(b) DISBURSEMENT.—Whenever any person sells a new motor vehicle for which a net rebate is due under this subchapter, such person shall give to the purchaser of such vehicle at the time of purchase a voucher for the net rebate due.

"(c) DEPOSIT.—On a quarterly basis, each person who has sold a new motor vehicle subject to this subchapter in the preceding quarter shall submit to the Secretary (1) all taxes collected from purchasers during such period, and (2) an accounting of all rebate vouchers issued to purchasers during such period. The Secretary shall place all receipts of such taxes in a special account dedicated exclusively to the purposes of this subchapter.

"(d) REBATES.—Whenever any purchaser presents a rebate voucher to the Secretary, the Secretary shall pay to such purchaser within thirty days the rebate amount due. Such payments shall be drawn from the special account established under subsection (c). If at any time funds in the special account are not sufficient to meet rebate obligations, the Secretary shall transfer to the account such funds as are necessary to meet such obligations. Such transfers shall be promptly repaid when the special account balance is in surplus. Except to repay any such transfers, the Secretary may not apply funds in the special account to any purpose other than the payment of rebates.

"(e) FORMS AND REGULATIONS.—The Secretary shall publish such forms and issue such regulations as are necessary to carry out this subchapter.

"(f) ADJUSTMENT.—Any rebate issued under this subchapter shall be considered an adjustment to the purchase price of the motor vehicle and shall not be considered income for the purposes of chapter 1 of the Internal Revenue Code.

"(g) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter."

(b) SALES-WEIGHTED AVERAGE FUEL CONSUMPTION.—Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2033(d)) is amended by adding at the end the following new paragraphs:

"(4) For the purposes of determining fuel economy taxes and rebates due under subchapter D of chapter 31 of the Internal Revenue Code of 1986, not later than July 1, 1992, and each July 1 thereafter, the EPA Administrator shall, for each vehicle class as defined in paragraph (5)—

"(A) calculate the sales-weighted average fuel consumption of all new motor vehicles sold in the United States in the 12-month period covering the first half of the current model year and the last half of the prior model year;

"(B) adjust the result of such calculation by the percentage change in sales-weighted average fuel consumption as compared with the next prior 12-month period; and

"(C) report the resulting value to the Secretary of the Treasury for use as the term 'M'' in the formula set forth in section 4058 of the Internal Revenue Code of 1986.

"(5) For the purposes of the preceding paragraph there shall be two vehicle classes. The 'light-duty class' shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The 'medium-duty class' shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

"(6) For any vehicle that is powered by a fuel other than gasoline, the Administrator shall determine an MPG rating which reflects the amount of carbon dioxide emissions produced by such vehicle, taking into account the total fuel cycle, as compared to gasoline-powered vehicles.

"(7) Beginning the first year that fuel economy and safety taxes and rebates come into effect, the EPA Administrator shall include a complete schedule of such fees and rebates for each vehicle model in the fuel economy booklet required to be published each year under section 2006(b)."

(c) COMPOSITE SAFETY FACTOR AND SALES-WEIGHTED AVERAGE COMPOSITE SAFETY FACTOR.—Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(i)(1) For the purposes of determining safety taxes and rebates due under subchapter D of chapter 31 of the Internal Revenue Code of 1986, there is hereby established a 'composite safety factor' to be calculated for each model of motor vehicle within the vehicle classes defined in this subsection. The composite safety factor shall be based on injury criteria specified in regulations of the Secretary codified at 49 CFR section 571.208, using crash test data from tests conducted according to the test protocol set forth in such regulations, except that such crash testing shall be conducted at 35 miles per hour. The formula for the composite safety factor shall be—

"0.1 × [Driver's Injury Factor + (0.5 × Passenger's Injury Factor)], where

"'Driver's Injury Factor' = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the driver's seat, and

"'Passenger's Injury Factor' = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the front passenger's seat, and where

"'H' is the head acceleration as specified in 49 CFR 571.208.S6.1.2 of such regulations,

"'T' is the thorax acceleration as specified in 49 CFR 571.208.S6.1.3 of such regulations, and

"'L' and "R" are the left and right leg force, respectively, as specified in 49 CFR 571.208.S6.1.4 of such regulations.

"(2) The composite safety factor shall be calculated as specified in paragraph (1) unless the Secretary determines by rule that overall safety would be more accurately reflected by a different formula and establishes a revised formula on or before April 1 of the year before the model year to which the revised formula will be first applied. In establishing any revised formula the Secretary may alter the relative weight of the terms specified in paragraph (1) or add terms to account for other safety factors (including, but not limited to, side impact collisions and collision avoidance equipment such as anti-lock breaking systems), except that the total value of safety taxes collected under the new formula does not differ by more than 10 percent from the total value of safety taxes that would have been collected under the formula specified in paragraph (1).

"(3) Not later than July 1, 1992, and each July 1 thereafter, the Secretary shall, for each vehicle class as defined in this paragraph—

"(A) calculate the sales-weighted average composite safety factor of all new motor vehicles sold in the United States in the 12-month period covering the first half of the current model year and the last half of the prior model year;

"(B) adjust the result of such calculation by the percentage change in sales-weighted average composite safety factor as compared with the next prior 12-month period; and

"(C) report the resulting value to the Secretary of the Treasury for use as the term 'S' in the formula set forth in section 4059 of the Internal Revenue Code of 1986.

"(4) If crash test data necessary to determine the composite safety factor for any new motor vehicle are not available as the result of tests conducted by the Secretary of Transportation, the manufacturer or importer of such vehicle shall conduct such tests as are necessary to determine such factor before such vehicle is offered for sale. Any such tests shall be conducted according to test

protocol specified in 49 CFR 571.208 (except that they shall be carried out at 35 miles per hour) and shall be verified by confirmatory tests conducted by the Secretary before the end of the model year. The Secretary may determine that data from a previous model year may be used if the structural specifications of a model have not been altered.

"(5) For the purposes of this subsection there shall be two vehicle classes. The 'light-duty class' shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The 'medium-duty class' shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.".

(d) CONFORMING AMENDMENT.—The table of subchapters for chapter 31 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"SUBCHAPTER D. VEHICLE FEES AND REBATES."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of automobiles for model years beginning in 1992 and thereafter.

SUMMARY OF THE RENEWABLE ENERGY AND ENERGY CONSERVATION ACT OF 1991

TITLE I: RENEWABLE ENERGY TAX INCENTIVES

Subtitle A: Generation of Electricity From Renewable Sources

Extends through the end of the year 2001 the current law investment tax credit available to businesses that construct solar and geothermal energy facilities. Increases the credit to 20%.

Allows public utility properties to take the investment tax credit for solar and geothermal energy facilities.

Permits taxpayers that fall under the Alternative Minimum Tax to take the investment tax credit. The amount of the credit that could be taken against the AMT would be capped at 50%, with the ability to carry excess credits forward.

Establishes a new tax credit for the domestic production of electricity through qualified renewable technologies, e.g., solar, wind, geothermal, photovoltaic, and biomass. The credit initially would be equal to 2.0 cents per kilowatt hour and phased down to .3 cents per kilowatt hour by the year 2001. Taxpayers would be prevented from "double-dipping," i.e., taking advantage of both the investment tax credit and the production tax credit simultaneously.

Subtitle B: Alternative Transportation Fuels Tax Incentives

Establishes a deduction for the cost of acquiring a vehicle that utilizes cleanburning fuels (natural gas, liquefied petroleum gas, and any other fuel if at least 85% of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing). The permissible deduction amount would be up to $2,000 per vehicle ($5,000 for a medium-size truck and $50,000 for a heavy truck). A deduction of up to $75,000 per location also would be permitted for clean-burning motor vehicle refueling property, e.g., specialized gas pumps. Effective for property placed in service after September 30, 1992 and before October 1, 2002.

Allows individuals and businesses to deduct 25% of the purchase price of electric-powered vehicles.

Imposes a 50 cent-per-gallon customs duty on imported methanol, including the methanol portion of imported fuel additives derived from methanol, such as Methyl Tertiary Butyl Ether (MTBE).

TITLE II: ENERGY CONSERVATION TAX INCENTIVES

Subtitle A: Alternatives to Single-Passenger Automobiles

Includes employer-provided parking under fringe benefit rules along with mass transit, vanpool and carpool subsidies. Permits employee to exclude up to $75 worth of (1) an employer-provided mass transit, vanpool or carpool subsidy; or (2) the value of "qualified" employer-provided parking. Qualified parking is either (1) owned and operated by the employer and used substantially by employees of the employer; or (2) on or near a location from which an employee of the employer commutes to work by mass transportation, vanpool or carpool.

Subtitle B: Other Conservation Incentives

Provides that individual, commercial and industrial taxpayers may exclude from gross income any rebate provided by a public utility (electric, gas and water) for the purchase or installation of an energy conservation measure.

Subtitle C: Fuel Efficient Automobiles

Expands the current law "gas guzzler/gas sipper" tax, which imposes a tax or provides a rebate on the domestic sale of new motor vehicles based on average fuel economies of that class of vehicle. In addition, adds a separate coefficient for the tax based on crash safety data.•

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 2101. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

LOWER SALMON RIVER RECREATIONAL AND SCENIC RIVERS ACT

• Mr. CRAIG. Mr. President, today, Senator SYMMS and I are very pleased to introduce this legislation which will protect 112 miles of the lower Salmon River in our State of Idaho as a component of the National Recreational and Scenic Rivers system.

The Salmon River is the largest free-flowing river in the Columbia River basin. While other segments of the Salmon were designated upon enactment of the Wild and Scenic Rivers Act of 1968, that act called for study of the lower segment for possible future designation. A study and accompanying environmental impact statement were completed in 1974 which recommended the lower Salmon River be designated.

I believe the time has come to act on that recommendation. So do the citizens of Idaho. Over the past 2 years I have met with landowners along the river, outfitter-guides who operate businesses on the river, the Federal and State agencies which manage portions of the river, and many others who are vitally interested in its future. I have proceeded slowly, deliberately, in an attempt to gain a consensus in the support of this bill. I believe that has been achieved.

Within this river corridor of about 35,000 acres lie many truly remarkable natural features. The Salmon River gorge is one of the deepest in the United States. Steep, rugged slopes drop hundreds of feet directly into the river. Along other stretches the canyon is broad and open with small river flats, benches, and terraces scattered throughout. The overall effect is one of great scenic beauty. Here is an environment where the visitor will experience solitude in an unspoiled, natural setting. However, man has been a visitor here for thousands of years. There are hundreds of recorded cultural sites presenting a rich and diverse record of human occupation during the past 10,000 years. In historic times, the river served as a magnet to miners after the discovery of gold in the region in 1860. A valuable historic record of that period remains, and this site is listed on the National Register of Historic Places.

Today, the river draws visitors from around the country because of its outstanding recreation opportunities. Communities near the river have experienced an economic transformation built around running whitewater and fishing for steelhead and trout. It is important to remember that this river forms the habitat and migration route for the Snake River spring/summer chinook salmon which has been proposed for listing as a threatened species, and the sockeye salmon which was recently listed as an endangered species by the National Marine Fisheries Service. Though fishing is not allowed on these species, they continue to attract many viewers who hope to see adult salmon negotiating the rapids to reach upstream spawning grounds.

These are some of the reasons I strongly support protection of the lower Salmon River as a recreational and scenic river. This legislation will designate one 53-mile segment as a scenic river under the administration of the Secretary of the Interior and two segments totaling 59 miles as recreational rivers. The Secretary of the Interior will administer one recreational segment. Administration of the second recreational segment, where National Forest land lies to the north and BLM-administered land to the south of the river, will be shared between the Secretary of the Interior and the Secretary of Agriculture. The river corridor boundary matches the temporary mineral withdrawals of public lands made in 1986 and 1988 which extend generally one-quarter mile on each side of the river. Private lands are included, and I have personally met with the landowners to gain their support of this bill. I have made the commitment that the Federal Government will not acquire any private lands or interests in private lands within the corridor without the consent of the owner.

The Bureau of Land Management currently has an active lands adjust-

ment program working cooperatively with willing sellers. Two land exchange cases are nearly complete and one land purchase case is underway. This bill will make permanent the temporary withdrawals of about 18,500 acres from new mineral entries. However, valid, existing rights on seven preexisting mining claims will be maintained.

I know of no opposition to this legislation at this time. It has strong support in Idaho, and I intend to ask the Senate, Mr. President, to move this bill along quickly when we convene in 1992.•

By Mr. GARN (for himself and Mr. ROCKEFELLER):

S. 2102. A bill to amend the International Emergency Economic Powers Act; to the Committee on Banking, Housing, and Urban Affairs.

INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

• Mr. GARN. Mr. President, I rise today to introduce legislation to amend the International Emergency Economic Powers Act, or IEEPA. While this bill amends legislation dealing with international emergencies, it is intended to address a much more mundane problem, but one that is becoming increasingly frequent. That problem is the failure of the Congress to do its job and enact necessary legislation.

I have had many opportunities during my time in the Senate to complain about legislative failures, especially by the House of Representatives. These include leaving FSLIC unfunded in 1986; leaving town last year without funding RTC; the failure to pass comprehensive banking legislation in 1984, 1988 and this year. In this case, however, the focus of my concern is the Export Administration Act.

The EAA lapsed more than a year ago because of delays in conference with the House. At that time, the President invoked IEEPA to maintain export controls. Conference action was completed last November and an EAA reauthorization was sent to the President. Unfortunately, after Congress adjourned, the President took some very bad advice and vetoed the bill because it might have required economic sanctions on users and purveyors of chemical weapons. This meant that the EAA would remain out of force until the 102d Congress was organized.

The Senate made restoring these authorities an early priority and last February 20 the Senate passed a new reauthorization. Unfortunately, the House Foreign Affairs subcommittee responsible for the EAA did not act for another 8 months, and the House did not finally pass a bill until October 30. Facing the end of the session and with the Banking Committee working around the clock to produce legislation that will protect insured depositors in our banks and savings and loans in the months ahead, there is simply no time to act on the House-passed legislation.

Through a string of circumstances, but most importantly because of the irresponsible behavior of a House subcommittee, critical legislation affecting billions of dollars of U.S. exports will continue to be carried out without benefit of any statutory structure or protections for more than a year.

While this situation should be unacceptable to the Congress, it is likely to be repeated because there is no penalty for congressional inaction or a Presidential veto as long as IEEPA is available without restriction to fill the gap. Incentives may even favor a veto by the President since the President's powers under IEEPA are much less constrained than under specific international statutes like the EAA. I believe this state of affairs is unacceptable. The proposed amendment would restrict the use of IEEPA authority to extend or reinstate lapsed provisions of law.

The amendment would limit to 180 days the period for which IEEPA would be used to extend or reinstate expired provisions of law. If IEEPA were used for this purpose, two parallel actions would be triggered. First, authorizing legislation, a simple extender of expired legislation for at least 180 days, would have to be introduced in both houses and referred to appropriate Committees. On a second track, a joint resolution, approving the President's proposed extension of authority for up to one year, would have to be introduced in both Houses and referred to the appropriate committees.

Since it is inaction in the committee of jurisdiction that has been a major source of delay, the bills and resolutions required to be introduced would be subject to expedited procedures for discharge from committee and floor consideration. Critical legislation could not be bottled up.

If Congress were to complete action on authorizing legislation within 180 days, no further action would be required. However, if the Congress failed to enact authorizing legislation within that period, a vote on the joint resolution extending emergency authority would be guaranteed. If Congress failed to endorse the emergency and support an extension of authority, the statutory authority that had been extended would expire.

It is likely that the administration will be unhappy about any amendments to IEEPA that limit the President's discretion. However, this bill does not limit the President's authority in true international emergencies. It limits authority to turn legislative failure into an international emergency. If such a pseudo-emergency situation occurs, the Congress will be forced to restore legislative authority either in the form of a bill or a joint resolution of approval.

It is a sad commentary that legislation like this is necessary. But unfortunately, the legislative process has been so devalued that it only functions through a patchwork of automatic procedures, supermajority votes on budget rules and cloture motions. I regret that I have to propose one more cog in the machinery of automatic legislation but to do otherwise is to endorse irresponsibility and inaction.•

• Mr. ROCKEFELLER. Mr. President, today I am pleased to join with the Senator from Utah [Mr. GARN] in introducing an amendment to the International Emergency Economic Powers Act [IEEPA].

This is a small bill, but it addresses an important problem that goes directly to the issue of presidential powers under the Constitution. Let me begin with a bit of history.

The International Emergency Economic Powers Act provides very broad authority to the President to take measures to deal with international emergencies. It was, for example, the authority President Carter cited when he froze Iranian assets in the United States during the hostage crisis. IEEPA gives the President very broad, even dictatorial authority, to halt or control the flow of commerce or funds between the United States and other parties, subject only to the limitation that he must first declare an emergency and report it to Congress, and that he must explicitly continue the emergency every 6 months with a further report to Congress.

In enacting the IEEPA, Congress consolidated a number of earlier laws relating to international emergencies and attempted to regularize the way the President dealt with unexpected crisis overseas. In doing so, it was Congress' intent that the broad authorities provided be used only in cases of extreme crisis when immediate action was required.

Over the years, this standard has unfortunately been devalued. President Reagan used the authority on several occasions to justify sanctions against specific countries, notably Libya. I hold no brief for Libya, Mr. President, and have consistently suppported sanctions, but I do question whether the situation in Libya threatened such imminent harm to United States economic security that it warranted declaring a national emergency.

Similarly, I am even more concerned about the current application of IEEPA as a substitute for the Export Administration Act. That act lapsed more than a year ago, on October 1, 1990. Subsequently, the Congress passed and sent to the President renewal legislation, which he pocket vetoed last year. At the time of the act's expiration, and subsequently at the time of the veto, the President exercised his authority under IEEPA, declared a national emergency, and imposed under that authority substantially the same system of regulations and controls that had

existed under the Export Administration Act.

What that means, Mr. President, is that our entire export control program, a major administrative apparatus, is now being run by executive fiat rather than law. It means that exporters have few, if any, of the rights accorded them under the EAA and instead are having their exports controlled by bureaucratic whim.

Thus far, the bureaucracy's tendency to whimsy has been suppressed, and administration of the program has followed closely the previous law. At the same time, there has been one element of its administration that should give us all pause. When the President reimposed the control system under IEEPA, he did so somewhat selectively, in some cases establishing procedures that had been mandated by the bill he vetoed, and in other cases ignoring the language of that bill. In short, use of IEEPA has effectively allowed the President to have a line item veto. It has allowed him to pick and choose which provisions of a bill he wants to enforce, and it has allowed him to ignore the others. And, most importnt, it has allowed him to claim that a national emergency exists solely because he vetoed a bill that Congress sent him.

This is clearly not what Congress intended when it created IEEPA, but as a result of the way that law was drafted, the President is able to get away with using the broad powers allowed him uner IEEPA to carry out critical policies affecting billions of dollars of U.S. exports without benefit of any statutory structure or protection. There is also some evidence that the White House has actively discouraged Congress' further efforts to renew the Export Administration Act in order to permit the continuation of this extraconstitutional arrangement.

The bill the Senator from Utah and I are introducing is designed to prevent the President from using IEEPA merely as a free-ride vehicle while he vetoes important legislation. It would limit the President's authority under IEEPA to extend or reinstate expired provisions of law to a period no longer than 180 days. In addition, within 10 days of using IEEPA in such a case, two actions would automatically follow. Authorizing legislation would automatically be introduced in both Houses and referred to the appropriate committees of jurisdiction, and a joint resolution, approving the President's proposed extension of authority for up to 1 year, would also be inroduced in both Houses and referred to the appropriate committees.

The bill requires expedited procedures for discharge from committee and for floor consideration. For example, if Congress fails to enact authorizing legislation within 180 days, a vote on the joint resolution extending emergency authority would be guaranteed. The President may submit a proposal to Congress requesting an extension of expiring provisions of law beyond the 180 days, but he must include a declaration of the emergency and explain the unusual and extraordinary threat to national security, foreign policy, or the economy of the United States. Such a proposed extension shall not take effect unless the Congress passes a joint resolution approving the extension within 60 calendar days.

Mr. President, this bill deals with the limited circumstance of use of IEEPA as a substitute for legislation the President has chosen not to appove or the Congress has chosen not to extend. It does not attempt to address some of the other problems we have encountered with IEEPA over the years. In that sense, it is a modest proposal, but it is an important one, both for our exporters, who have the most at stake, and for the Constitution. I hope all senators will support it.•

By Mr. GRASSLEY (for himself and Mr. MOYNIHAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortages areas, and for other purposes; to the Committee on Finance.

S. 2104. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

PRIMARY CARE HEALTH PRACTITIONER INCENTIVE ACT AND PHYSICIAL ASSISTANT INCENTIVE ACT

• Mr. GRASSLEY. Mr. President, today, on behalf of myself and Senator MOYNIHAN, I am introducing two bills, S. 2103, the Primary Care Health Practitioner Incentive Act of 1991, and S. 2104, The Physician Assistant Incentive Act of 1991. These bills would provide Medicare reimbursement to nurse practitioners [NP's], clinical nurse specialists [CNS's], certified nurse-midwives [CNM's], and physicians assistants [PA's].

Despite the best efforts of the Federal and many State governments, there are still many older Americans who do not have access to affordable health care. For many of these individuals, access would be improved if we reformed the archaic Medicare policies that place a limitation on Medicare Coverage of "physician" services provided by PA's, NP's, CNS's, and CNM's.

These bills will rectify this situation, Mr. President. Specifically, PA's, NP's, CNS's and CNM's would be paid 97 percent of the physician fee schedule for services they perform regardless of location or practice setting. The services include those which these providers are legally authorized to perform under State law whether or not the provider is under the supervision of, or associated with, a physician or other health care provider.

In addition, modeled after the bonus payment of physicians who work in health professional shortage areas [HPSA's], these practitioners would also be paid a bonus payment when they work in health professional shortage areas [HPSA's]. This provision is necessary to encourage nonphysician practitioners [NPP's] to relocate to areas in need of health care services.

THE PROBLEM

Many of the current Medicare payment policies for PA's, NP's, CNS's, and CNM's have no rational basis. I noted above that this legislation would call for the program to reimburse services which these providers are authorized to perform under State law. In both Iowa and New York, State law requires nonphysicians to practice with either a supervising or collaborating physician. This physician need not be physically present in the same facility as the nonphysician practitioner and in many instances is located in a site physically remote from the NPP. In many instances, Medicare reimbursement policy will not recognize this relationship and instead requires that the physician be in the same building as the NPP in order for services to be covered. This legislation would authorize coverage of these health care practitioners as long as they were practicing in accordance with State law.

In addition, the Medicare Program now covers the services of all of these practitioners; however, various payment mechanisms are established for each and, for some, coverage is limited to certain areas or facilities. The legislation directing these differentials in payment levels was passed in an incremental fashion. Both the nonphysician practitioner community and the Physician Payment Review Commission [PPRC] have recognized these inconsistencies and have called for their resolution. This legislation accomplishes that objective and sets a uniform payment policy for these providers.

This legislation also reconciles payment for nonphysician practitioners with the resource-based payment recommendations for physicians which will be implemented in January of 1992.

BACKGROUND

As mandated by law [OBRA '89], the PPRC conducted a study of the implications of a resource-based fee schedule for physician services for nonphysician practitioners. The commission's recommendations are incorporated in the 1991 annual report to Congress. During these deliberations, professional associations representing the nonphysician practitioner groups addressed by the

study presented data to the commission and its staff.

Throughout the process, both the commission and the professional associations discussed alternative payment methodologies that would be consistent with the principles and goals of physician payment reform. Both groups reached similar conclusions, "the resulting payments do not reflect the relative costs of NPP services compared with physician services or the relative costs of services provided by one NPP category compared with another"—page 184, PPRC 1991 report to Congress. The mandate to change the law is clear.

In fact, much of this legislation is supported by the PPRC. The first part of this legislation provides a reimbursement rate of 97 percent of the physician payment for similar services. This rate has been developed utilizing identical resource components as those used to determine physician payment: work, practice expense, and malpractice expense. However, contrary to the recommendations of the commission, the PA's, NP's, CNS's and CNM's have documented to me that the value of the work component for physicians and nonphysicians is the same. Both the PPRC and the practitioner groups agree that "practice expense for a type of service should be roughly the same whether it is provided by a PA, NP, CNS, or CNM or a physician"—page 199, PPRC 1991 Report to Congress. Therefore, it is the differential in malpractice expenses that yields the 3-percent differential between the physician and nonphysician payment rates recommended in this bill.

The malpractice costs component represents on the average 4 percent of the physician fee schedule for each service. PA's, NP's, CNS's and CNM's experience 25 percent of the physician malpractice costs on the average. Hence, the professional liability insurance component for this fee schedule for PA's, NP's, CNS's, and CNM's is 1 percent.

Although not precisely accurate for all of these provider groups in all geographic areas of the country, this legislation provides simplicity for the implementation of this program by the Health Care Financing Administration.

IMPLICATIONS FOR PAYMENT POLICY

Currently, the services of PA's, NP's, CNS's and CNM's are paid at the physician rate when provided "incident to physicians' office services". Implicit in this bill is a discontinuation of this policy. Instead, all service provided by these practitioners will be identified as such through the use of a modifier code and will be paid at the 97 percent rate rather than the physician rate. This change will clarify both coverage and payment for services provided "incident to" physician services.

IMPLICATION FOR ACCESS TO CARE FOR MEDICARE BENEFICIARIES

This legislative proposal encourages greater participation in the Medicare Program by all members of the health care team—including PA's, NP's, CNS's and CNM's. Because of the unique contributions of each professional group, the overall improvement in health care for America's Medicare beneficiaries is ensured. Many communities, both urban and rural, simply cannot support a full-time physician. They can, however, support a full-time PA or nurse practitioner or nurse midwife. Therefore, the bill, if enacted, should improve access to health care in many urban and rural communities.

SUPPORT FOR THE BILL

The following groups are supporting these proposals:

American Academy of Physician Assistants.

National Association of Pediatric Nurse Associates and Practitioners [NAPNAP].

American Nurses' Association.

The Organization for Obstetric, Gynecologic, and Neonatal Nurses [NAACOG].

National Association of Neonatal Nurses.

National Association of Nurse Practitioners in Reproductive Health.

National Conference of Gerontological Nurse Practitioners.

National Organization of Nurse Practitioner Faculties.

Illinois Association of School Nurses.

American Nephrology Nurses Association.

National League for Nursing.

American College Health Association/Nurse Practitioner Section.

National Association of School Nurses.

Freestanding Nurse Practitioner Groups.

State Affiliated Nurse Practitioners.

California Coalition of Nurse Practitioners.

American College of Nurse Midwives.

New Hampshire Nurse Practitioner Association.

National Federation of Specialty Organizations.

I hope my colleagues will be able to join me in supporting this bill.

I ask unanimous consent that the texts of the bills be included in the RECORD after my statement.

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

S. 2103

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 "Primary Care Health Practitioner Incentive Act of 1991".

SEC. 2. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND CERTIFIED NURSE MIDWIVES.

(a) INCREASED PAYMENT.—

(1) NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND CERTIFIED NURSE MIDWIVES.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (K), by striking "80 percent" and all that follows through "physician)" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician"; and

(B) in subparagraph (M) the second place it appears, by striking "80 percent" and all that follows through "(r)(2))" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician".

(2) NURSE PRACTITIONERS.—Section 1842(b)(12)(A)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(12)(A)(ii)) is amended—

(A) in subclause (I), by striking "65 percent" and inserting "65 percent or in the case of nurse practitioner services 97 percent"; and

(B) in subclause (II), by striking "or for services" and all that follows through "1848" and inserting "or in the case of nurse practitioner services 97 percent of the fee schedule amount specified in section 1848 for the same service performed by a physician or for physician assistants the fee schedule amount specified in such section".

(b) DIRECT PAYMENT FOR NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—Section 1832(a)(2)(B)(iv) or such Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1880(d)(2)(D))".

(c) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a nurse practitioner, clinical nurse specialist or certified nurse midwife furnished to an individual, described in paragraph (1), in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.".

(d) DEFINITION OF CLINICAL NURSE SPECIALIST CLARIFIED.—Section 1861(aa)(5) of such Act (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by striking "clinical nurse specialist" each place it appears; and

(2) by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) The term 'clinical nurse specialist' means, for purposes of this Act, an individual who—

"(i) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(ii) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(e) REMOVAL OF RESTRICTIONS ON SETTINGS.—Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (ii) by striking "in a skilled" and all that follows through "1919(a))"; and

(2) in clause (iii) by striking "in a rural" and all that follows through "(d)(2)(D))".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1992.

S. 2104

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 "Physician Assistant Incentive Act of 1991".

SEC. 2. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS.

(a) IN GENERAL.—Section 1842(b)(12)(A)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(12)(A)(ii) is amended—

(1) in subclause (I), by striking "65 percent" and inserting "65 percent or in the case of physician assistant services 97 percent"; and

(2) in subclause (II), by striking "or for services furnished" and all that follows through "1848" and inserting "or for services of a physician assistant 97 percent of the fee schedule amount specified in section 1848 for the same service performed by a physician or for services of a nurse practitioner the fee schedule amount specified in such section".

(b) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) (42 U.S.C. 13951(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a physician assistant, furnished to an individual, described in paragraph (1), in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.".

(c) REMOVAL OF RESTRICTION ON SETTINGS.—Section 1861(s)(2)(K)(i) of such Act (42 U.S.C. 1395x(s)(2)(K)(i) of such Act (42 U.S.C. 1395x(s)(2)(K)(i) is amended by striking "(I) in a hospital" and all that follows through "shortage area".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1992.•

By Mr. BENTSEN:

S. 2105. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE ACT OF 1991

• Mr. BENTSEN. Mr. President, for a substantial part of this legislative session, we have debated legislation regarding our Nation's transportation system. Although this legislation primarily relates to our land transportation system, we recognize that all types of transportation are important and interdependent. Thus, the development of our air transportation system is critical to the development of our overall transportation needs. It is imperative that we continue to promote the development of new aviation technologies that will allow us to respond to the ever-increasing transportation challenges that will face us in the coming years and to maintain our ability to compete in global aerospace markets.

The preferred mode of travel for intercity and international transportation is clearly air travel. Needless to say, this mode of travel has been quite successful in providing invaluable services to our Nation over the years. A look toward the future reveals that our air transportation system will encounter severe problems with airport congestion that will threaten our ability to expand our domestic transportation capacity to meet rising demands. Therefore, we must begin examining ways to avoid this imminent problem.

The development of vertical flight technology may be one important way to address the airport congestion problem. The type of vertical flight that has the most promise is performed by the tiltrotor aircraft. This aircraft takes off and lands vertically like a helicopter, but flies with the speed, comfort and range of a turboprop aircraft. It can therefore provide fast point-to-point service between relatively small transportation market points, independent of runway locations.

To date, tiltrotor aircraft have been primarily used for military purposes. The development of a civilian tiltrotor aircraft system would surely benefit from the engineering and operational experience of the military program.

This bill will require the Department of Transportation to establish a committee that will consider the most effective way to develop this important new technology. This committee will evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft. It will also devise a national system of infrastructure to support the incorporation of the technology into the national transportation system. One year after this committee begins such activity, it will be required to report its findings and determinations to Congress, so that the actual implementation of a civil tiltrotor aircraft program can be considered.

Mr. President, the establishment of a Civil Tiltrotor Development Advisory Committee is a significant step toward the continued modernization of our Nation's aviation system. I urge my colleagues to support passage of this important legislation.

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. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Tiltrotor Development Advisory Committee Act of 1991".

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE

SEC. 2. (a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) MEMBERSHIP.—(1) The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least one representative of the Department of Transportation.

(B) At least one representative of the Federal Aviation Administration.

(C) At least one representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed within the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed within the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) DUTIES.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determines the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltrotor aircraft and establishing the infrastructure necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) REPORT.—Not later than the 365th day following the date of the first meeting of the

Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

By Mr. CRANSTON (for himself, Mr. SPECTER, and Mr. GORTON):

S. 2106. A bill to grant a Federal charter to Fleet Reserve Association; to the Committee on the Judiciary.

FLEET RESERVE ASSOCIATION FEDERAL CHARTER

• Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce today S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association [FRA]. Joining with me as original cosponsors are the distinguished ranking Republican member of the committee, Arlen Specter, and Senator SLADE GORTON.

The FRA is a nonprofit, national service organization devoted to the welfare of active duty servicemembers of the sea services and veterans of that service, and their dependents and survivors. Officially chartered in Pennsylvania in 1924, its membership has grown to include 152,000 active duty, Reserve, and retired enlisted members of the Navy, Marine Corps, and Coast Guard and 323 chapters nationwide.

The FRA's primary purpose is to represent and further the viewpoint of its members on matters pertaining to military personnel issues. The association also works closely with the Department of the Navy and the headquarters of the Marine Corps and the Coast Guard in order to provide members and their families with direct assistance on individual career problems. In addition, the FRA assists its members, and their dependents and survivors with personal problems, especially those related to military pay and survivor benefits, and with matters before the Department of Veterans Affairs.

Mr. President, through legislative seminars and two national publications, the FRA keeps its members informed about congressional activity relevant to the members' concerns. It is vitally important in order to promote citizen involvement in the legislative process, that our servicemembers and veterans, and their survivors and dependents, learn about congressional action that affects them, and that they have an organization like the FRA that will represent their views before Congress. Such representation ensures that Congress is well advised of the concerns of the men and women who serve this Nation.

During my tenure as chairman of the committee, it has been my privilege to work with the Fleet Reserve Association on both legislative and oversight matters. Military personnel and veterans throughout our great country have benefited enormously from the FRA's diligent and effective advocacy on their behalf.

Mr. President, I believe that the granting of a Federal charter is an appropriate form of recognition for this group and should help promote its valuable ongoing work. I urge my colleagues' unanimous support of this measure.

I note that on April 24, 1991, the distinguished chairman of the House Veterans' Affairs Committee, G. V. "SONNY" MONTGOMERY, and the ranking Republican member, BOB STUMP, introduced H. R. 2070, a substantively identical bill to grant the FRA a Federal charter. I look forward to working with Chairman MONTGOMERY and Mr. STUMP to secure passage of this legislation.

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. 2106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECION 1. FEDERAL CHARTER.

The Fleet Reserve Association, a nonprofit corporation organized under the laws of the State of Delaware, is recognized and granted a Federal charter.

SEC. 2. POWERS.

The association shall have only the powers granted to it through it bylaws and articles of incorporation filed in the State of States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) aiding the maintenance of an adequate naval defense for the United States;

(3) assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard;

(4) providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard;

(5) continuing to loyally serve the United States Navy, United States Marine Corps, and United States Coast Guard.

(6) preserving the spirit of shipmanship by providing assistance to shipmates and their families and

(7) instilling love of the United States and the flag and promoting soundness of mind and body in the youth of the United States.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the association shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 6. BOARD OF DIRECTORS.

The composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the States or States in which it is incorporated.

SEC. 7. OFFICERS.

The officers of the association and the election of the officers shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State or States in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the association may inure to any member, officer, or director of the association or be distributed to any such individual during the life of this charter. This subsection may not be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock and declare or pay any dividend.

(d) CLAIMS OF FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under laws of the State of Delaware.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State or States in which it is incorporated.

(g) NONDISCRIMINATION.—The terms of membership and the conditions for serving as an officer or director in the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 9. LIABILITY.

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of pri-

vate corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following: "(75) Fleet Reserve Association.".

SEC. 12. ANNUAL REPORT.

The association shall annually submit to the Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 11. The annual report may not be printed as a public document.

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "association" means the Fleet Reserve Association.

(2) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

SEC. 14. TAX-EXEMPT STATUS.

The association shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 15. TERMINATION.

The charter granted in this Act shall expire if the association fails to comply with the provisions of this Act.

Mr. GORTON. Mr. President, today I speak on behalf of the 152,000 members of the Fleet Reserve Association who request that this body grant their organization a Federal charter. As an honorary member of the Fleet Reserve Association in Washington State, and an original cosponsor of S. 2106, I wholeheartedly support this request.

The primary purpose of the association is to represent and further the viewpoint of its members on matters pertaining to military personnel issues and to provide individual career services to its members. Since 1924, the Fleet Reserve Association has been actively involved in providing individual career services to its members by working closely with the Department of the Navy, the U.S. Marine Corps and the U.S. Coast Guard. In addition, the association keeps abreast of the defense needs of our country and assists in the recruitment of quality personnel for our Nation's sea services.

The Fleet Reserve Association is a nonprofit, nonpartisan, and nonsectarian organization which deals solely with personnel issues rather than military, foreign or political policy.

The association extends its benefits both to its members and to sea servicemen, and their dependents regardless of affiliation.

Senators, a Federal charter for this organization is primarily a symbolic gesture. It does not provide the Fleet Reserve Association with Federal money or office space or any Government-funded perks. It is simply an official recognition of an organization which has worked selflessly and tirelessly for this country and for the great men and women who have served this country in the U.S. Navy, Marines, and Coast Guard, for a period of almost 70 years.

Given a record of service as long and distinguished as that of the Fleet Reserve Association, a Federal charter is well deserved and perhaps long overdue. I, therefore, ask you to join me today in support of Senator CRANSTON'S bid for a Federal charter for the Fleet Reserve Association with the certainty that you are acknowledging the eminently worthy work of a proud and indispensable organization.

By Mr. DURENBERGER:

S. 2108. A bill to establish a national policy to encourage the proper collection, handling, treatment, and disposal of medical waste materials; to the Committee on Environment and Public Works.

MEDICAL WASTE MANAGEMENT POLICIES

• Mr. DURENBERGER. Mr. President, today I am introducing the Medical Waste Management Act of 1991. This legislation is intended to assure the safe management of wastes generated by hospitals, clinics, laboratories, and other medical facilities.

The Medical Waste Management Program set forth in this legislation will replace the Medical Waste Tracking Program that the Congress enacted in 1988 and that has been carried out in a handful of States in the Mid-Atlantic region. This new program would apply to the whole country. It would be a complete management program including standards for storage, treatment, transportation, and disposal.

The Committee on Environment and Public Works will begin markup sessions on the RCRA reauthorization bill when the Congress returns in January. It is my intention to ask the committee to consider this bill as an amendment to that RCRA reauthorization legislation.

Reviewing the provisions of this legislation, one will find that its requirements are not unlike those which will be applied to all solid wastes by that RCRA bill. This bill includes a broader definition of medical waste than some would want and it also includes a very detailed management system. And that will cause concern to some. But a comparison of this bill to the basic RCRA regime that is about to be put in place will show that in the context of the future RCRA solid waste requirements, this program is appropriate for the special characteristics of medical waste.

Medical waste is generated by hospital and other health care facilities, medical laboratories, physician and dentist offices, and other facilities such as nursing homes, funeral homes, and veterinary hospitals. Improper disposal of this waste, as with other types of refuse, is an environmental concern. In addition, certain types of medical waste, such as body parts, can be aesthetically displeasing, and other items, such as hypodermic needles and scalpels, can result in physical injury. However, the major concern is that some medical waste is potentially infectious.

Medical waste is most often defined to include microbiological wastes, liquid blood and blood products, isolation wastes from patients with communicable diseases, pathological wastes, such as body tissues and organs, used sharps like needles and scalpels, and contaminated animal carcasses, body parts, and bedding.

The number of facilities generating medical wastes is unknown but could exceed more than 1 million sites. Reliable data on the total amount of medical waste is also uncertain, but the Environmental Protection Agency estimates the total may be 3.2 million tons per year. About 80 percent of this amount comes from hospitals and according to EPA 10 to 15 percent may be infectious waste.

Hospitals and other health care facilities routinely segregate their wastes that may be infectious. This wastes is placed in specially designated or colored bags—so-called red bags—for storage and disposal. Needles and scalpels are placed in rigid containers to prevent injury to the health care work force.

Hospitals have generally handled their waste by burning it in an incinerator at the hospital. About 70 percent of the hospital waste is incinerated. Another 15 percent is sterilized with steam or heat before it is disposed.

We know that these practices are changing rapidly. Many hospital incinerators have only primitive pollution control equipment. The infectious character of the waste is addressed by incineration, but these facilities can contribute substantial amounts of toxic chemicals to the air in their communities. Air emission standards for hospital incinerators are on the horizon, and as a result much larger volumes of medical waste will be shipped and disposed at other sites.

During 1987 and 1988, several incidents of medical waste washing up on the shores of New Jersey, New York, and Maryland were reported in the press. Problems were also found in the Great Lakes region of the country. Beaches were closed. Businesses which relied on the tourist trade lost money. People were denied the use of these public resources. There have also been many other incidents where children have been exposed to medical wastes that were disposed in unsafe ways.

Many States, including my own State of Minnesota, have responded to those events with medical waste management programs of their own.

This legislation is also designed to address those problems and to assure that a uniform national system for the management of medical waste can be

put in place. The bill includes a broad definition of medical waste, requires that regulated medical waste be segregated and stored in specially designated containers, requires that persons transporting or treating medical waste register with EPA and obtain a permit for treatment facilities, establishes treatment standards for various categories of medical wastes, and establishes standards for facilities that treat or dispose of medical waste.

Mr. President, I ask that the text of the bill be printed in the RECORD along with my comments today.

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

S. 2108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. This Act may be cited as the "Medical Waste Management Act of 1991".

SEC. 102. Subtitle J of the Solid Waste Disposal Act is amended to read as follows:

"Subtitle J—Medical Waste Management Policies

"SEC. 11001. (a) The Congress hereby declares it to be the national policy of the United States that (A) the proper collection, handling, treatment and disposal of medical waste be encouraged to the maximum extent achievable, (B) improper management of medical waste be curtailed in order to properly protect human health and the environment, and (C) the United States no longer disregard the public health and safety concerns and the physical hazards to human health and the environment posed by the improper management of medical waste.

"(b) The Congress further declares it to be the national policy of the United States that the management of medical waste be considered and implemented to assure a comprehensive approach to medical waste management that fosters compliance with standards necessary to protect human health and the environment.

"MEDICAL WASTE DEFINITIONS

"SEC. 11002. As used in this subtitle:

"(1) The term "regulated medical waste" means any solid waste or secondary materials generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Such term does not include any "hazardous waste" identified or listed under section 3001 or any "household waste" as defined in regulations under subtitle C (including garbage, trash and sanitary wastes in septic tanks derived from households), except to the extent provided in section 11011. Regulated medical waste includes, but is not limited to:

"(A) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines and culture dishes and devices used to transfer, inoculate, and mix cultures.

"(B) Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

"(C) Liquid waste human blood, items saturated or dripping with human blood, items that were saturated or dripping with human blood that are now caked with dried human blood, and products of blood, including serum, plasma, and other blood components and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals and including intravenous bags.

"(D) Sharps that have been used in animal or human patient care or treatment or in medical research or industrial laboratories, including hypodermic needles, syringes (with or without attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing and culture dishes (regardless of presence of infectious agents), other types of broken or unbroken glasswares that was in contact with infectious agents.

"(E) Contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

"(F) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases or isolated animals known to be infected with highly communicable diseases.

"(G) Chemotherapy wastes, including used intravenousbags and needles, tubing, vials, gloves, gowns, masks, and other disposable material used in the administration of cytotoxic or antineoplastic agents.

"(H) Unused, discarded sharps including hypodermic needles, suture needles, syringes and scalpel blades.

The Administrator is authorized to modify the definition of regulated medical waste under this paragraph as necessary to protect human health and the environment. The Administrator, in consultation with the Director of the Centers for Disease Control and the Administrator of the Occupational Safety and Health Administration, shall consider which of the wastes regulated under the Medical Waste Tracking Act of 1988 are appropriate for inclusion in the definition of regulated medical waste under this title.

"(2) The term "infectious agent" as used in the definition for regulated medical waste means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissue and capable of causing disease or adverse health impacts in humans.

"(3) The term "generator" means any person whose activity or process produces regulated medical waste, without regard to quantity of medical waste produced, and includes, but is not limited to, the following categories of facilities and activities:

General Acute Care Hospital
Skilled Nursing Facility or Convalescent Hospital
Intermediate Care Facility
In-Patient Care Facility for the Developmentally Disabled
Chronic Dialysis Clinic
Free Clinic
Community Clinic
Employee Clinic
Health Maintenance Organization (HMO)
Surgical Clinic
Urgent Care Clinic
Acute Psychiatric Hospital
Laboratory
Medical Buildings
Physicians Offices
Veterinarians Offices
Veterinary Hospital
Home Health Agencies
Federal Facilities

"(4) The term "storage" means the temporary holding of regulated medical waste at a designated accumulation area before treatment, disposal or transport.

"(5) The term "transporter" means a person engaged in the off-site transportation of regulated medical waste by air, rail, highway, or water.

"(6) The term "transportation" means the shipment or conveyance of regulated medical waste.

"(7) The term "treatment", when used in connection with regulated medical waste, means any method, technique or process designed to change the biological character or composition of regulated medical waste so as to reduce or eliminate its potential for causing disease or otherwise render it nonhazardous, or so as to render such medical waste safer for transport or storage.

"(8) The term "OSHA" means the Occupational Health and Safety Administration in the Department of Labor.

"STORAGE AND CONTAINMENT OF MEDICAL WASTE

"SEC. 11003. (a) IN GENERAL.—

"(1) Not later than 12 months after the enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations for the storage and containment of regulated medical waste.

"(2) Containment of medical waste shall be in a manner and location which assures protection of human heath and the environment and curtails the risk of infectious disease transmission. Such containment shall minimize the exposure of the public to regulated medical waste, and shall be of such a nature and so maintained that such containment will not degrade or decompose, will not provide a breeding place or a food source for insects and rodents, and shall afford ample protection from animals and weather conditions.

"(3) Regulated waste shall be segregated from other waste at the point of origin in the producing facility of the generator.

"(3) Regulated medical waste shall be segregated from other waste at the point of origin in the producing facility of the generator.

"(4) Containment of medical waste shall be separate from other wastes. Enclosures or containers used for containment of medical waste shall be so secured so as to deny access by unauthorized persons and shall be marked with prominent warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. Each container shall be prominently labeled with sign using language to be determined by the Administrator and legible during daylight hours from a distance of 25 feet.

"(b) STORAGE.—Regulated medical waste shall not be stored at a waste producing facility in a manner including the period of time and the maximum temperature at which stored) which will allow any portion of such waste to putrefy. Such requirements may vary with the nature of the waste to be stored. Containment of regulated medical waste at the producing facility for a period of not more than 90 days in accordance with such requirements is permitted without specific approval.

"(c) CONTAINMENT.—

"(1) Regulated medical waste, except for sharps capable of puncturing or cutting, shall be contained in disposable plastic bags

which are impervious to moisture and have a strength sufficient to preclude ripping, tearing, or bursting under normal conditions of usage. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling, or transport.

"(2) Sharps shall be contained for disposal in leakproof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of the contents.

"(3) All bags used for containment and disposal of regulated medical waste shall be red in color and conspicuously labeled to denote the nature of the medical waste. Rigid containers of sharps waste shall be labeled in the same way or placed in the disposable bags used for other regulated medical waste.

"(d) HANDLING.—

"(1) Compactors or grinders shall not be used to process regulated medical waste until after the waste has been rendered non-infectious. Regulated medical waste shall not be subject to compaction by any compacting device and shall not be placed for storage or transport in a portable or mobile trash compactor.

"(2) Regulated medical waste contained in disposable containers as prescribed above, shall be placed for storage, handling, or transport in disposable or reusable pails, cartons, drums, dumpsters, or portable bins. The containment system shall be leak resistant, have tightfitting covers, and be kept clean and in good repair. The containers shall be of any color and shall be conspicuously labeled as set forth in the promulgated requirements, on the lid and on the sides so as to be readily visible from any lateral direction when the container is upright.

"(3) Reusable containers for regulated medical waste shall be thoroughly washed and decontaminated each time they are emptied by a method specified by the regulations or the State Department of Health, unless the surfaces of the containers have been protected from contamination by disposable liners, bags, or other devices removed with the waste.

"(4) Approved methods of decontamination may include, but are not limited to, agitation to remove visible soil combined with one of the following procedures:

"(A) Exposure to hot water of at least (1800 F) for a minimum of fifteen seconds.

"(B) Exposure to a chemical sanitizer by rinsing with or immersion in one of the following for a minimum of three minutes: (i) Hypochlorite solution (500 ppm available chlorine); or (ii) Idoform solution (100 ppm available iodine).

"(5) Reusable pails, drums, dumpsters or bins used for containment of regulated medical waste shall not be used for containment of waste to be disposed of as non-infectious waste or for other purposes except after being decontaminated.

"(6) Trash chutes shall not be used to transfer regulated medical waste between containment locations.

"TRANSFER OF MEDICAL WASTE TO OFF-SITE TREATMENT OR DISPOSAL FACILITIES

"SEC. 11004. (a) TRANSFER OF MEDICAL WASTE TO OFF-SITE TREATMENT AND DISPOSAL FACILITIES.—Any generator of regulated medical waste shall transfer custody of the waste only to a transporter who is registered as a regulated medical waste transporter by the Administrator in accordance with section 11005.

"(b) SEGREGATION OF MEDICAL WASTE IN TRANSPORT.—Regulated medical waste shall not be transported in the same vehicle with other waste unless the medical waste is separately contained or unless all of the waste is to be treated or disposed of as regulated medical waste in accordance with the requirements of this subtitle.

"(c) OFF-SITE STORAGE.—Regulated medical waste shall not be stored at any off-site location in a manner (including the period of time and the maximum temperature at which stored) which will allow any portion of such waste to putrefy. Such requirements may vary with the nature of the waste to be stored.

"(d) MEDICAL WASTE TREATMENT OR DISPOSAL FACILITY.—Regulated medical waste shall be delivered for treatment or disposal only to a facility for which there is a valid and appropriate Medical Waste Facility Permit in accordance with section 11008.

"(e) HANDLING REQUIREMENTS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations establishing requirements for the handling of regulated medical waste by persons who may be in contact with such waste during the transportation process.

"(f) DECONTAMINATION OF TRANSPORT VEHICLES.—Transport vehicles that have contacted spilled or leaked regulated medical waste shall be decontaminated by exposure to hot water of at least 180° F or through chemical sanitizing with the chemicals specified in section 1103(d)(4)(B).

"(g) IDENTIFICATION OF TRANSPORT VECHICLES.—Vehicles transporting regulated medical waste shall be identified on each side of the vehicle with the name or trademark of the transporter.

"STANDARDS APPLICABLE TO TRANSPORTERS OF MEDICAL WASTE

"SEC. 11005. (a) STANDARDS APPLICABLE TO TRANSPORTERS OF MEDICAL WASTE.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with the Secretary of Transportation, shall promulgate regulations establishing requirements for registration as a regulated medical waste transporter.

"(b) REGISTRATION AS MEDICAL WASTE TRANSPORTER.—

"(1) The regulations shall require that any person desiring registration as a medical waste transporter must submit to the Administrator a completed and signed application form provided by EPA.

"(2) The form shall contain a statement certifying that the applicant understands and will company with the applicable requirements of this subtitle, and a list of all vehicles and containers used in the transport of regulated medical waste.

"(3) Each vehicle listed must be registered to the applicant or under control of the applicant pursuant to a written lease or contract, and included in the applicant's required insurance coverage.

"(c) PROOF OF LIABILITY COVERAGE.—

"(1) Applicants shall be required to show evidence of financial responsibility adequate for any potential cleanup costs or third-party damages resulting from the operation of the person's business.

"(2) A copy of the insurance policy, if insurance is the chosen financial alternative for the required coverage, shall be maintained at the transporter's principal place of business.

"(3) A Certificate of Insurance, a bond of a licensed surety company or evidence of qualifications as a self-insurer, shall be provided which indicates that the minimum coverage has been obtained.

"(4) A registered medical waste transporter shall notify the Administrator in writing immediately upon notice of loss of the required liability coverage. A transporter shall immediately cease to transport medical waste upon loss of liability coverage.

"(d) FEES.—Fees for registration and inspection shall be collected from transporters as determined by the Administrator.

"(e) ANNUAL INSPECTIONS OF ROAD VEHICLES.—

"(1) Applicants shall be required to demonstrate that all trucks, trailers, semi-trailers, and containers which are to be used by the applicant for transportation of regulated medical waste on highways and which are subject to the provisions of this subtitle have passed an annual inspection by the Department of Transportation.

"(2) Any person who transports or proposes to transport medical waste on a highway shall—

"(A) Allow the Department of Transportation to inspect jointly the person's trucks, trailers, semi-trailers, and containers;

"(B) Make vehicles and containers available for inspection at a safe work location;

"(C) Allow the Department and the Administrator to inspect manifests, reports, permits, licenses, and other documents related to the handling or transporting of regulated medical wastes;

"(D) Make available to the Administrator and the Department of Transportation upon request all records of inspection.

"(3) The Department of Transportation or the Administrator may require testing, under prescribed conditions, of trucks, trailers, semi-trailers, or containers used to transport regulated medical wastes, in order to assure compliance with this subtitle.

"(4) When so requested by the Department of Transportation or the Administrator, a medical waste transporter shall, within a reasonable period of time, perform any or all of the following actions:

"(A) remove regulated medical waste or materials from the containers or other appurtenances of a truck, trailer, semi-trailer or container in order to make it safe to inspect;

"(B) remove covers and take other steps necessary to allow inspection;

"(C) present the manifest for the waste last held in each truck, trailer, semi-trailer, or container to be inspected.

"(5) Each medical waste transporter shall arrange for an inspection by the Department of Transportation prior to expiration of any certification or date assigned for annual inspection.

"(f) REQUIREMENTS FOR TRANSPORTERS.—

"(1) Registration as a regulated medical waste transporter will expire one year from date of issuance.

"(2) All vehicles and containers requiring certificates of compliance and any attached equipment must be in sound condition and containers must be designed and maintained to properly contain medical waste.

"(3)(A) A certificate of compliance issued by the Department of Transportation shall be placed on each truck, trailer, semi-trailer, and container which has passed its annual inspection.

"(B) The certificate of compliance shall not be displayed by any person who is not registered with the Department of Transportation as a medical waste transporter.

"(C) The certificate of compliance shall expire simultaneously with the expiration date of the medical waste transporter registration, unless the Department of Transportation determines in writing that a simulta-

neous expiration date would place an undue burden upon the applicant.

"(4) Registered medical waste transporters shall notify the Department of Transportation in writing within 30 days of the following occurrences:

"(A) The transporter changes majority ownership, name, or location;

"(B) Ownership or control of a vehicle or container certified by the Department is changed;

"(C) A truck, trailer, semi-trailer, or container certified by the Department is involved in any spill, in an accident which renders or may have rendered the vehicle or container in noncompliance with the requirements of this Title.

"(g) MEDICAL WASTE CONTAINERS.—

"(1) Each truck, trailer, semi-trailer, or container used for shipping regulated medical waste shall be so designed and constructed, and its contents so limited, that under conditions normally incident to transportation, there shall be no release of regulated medical waste to the environment.

"(2) Any truck, trailer, semi-trailer, or container used for shipping regulated medical waste shall be free from leaks and all discharge openings shall be securely closed during transportation.

"(h) TRANSPORT BY RAIL, AIR OR WATER.—The Administrator, in consulation with the Secretary of Transportation, shall promulgate regulations which apply the standards and regulations under this section applicable to regulated medical waste transporters using the roadways, to transporters using either the railway, airway or waterway systems to transport regulated medical waste.

"(i) DEFINITION OF CONTAINER.—For the purposes of this section, the term "container" refers to a large container that is part of a transportation system, designed to contain and aggregate multiple smaller containers but capable of being separated from the vehicle.

"TREATMENT OR DISPOSAL OF MEDICAL WASTE

"SEC. 11006. (a) REGULATIONS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations establishing standards for the treatment or disposal of regulated medical waste.

"(b) TREATMENT OR DISPOSAL OF MEDICAL WASTE.—Disposal of regulated medical waste without treatment is prohibited. Treatment of regulated medical waste shall be by one of the following methods:

"(1) (A) Such medical waste may be treated by incineration in a controlled-air multichambered incinerator which provides complete combustion of the waste to carbonized or mineralized ash.

"(B) Incinerators shall be capable of providing proper combustion temperatures and residence time and shall be properly interlocked to assure that optimum operating parameters are maintained. Emissions shall meet emission limitations established on the basis of the maximum achievable control technology, as determined under section 129 and section 112(d) of the Clean Air Act.

"(2)(A) Such medical waste may be treated by decontamination by heating in a steam sterilizer so as to render the waste non-infectious. Medical waste so rendered non-infectious may then be disposed of in accordance with subtitle D or this subtitle, if such decontaminated medical waste is not otherwise identified as a hazardous waste under section 3001.

"(B) Minimum operating procedures for steam sterilizers shall include, but not be limited to, the following;

"(i) Adoption of standard written operating procedures for each steam sterilizer including time, temperature, pressure, type of waste, type of container(s), closure on container(s), pattern of loading, water content, and maximum load quantity.

"(ii) Check of recording and indicating thermometers during each complete cycle to assure the attainment of a temperature no lower than 121° C (250° F) for one-half hour or longer, depending on quantity and density of the load, in order to achieve decontamination of the entire load. Thermometers shall be checked for calibration at least annually.

"(iii) Use of heat sensitive tape or other device for each load that is processed to indicate the attainment of adequate sterilization conditions.

"(iv) Maintenance of records of procedures specified in this subparagraph for a period of not less than one year.

"(3) Non-infectious liquid medical waste may be discharged through a sewer to a publicly owned treatment works, unless prohibited by a State or local health officer or the owner or operator of the publicly owned treatment works.

"(4) The Administrator shall establish a process for qualifying other innovative technologies for the treatment of regulated medical waste, and any such technology may qualify under this subsection if it is found to be as effective in treatment or decontamination as the methods specified in paragraphs (1) and (2).

"(c) DISPOSAL OF CULTURES.—Cultures of viable etiologic agents shall be rendered non-infectious before disposal on land by heating the cultures in a steam sterilizer, by incineration, or by another sterilization technique approved in writing by the Administrator.

"(d) ANATOMICAL REMAINS.—Medical wastes consisting of recognizable human anatomical remains shall be disposed of by incineration or interment, unless burial in a landfill is specifically required by the Administrator because the waste contains a hazardous constituent.

"SHIPPING PAPERS

"SEC. 11007. (a) SHIPPING PAPERS.—Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations to establish a system of shipping papers that must accompany shipments of regulated medical waste from the location where they are generated to any treatment or disposal facility. Such regulations shall require generators of regulated medical waste and the owners and operators of facilities for the treatment or disposal of regulated medical waste to maintain records and to report at least annually on the types and quantities of regulated medical waste generated or received and as to compliance with this section.

"(b) REQUIREMENTS OF SHIPPING PAPERS.—The shipping papers shall include, but not be limited to, the following:

"(1) The name and address of the generator;

"(2) A brief, general description of the nature and volume of the regulated medical wastes being shipped;

"(3) An indication of whether or not the regulated medical wastes have been treated to render them non-infectious, and if so, the method of treatment;

"(4) If the waste has been treated, the name and address of the treatment facility;

"(5) A method by which the person causing the transportation of a shipment of waste shall designate the offsite treatment or disposal facility, as appropriate, to which the transporter shall deliver the waste.

"(6) A certification by the person causing the waste to be transported that (A) the waste is packaged and labeled in accordance with the regulations adopted under this subtitle; (B) the description of the waste and statement on whether the waste has been treated is accurate; and (C) if the waste has been treated, it has been treated in accordance with methods, techniques, and practices prescribed by requirements under this subtitle.

"(c) MEDICAL WASTE WITHOUT SHIPPING PAPERS.—No off-site treatment or disposal facility shall accept any regulated medical waste, treated or untreated, without the appropriate accompanying shipping papers. No generator of regulated medical waste shall transport or offer for transport, off-site storage, treatment or disposal, any regulated medical waste unless it is accompanied by the appropriate shipping papers.

"(d) SMALL QUANTITY GENERATORS.—The Administrator may promulgate alternative requirements applicable to those facilities generating less than 25 kilograms of regulated medical waste per month, provided that such regulations assure protection of human health and the environment with respect to the transportation, treatment and disposal of regulated medical waste.

"TREATMENT, STORAGE, OR DISPOSAL FACILITIES

"SEC. 11008. (a) REQUIREMENTS FOR MEDICAL WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES.—Any person who operates a facility for the treatment, storage, or disposal of regulated medical waste shall have a valid and appropriate medical waste management facility permit issued by the Administrator. Not later than 12 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator, in consultation with OSHA, shall promulgate regulations establishing the requirements for such permits and the procedure for issuing such permits.

"(b) OPERATION PLAN.—The operator of any facility used for the treatment, storage, or disposal of regulated medical waste shall have and shall adhere to an operation plan for the handling and disposal of regulated medical waste approved in writing by the Administrator, which shall be a condition of the permit issued under this section. The operation plan shall provide for or include, but not be limited to, the following:

"(1) A method of receiving wastes which assures that regulated medical wastes are handled separately from other wastes until treatment or disposal is accomplished and which prevents unauthorized persons from having access to or contact with the wastes;

"(2) A method of unloading and processing of regulated medical wastes which limits the number of persons handling the wastes and minimizes the possibility of exposure of employees and the public using or visiting the facility to the medical waste;

"(3) A method of decontaminating emptied reusable medical waste containers, transport vehicles or facility equipment which are known or believed to be contaminated with infectious agents or regulated medical waste;

"(4) The provision and required use of clean gloves and uniforms along with other protective clothing, face masks or respirators to provide protection of employees against exposure to regulated medical waste. Soiled protective gear shall be disposed of at the facility or decontaminated;

"(5) The means of decontamination of any person having had bodily contact with regulated medical waste while transporting the

waste to the treatment or disposal facility or while handling or disposing of the waste at the facility;.

"(6) A quantification of the maximum amount of medical waste that may be treated, stored, or disposed of per month at the facility.

"(c) NEW OR REVISED OPERATION PLAN.—A new or revised operation plan for a treatment, storage, or disposal facility for regulated medical waste shall be submitted for approval to the Administrator whenever there is a projected increase of more than twenty-five percent in the maximum quantity of regulated medical waste receiving treatment, storage, or disposal per year by the facility or when changes are otherwise made in an existing operation plan.

"(d) NONCOMPLIANCE WITH OPERATION PLAN.—Approval for acceptance of regulated medical waste at a treatment, storage, or disposal facility may be withdrawn by the Administrator for noncompliance with the operation plan or other conditions of a permit issued under this section.

"(e) FINANCIAL ASSURANCE REQUIREMENTS.—As a condition of approval for such permit, any person who operates a facility for the treatment, storage, or disposal of medical waste shall provide evidence of financial assurance in accordance with section 3004(t) to meet all responsibilities with respect to corrective action or closure of such facility and any damages caused by the release of such waste.

"STATE PROGRAMS

"SEC. 11009. Not later than 6 months after the date of enactment of the Medical Waste Management Act of 1991, the Administrator shall promulgate regulations establishing the minimum content for State programs to carry out this subtitle. After the effective date of regulations under this subtitle [eighteen months after the date of enactment of the Medical Waste Management Act of 1991], the requirements of this subtitle shall be carried out by each State that has expressed its intention to operate a regulated medical waste program in accordance with this subtitle, unless the Administrator determines that the program of such State does not comply with this subtitle and the minimum State program content regulations promulgated under this section, or that the State does not have the authority or resources to carry out such program.

"ENFORCEMENT AND SANCTIONS

"SEC. 11010. For the purposes of sections 3007 and 3008, the phrase "any requirement of this subtitle" includes any requirement of subtitle J and the term "hazardous waste" includes regulated medical waste.

"HOUSEHOLD MEDICAL WASTE

"SEC. 11011. The Administrator shall undertake a study of medical waste from households, and to the extent that a system for the collection and management of such medical wastes can be developed, the Administrator shall designate medical wastes from households that can be accommodated by such system as regulated medical waste under this subtitle.".

"SEC. 103. Section 1004(40) of the Solid Waste Disposal Act is amended to read as follows:

"(40) The term "medical waste" shall have the meaning provided in section 11002(1).".●

By Mr. BAUCUS (for himself, Mr. PACKWOOD, and Mr. HATCH):

S. 2109. A bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

METHOD OF ELECTION OF TAXABLE YEARS

● Mr. BAUCUS. Mr. President, the Tax Reform Act of 1986 [TRA 1986] imposed a requirement that partnerships, S corporations, and personal service corporations adopt, in general, a calendar year for tax purposes. As a result of public outcry concerning the difficulties created by this requirement, the Revenue Act of 1987 modified TRA 1986 with the creation of section 444 which allowed retention or adoption of a fiscal year by partnerships, S. corporations and personal service corporations if certain annual requirements were met. Section 444 provided a mechanism for relief. However, time has demonstrated that the original rules are overly restrictive and need modification.

The increased complexity of TRA 1986 has resulted in more time being devoted by taxpayers and their advisors to both planning and preparation of individual and small business tax returns. This increased workload has been further compounded by many taxpayers having switched from fiscal years to calendar years. More tax planning and preparation must now be done in a shorter period of time.

A nationwide survey conducted by a national organization of certified public accountants indicates that approximately 60 percent of the annual workload occurs during the first 3 to 4 months of the year. This has historically been a heavy workload period, but it has now become unacceptably heavy for taxpayers and their advisers.

Automatic extensions are available for many tax returns, but this provides only minimal relief to small business taxpayers and advisors. Extensions are costly and inconvenient. The tax liability must still be computed with great accuracy by the original due date. Further, it make it difficult to obtain the information necessary to estimate the tax liability of owners in order for them to apply for an extension.

This workload compression problem is not limited to tax work. It has become an even greater problem with accounting and auditing work. Owners and creditors typically demand financial statements and audit reports within 90 days after year end. Now this work must also be done between January 1 and April 15.

On average, only about 20 percent of small businesses which were on a fiscal year prior to TRA 1986 remain on a section 444 fiscal year.

The administration of the tax system is also damaged by the resulting uneven workload experienced by the Internal Revenue Service. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year.

With the enactment of the section 444 fiscal year retention rules, Congress acknowledged that there are legitimate business reasons for allowing fiscal years. Fiscal years are ordinarily chosen to coincide with the natural business year of the taxpayer. The year end conformity requirement of TRA 1986 unduly interfered with business operations, and the fiscal year retention rules of RA 1987 did not go far enough in remedying the problem.

The legislation I am introducing today modifies a portion of the rules for fiscal year retention in a way which addresses the continuing problems in this area without sacrificing revenue. The general rules of sections 444, 7519, and 280H would remain relatively unchanged. The proposed legislation would reopen the election process to allow existing entities to either elect, re-elect, or modify an existing election for a fiscal year. It is anticipated that the proposed changes to the law will sustain revenue levels. A revenue estimate on the proposal to confirm this neutrality has been requested. In the event that the revenue estimate is negative, certain technical modifications to this bill are available to retain neutrality. The Secretary of the Treasury would prescribe rules consistent with current IRS practices for the frequency of changes.

In addition, no restriction would be imposed on the length of the deferral period. Entities would be allowed to elect a fiscal year which ends in any month. The proposed legislation would also make minor technical corrections and administrative changes which will make the provision fairer and more administrable.

The proposed legislation addresses serious problems being encountered by small businesses and their tax advisors; it offers taxpayers greater flexibility and fairness; it adds to the administrability of the tax system; and, it sustains revenues in this difficult time of budget constraints.

Mr. HATCH. Mr. President, I rise today with my colleagues from Montana and Oregon to introduce legislation to provide small businesses with the option to use a fiscal year instead of a calendar year for tax purposes.

The Tax Reform Act of 1986 contained a provision requiring small businesses to use a calendar year in computing their taxes. This affected small businesses, tax preparers, and the IRS. In response to the difficulties created by the calendar year requirement, the Tax Reform Act of 1987 modified these rules to allow certain small businesses to continue using fiscal years for tax purposes if certain annual requirements were met. This legislation brought some relief to business, but not enough. Most small businesses switched from a fiscal year to a calendar year.

When combined with the increased complexity of the tax law, this transi-

tion has severely affected the accounting industry by requiring that more time be spent with each client. The resulting workload shift for tax advisors has caused the period from December to May to become unacceptably heavy, with increases of up to 20 percent. The rest of the year's workload has dropped to unacceptably low levels. This workload pattern is mirrored by the Internal Revenue Service.

This legislation would help correct this imbalance by allowing small businesses to elect to use either fiscal or calendar years for tax purposes. As businesses switch to fiscal years, the workload of tax advisors and the IRS will be spread throughout the year.

As companies make the transition, a short accounting period is created. The short period reduces estimated payments to the Federal Government. This bill would require those companies making the switch to a fiscal year to make an initial deposit payment offsetting this revenue loss. This payment would remain on deposit and be refunded to the company after 20 months.

Mr. President, this legislation is a win-win proposition. It would impose no additional regulation on anyone. Instead, the provisions it contains are purely optional. It gives businesses the freedom to elect the accounting period that best coincides with their business cycle and does so in a fiscally responsible manner. This legislation gives much needed relief to American small business, the accounting industry, and the Internal Revenue Service. I heartily urge my colleagues to support this bill.

By Mr. ADAMS for himself and Mr. GORTON):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to clarify that conservation expenditure by electric utilities are deductible for the year in which paid or incurred; to the Committee on Finance.

ENERGY CONSERVATION EXPEDITURES BY ELECTRIC UTILITIES

• Mr. ADAMS. Mr. President, I am pleased to join with my colleague from Washington State, Senator GORTON, to introduce legislation clarifying the tax treatment of conservation expenses by electric utilities.

Earlier this year, we considered national energy security legislation. That legislation was defeated, partly because certain provisions were objectionable to many Senators. On a more fundamental level, the energy bill was defeated because it was not balanced. It focused too much on production and not enough on conservation.

A major component of our Nation's energy policy must be conservation. It has been estimated that increasing energy efficiency can decrease our energy use by one-third to one-half. The Union of Concerned Scientists has estimated that retrofitting electrically heated residential housing would cut energy consumption in those houses by 87 percent.

The implications are obvious. Greater energy conservation can increase our energy security. It can save taxpayers' money.

However, a fundamental problem inhibits our energy conservation efforts. Existing market barriers and incentive programs favor energy production. Not energy conservation. This must change if tremendous potential of energy conservation is to be realized.

The legislation we are introducing will preserve an important tax incentive for energy conservation.

In the spirit of conservation and reducing the demand for electricity, utilities have embarked on ambitious public education programs. The programs analyze customers' use of electricity and, if cost effective, provide funding to improve consumer energy efficiency. Typical activities include installing more efficient lighting, windows and appliances, and weatherizing older homes.

Since their inception, the IRS has treated the costs of conservation programs as deductable expenses in the year in which they occur. The costs associated with these programs include wages and salaries of employees who conduct and administer these programs, as well as grants given to contractors or customers for energy efficient measures.

I recently became aware of a problem that could send a chilling message to utilities across the country.

Due to conflicting intentions articulated by the Internal Revenue Service, the future treatment of conservation costs is unclear.

Hesitant and vague explanations from the IRS have resulted in considerable uncertainty for utilities. This uncertainty is causing utilities to place on hold or scrap altogether future upgrades and improvements in their conservation programs.

Conservation remains an essential component of any national energy plan. If conservation is to remain a viable option, we must act next year to clarify the tax treatment of these expenses.

The bill we are introducing today is simple and straightforward. It will amend the Internal Revenue Code of 1986 to clarify that conservation expenditures by electric utilities are deductable for the year in which paid or incurred.

Senator GORTON and I urge our colleagues to join us in sending a clear message to utilities across the country that conservation is and will always remain one of our highest priorities.

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. 2110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC UTILITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 196 the following new section:

"SEC. 197. ENERGY CONSERVATION EXPENDITURES BY ELECTRIC UTILITIES.

"(a) GENERAL RULE.—An electric utility may treat energy conservation expenditures which are paid or incurred during the taxable year by such utility in connection with its trade or business as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(b) ENERGY CONSERVATION EXPENDITURES.—For purposes of this section, the term 'energy conservation expenditures' means expenditures for—

"(1) subsidies provided to customers for—

"(A) any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)),

"(B) any commercial energy conservation measure described in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986), and

"(C) any specially defined energy property (as defined in section 48(1)(5) of this title as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990),

"(2) energy audits of commercial, residential, and industrial properties, or

"(3) administrative, promotional, and other costs associated with the foregoing.

"(c) ELECTRIC UTILITY.—For purposes of this section, the term 'electric utility' means any person engaged in the sale of electrical energy.

"(d) WHEN METHOD MAY BE ADOPTED.-A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for any taxable year. The method adopted under this section shall apply to—

"(1) all energy conservation expenditures, and

"(2) the taxable year for which adopted and all following taxable years unless, with the approval of the Secretary, a change to a different method is authorized with respect to part or all of such expenditures."

(b) CLERICAL AMENDMENT.—the table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 197. Energy conservation expenditures by electric utilities."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made in taxable years beginning after December 31, 1980.•

• Mr. GORTON. Mr. President, I am proud to join my colleague from Washington State, Senator ADAMS, in introducing this legislation. Our legislation allows power utilities throughout the country to continue to provide valuable energy conservation assistance to businesses and residential customers.

The legislation prevents the Internal Revenue Service from retroactively

ruling that the costs of these programs must be capitalized and deducted over a 10-year period by the utility. The current practice is for the utilities to write off the entire costs of the program during the year the expenditure occurs. Unless prohibited by our legislation, a change in the IRS ruling would increase the after-tax cost of conservation programs. If these programs cost utilities more, there would be fewer instances where electricity could be saved cheaper than it could be generated.

For the utility, these costs are primarily the wages it pays to its employees for the energy saving consultations with its customers. The legislation should have no revenue impacts because it only prohibits the IRS from changing its rules regarding the treatment of the costs of these programs.

Many utilities throughout the country provide a service which analyzes its customers usage of power. The utility then makes cost-effective suggestions to the business or residential user which will reduce their demand for the energy provided by the utility. Many utilities provide grants and offer low cost loans to its customers to implement these changes. The suggestions by the utilities to its customers often include installing weatherization measures, lighting changes, and altering industrial processes.

Mr. President, the assistance in energy conservation provided by utilities to its customers has several positive impacts. First, the measure reduces the overall usage of power and lowers the pollution created during power generation. Second, in the long run, the energy conservation measures which utilities assist business and residential users to install will reduce the number of new powerplants necessary to meet the needs of the utilities customers. And third, the legislation reinforces the trend of utility regulators toward rate setting for utilities that encourages utilities to assist its customers in reducing their power needs.

Senator ADAMS and I hope the Finance Committee will seriously consider this legislation next year. I urge my colleagues in the Senate to join us in cosponsoring this important environmentally sound and energy-saving piece of legislation.

By Mr. CHAFEE:

S. 2111. A bill to amend the Internal Revenue Code of 1986 to increase the rollover period on principal residences for taxpayers whose assets are frozen in financial institutions; to the Committee on Finance.

ROLLOVER PERIOD FOR PRINCIPAL RESIDENCES

• Mr. CHAFEE. Mr. President, the bill I am introducing today would provide temporary relief to individuals in Rhode Island who may be required to pay a capital gains tax on the sale of their principal residence.

Under the Internal Revenue Code, homeowners may defer the payment of tax on the sale of their original residence by purchasing a new principal residence within 2 years, either before or after, of the date of sale of the old principal residence. Under current law, the IRS does not have the authority to waive this 2-year requirement, however, an exception does exist to provide additional 2 years for taxpayers whose tax home is outside of the United States after the date of sale of their original residence.

Many Rhode Islanders who sold their homes within the last 2 years have not been able to replace their principal residence under the 2-year rollover rules. These individuals placed the cash proceeds from the sale of their old residence in a Rhode Island financial institution that remains closed pursuant to the bank holiday declared by the Governor of Rhode Island on January 1, 1991. As a result, these individuals have not been able to purchase a new principal residence because they do not have access to their downpayments that are frozen in one of these institutions.

This bill would provide these Rhode Islanders with 2 additional years in which to replace their principal residence by expanding the exception for taxpayers with a tax home outside of the United States. By providing these taxpayers with additional time, they should be able to purchase a new home and defer the tax that would otherwise be due on the gain from the sale of their original residence.

As a result of the collapse of the State bank insurance fund and the bank holiday declared by the Governor, these Rhode Islanders will be penalized by the 2-year rollover rule. I urge my colleagues to join me in supporting this bill so that we can enact it early next year and allow these individuals to avoid this unfair result.•

By Mr. INOUYE:

S. 2112. A bill to amend the Communications Act of 1934 to encourage competition in the provision of electronic information services, to foster the continued diversity of information sources and services, to preserve the universal availability of basic telecommunications services, and for other purposes; to the Committee on Commerce, Science and Transportation.

INFORMATION SERVICES DIVERSITY ACT OF 1991

• Mr. INOUYE. Mr. President, I rise today to introduce the Information Services Diversity Act of 1991. This legislation is designed to promote the development of competition in the local telephone exchange and ensure diversity in the information services industry. Specifically, this bill allows the Bell companies into many information services and contains a waiver provision for other services. It bars the Bell companies from electronic publishing only in their service areas and only until they face competition or 12 years, which ever comes first.

This legislation is necessitated by the July 25, 1991 decision by Judge Greene in *United States* v. *Western Electric Company*, civil action No. 82-0192, (D.D.C. 1991) lifting the information services line of business restriction on the Bell operating companies. That decision could stunt the growth of and eliminate the possibility of there ever being competitive information services industry in this country. History has shown that when the telephone service industry becomes vertically integrated, anticompetitive and anti-consumer abuse is likely to follow.

The Nation's local telephone companies are not like other businesses. Because they control essential telephone facilities and because they are rate regulated, they have the incentive and ability to act anticompetitively when they enter into unregulated lines of business. I do not believe that the individual Bell companies or their employees are malevolent. On the contrary, I have found just the opposite to be the case. It is simply that the lack of competition to the Bell companies gives them substantial incentives to use their undue market power to the detriment of competitors.

Vertical integration has long been a serious problem in the telephone industry. The U.S. Government has brought four antitrust actions against AT&T in the past 75 years. The first action resulted in the 1913 Kingsbury commitment, under which AT&T agreed to sell its holdings in Western Union and to refrain from purchasing any local telephone company. The second action, in 1926, resulted in AT&T divesting its ownership of a nationwide radio programming network. The third action resulted in the 1956 consent decree, which in effect barred AT&T from offering data processing type services. The final action is the 1984 modified final judgment.

Thus, three of these actions resulted in AT&T divesting some of its operations. All of these actions resulted in AT&T or its progeny being prohibited from engaging in certain actions. With the most recent court action, we thought we had put most of these problems to rest. The source of this undue market power—the essential—bottleneck—local telephone facilities—was given to seven different companies—the regional Bell operating companies or RBOC's—and these companies were forbidden to vertically integrate into certain businesses: the provision of long distance and information services and the manufacture of communications equipment. Without the threat of discrimination or cross-subsidization by the Bell companies, competition in these three forbidden sectors has flourished.

The last two antitrust actions brought by the U.S. Government were

founded on the same premise: the structure of AT&T was inherently anticompetitive. Firms providing long distance or information services required AT&T's local telephone facilities to complete their calls. Firms manufacturing telecommunications equipment could hardly stay in business if they could not sell to AT&T's local telephone companies. Yet, AT&T, with control of almost all of this country's local telephone facilities, also was engaged in providing long distance and information services and in manufacturing equipment. Not surprisingly, AT&T, the government argued, acted to favor its own enterprises, either by cross-subsidizing them with regulated telephone revenues or by discriminating against competitors. In other words, because it controlled bottleneck facilities, AT&T had both the incentive and ability to foreclose competition. As a result, it was virtually impossible to compete against AT&T in those markets that the government had decided should be competitive.

I believe that if the Bell companies are allowed into the information services market, it is very likely that they will discriminate against unaffiliated information service providers. The problem lies in their incentives. We simply cannot ignore the regional bell operating companies' incentives and capabilities to engage in anticompetitive acts stemming from their bottleneck control. These companies will strive to do what they believe to be in the best interests of their companies and their shareholders. This means that they will undoubtedly give preferential treatment to their affiliated companies. The recent violations by NYNEX and US West are only the latest examples of the Bell companies' potential to cross-subsidize and engage in discriminatory practices.

Virtually all of the largest phone companies which have been audited by regulatory bodies have engaged in some cross-subsidization or unlawful behavior. For example, a 1986 audit by the National Association of Regulatory Utilities Commissioners [NARUC] of Ameritech found Ameritech was cross-subsidizing its regulated business through its procurement process; a 1986 audit of Pacific Telesis by the California Public Utilities Commission found that the company was cross-subsidizing by assigning personnel from the regulated company to the unregulated company, to the tune of $3 million; and a 1985 NARUC audit of Bellsouth found that the regulated business cross-subsidized new, competitive Bellsouth businesses. Finally, in a pending proceeding the FCC has proposed fining a GTE/Contel subsidiary for cross-subsidizing through a purchasing subsidiary.

The Bell companies often assert that the issue of information services was not originally a part of the case against AT&T but was added as a last minute precaution. However, there is a long history of discrimination by both AT&T and the Bell companies against the information service providers. For example, in 1990, a court determined that Southwestern Bell was charging higher prices to directory publishing competitors for listings than it charged its own subsidiaries. In 1990, the Florida Public Service Commission prohibited Southern Bell from selling its own voice messaging services to its business customers after competitors asserted that Southern Bell was discriminating against them—the case was finally settled. I could cite many examples, but I think I have made my point.

I am also concerned about the FCC's ability to monitor these potentially anticompetitive acts. The Commission's accounting standard for monitoring cross-subsidization applies only to the plant used for interstate service, which is only about one-quarter of the total telephone plant. This means that the state regulators are key to ensuring against cross-subsidies, and they have not adopted standards similar to the FCC's. There are even some States which have deregulated all or part of the provision of telephone service, thus ensuring no oversight of cross-subsidies.

Equally troubling is the well recognized fact that the Commission does not have the resources to conduct frequent audits. In 1987, a General Accounting Office study looking at ways to control cross-subsidies between regulated and unregulated telephone services found that the FCC only has the resources to audit each telephone company once every 16 years.

Three of the FCC's present Commissioners, including the Chairman, have expressed reservations about the ability of regulators to regulate telephone companies. Chairman Sikes has stated that he does not believe that career government people or for that matter non-government people can find out what the true cost of telephone service should be. Similarly, in 1990, FCC Commissioner Duggan, speaking about the possibility of letting the telephone companies provide cable service, said that he has a "nightmare" about a "sixty story building *** filled with FCC accountants that would be needed to monitor—telephone company—cross-subsidies if they were in the cable television business."

State regulators also have limited resources and have not adopted standards similar to the FCC's. FCC Commissioner Barrett, a former state regulator, stated in 1990 that "in my years of rate regulation, I've only seen maybe two States that could recognize a cross-subsidy if it was staring them in the face."

As for the matter of discrimination or self-dealing, it is not clear that the FCC has the experience or resources to monitor such practices. There is no practical way for the Commission to monitor the many thousands, possibly millions, of transactions, to determine if the price, terms and conditions are nondiscriminatory. The only way to address this problem is to simply prohibit the bell companies from providing information services in their regions. Unit competition develops, they could provide information services outside of their region.

It is argued that the entry of the RBOC's into information services will do much to improve our Nation's competitiveness. Since the RBOC's have limited experience in information services, they are most likely to enter the market through the purchase of another firm. This would merely substitute another player for existing providers. The RBOC's also contend that the U.S. is falling behind other countries, pointing to the French Minitel System. However, Minitel is a State owned telephone system that only transmits information, it does not generate information. In fact, according to Judge Greene;

> If the regional bell companies were permitted to both generate and to transmit [information], they would, certainly as of now, appear to be the only entities in the developed world to have this kind of stranglehold on information.

Judge Greene's decision to allow the Bell companies into the field of information services clearly was made reluctantly. Judge Green stated that he was almost certain that the Bell companies will use their monopoly over local exchange service to act anticompetitively in the information services market. The court of appeals, however, told Judge Greene that almost certain was not good enough. The court of appeals told him, in effect, that he had to be absolutely certain. According to Judge Greene, this standard was impossible to meet, and it left him no choice but to lift the information services restriction.

As a general matter, I have had great faith in Judge Greene. I believe that he has been flexible in his interpretation of the AT&T consent decree, and he has always provided a sound rationale for his decisions. Frankly, it is my concurrence with Judge Greene that the likelihood of anticompetitive abuse by the Bell companies is almost certain that brings me to this decision. The information services industry is not only a major economic force in this country, it also is the foundation of our political liberties. Without a strong, vibrant, and diversified information industry, our body politic might wither away. A diversity of views is the lifeblood of American political discourse, societal growth and development, and human understanding. Any threat to this diversity must be carefully considered and fully explored.

I am also concerned about the ability of GTE/Contel to engage in discrimina-

tory behavior and cross-subsidization. GTE/Contel is presently subject to restrictions imposed by a consent decree. That decree does not prohibit GTE/Contel from providing information services; it does require that they provide those services through a separate subsidiary.

Just as with the Bell companies, GTE/Contel is the monopoly provider of local telephone service to its subscribers. As a result, it has many of the same incentives as the Bell companies to use its monopoly power to give its own subsidiaries an advantage and to disadvantage its competitors. I also recognize, however, that there are some differences between GTE/Contel and the Bell companies in terms of their ability to exercise that monopoly power. The GTE/Contel telephone companies are more geographically dispersed than the Bell telephone companies and are regulated by a greater number of state regulatory agencies. These factors reduce the potential for GTE/Contel to have cause harm to consumers or in the information services market.

Therefore, this bill applies the separate subsidiary requirements and the cost allocation rules to GTE/Contel, but does not apply the entry test. In other words, this bill will not prohibit GTE/Contel from offering information services. It will simply ensure that the ratepayers and competitors of GTE/Contel will be protected from any incentives to discriminate or engage in cross-subsidization.

The bill I am introducing today takes a reasonable approach. It addresses the issue of competition head-on by forbidding the RBOC's from offering electronic publishing in there service territories until they face competition. It also recognizes that the RBOC's should not be barred from all information services. This bill allows the RBOC's to provide noncontent information services anywhere in the country immediately. This will allow the RBOC's to offer medical imaging, data processing, computer bulletin boards, voice messaging, credit verification, and other services that involve transmitting information generated by others but do not involve compiling, manipulating, or generating information.

The bill will also allow the RBOC's to provide content-based services—called electronic publishing—anywhere in the country except where they provide telephone service. In other words, each RBOC will be able to offer electronic publishing to about 88 percent of the country's population immediately.

The only restriction in the bill is that RBOC's cannot provide electronic publishing services in an area where the RBOC provides telephone service. Even this restriction is lifted when the Bell company faces competition for local telephone service.

Let me briefly summarize the major provisions of this legislation in more detail.

The entry test—This provision states that a Bell company may not provide electronic publishing in the same areas where it provides local phone service until the operating company faces competition for local telephone service. The bill defines such competition to exist when competitive telephone service is available to 50 percent of both residential and business users and 10 percent of residential and business users subscribe to the service.

This test is similar to the test for competition included in S. 12, the Cable Television Consumer Protection Act of 1991, and is also similar to a proposal offered by Senator DANFORTH in 1986 as an amendment to S. 2565.

In the event that competition does not develop in the near future, the entry test sunsets in 12 years. After 12 years, a Bell operating company would be allowed to provide electronic publishing in its service area even if there is little or no competition. Thus, the entry test is not a permanent ban in the event that it takes competition longer to develop. A study done by Dale Hatfield, "An Analysis of the Potential Availability of Local Exchange Network Alternatives", concludes that there will be competition in the next 9 to 12 years.

Thus, this test does not constitute a permanent bar. It merely restricts the Bell companies' entry until competition develops. The sunset provision ensures that in the event that competition does not develop, the Bell companies will be permitted into the field.

In addition, this bill does not require that there be competition in every State served by a Bell company before an RBOC could provide service in any State. The test is applied on a State by State basis. Thus, if the test is met in New York but not New Jersey, NYNEX could provide content services in New York but not in New Jersey.

Waiver provision—To ensure that the American public is not deprived of services in the interim, the bill also includes a waiver provision that allows an RBOC to provide a particular information service if the FCC determines that no one else is providing that service and if it would not raise subscribers' basic telephone rates. This will ensure that the public has access to services that other companies may not choose to provide.

Electronic publishing—Moreover, the ban on the provision of information services by the Bell companies only applies in those areas where they provide local phone service. The Bell companies are free to provide information services in any part of the country outside of their region. Thus, the Bell companies could provide electronic publishing—content, that is, information controlled or generated by the RBOC like stock quotes or sports data—in every area of the country where they do not provide local telephone service—about seven-eighths of the country—using a separate subsidiary.

Noncontent services—In addition, there is no prohibition on the Bell companies provision of noncontent information services, like data processing or voice mail anywhere in the country. My bill would require that all information services, content and noncontent must be provided through a separate subsidiary to ensure that there is no cross-subsidization.

Separate subsidiary provision—this provision is similar to the provision that was included in S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, which passed the Senate earlier this year. However, this provision is significantly stronger. It requires that any information services must be provided through a separate subsidiary and specifies some of the conditions that must be met to comply with that requirement.

Cost allocation rules—to protect against cross-subsidization, RBOC's that provide any information services must establish a cost allocation system that prohibits any cross-subsidization. For example, the bill would prohibit the cost of providing such services from being subsidized by revenue from the telephone exchange service or telephone exchange access services.

Removal of barriers to entry—to ensure that there are no impediments to the development of competition at the local level, an RBOC may not provide electronic publishing in a State until all legal barriers to entry of competitive telecommunications services imposed by the state have been removed. Thus, the bell companies will have the incentive to work with their state and local regulators to eliminate any barriers to competition in the local exchange. To ensure that this provision does not result in a permanent bar to the entry of the bell companies into information services, this provision also sunsets in 12 years.

Network standards—finally, to ensure that the goal of competition is met, the bill includes provisions designed to improve the reliability of the telephone network and promote the development of competition in the local exchange.

I have made some significant changes in the bill before this introduction. I believe these changes are reasonable and increase the chances for eventual passage. But I do not want to leave any members or interested parties with the impression that this bill is written in stone. I intend to hold hearings on this bill and to hear all sides of the issue. If as a result of those hearings, it is clear that changes need to be made in this legislation, I will make those changes.

However, I do believe that this legislation is necessary to address the problems I have raised.

Mr. President, I believe that this issue is one of the most important issues to face the 102d Congress. I look forward to the support of my colleagues on this measure next year.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2112

Be in 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 "Information Services Diversity Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the national welfare will be enhanced by the continued development of robust competition in the provision of electronic information services and telecommunications services;

(2) the widest possible availability of information and telecommunications services requires an open telecommunications infrastructure that incorporates market-driven advances in technology and whose features and functions are available on a non-discriminatory and unbundled basis;

(3) the availability of multiple and interconnected complementary telecommunications networks can enhance competition in the provision of information and telecommunications services;

(4) the redundancy inherent in a pluralistic telecommunications infrastructure offers protection against network failures;

(5) the cost-effective deployment of advanced public telecommunications networks, subject to appropriate safeguards, can further the long-standing goals of universal telephone service at affordable rates;

(6) the provision of information services by operating companies prior to development of an effectively competitive telecommunications infrastructure would likely lead to higher rates for telephone exchange service and jeopardize the diversity of information sources and services; and

(7) current regulatory policies must be revised and supplemented to ensure the universal availability of telephone exchange service at reasonable rates and fair competition in delivery of telecommunications and information services.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure the continued availability of affordable telecommunications and information services that are essential to full participation in the nation's economic, political, and social life;

(2) encourage the continued development of advanced, reliable telecommunications networks;

(3) ensure that the costs of such networks and the services provided over them are allocated equitably among users; and

(4) ensure that the provision of information services by operating companies does not jeopardize the universal availability of telephone exchange service at reasonable rates or undermine competition in the information services marketplace.

TITLE I—INFRASTRUCTURE DEVELOPMENT

SEC. 101. NETWORK STANDARDS.

Title II of the Communications Act of 1934 is amended by inserting after section 201 the following new section:

"SEC. 201A. NETWORK STANDARDS.

"(a) SERVICE QUALITY.—

"(1) ADOPTION OF STANDARDS.—A Federal-State Joint Board shall be established under section 410(c) not later than 90 days after the enactment of this subsection to impose and enforce network quality standards upon the common carriers for the purpose of ensuring the continued maintenance and evolution of common carrier facilities and services. Not later than 180 days after the date of enactment of this subsection, the Joint Board shall initiate a rulemaking proceeding to establish standards, to be enforced by the Commission and the State commissions as to matters within their respective jurisdictions, for measuring common carrier network quality.

"(2) REPORT.—Each common carrier shall submit to the Joint Board established pursuant to paragraph (1) a quarterly data report, in a form required by the Joint Board, regarding compliance with the prescribed network quality standards. The Joint Board may require periodic independent audits of common carrier compliance with the network quality standards. The Commission, upon the recommendation of the Joint Board, shall establish enforcement penalties and procedures, including expedited customer complaint mechanisms, to ensure common carrier compliance with network quality standards.

"(b) INTERCONNECTION.—

"(1) GENERALLY.—Each local exchange carrier shall provide interconnection, on a reasonable and non-discriminatory basis, to common carriers and other providers of telecommunications services and information services who request it. An interconnecting party may physically colocate the equipment necessary for interconnection at the premises of a local exchange carrier, except as provided under paragraph (2).

"(2) VIRTUAL COLOCATION.—A local exchange carrier that can demonstrate by a preponderance of the evidence in a particular case that the physical colocation required under paragraph (1) is not practicable for technical reasons or because of space limitations shall offer an interconnecting party virtual colocation with its premises. Virtual colocation shall be economically and technically comparable to interconnection that is or would be obtained through physical colocation of the interconnecting party's equipment at the premises of the local exchange carrier. Nothing in this paragraph shall relieve an operating company of its obligations under section 227(d)(12).

"(3) EXCEPTION FOR RURAL EXCHANGE CARRIERS.—Notwithstanding any other provision of this subsection, a rural exchange carrier shall not be required to provide interconnection to another local exchange carrier for telephone exchange service.

"(4) REGULATIONS.—Within 270 days after the date of enactment of the Telecommunications Act of 1991, the Commission shall—

"(A) adopt and make effective rules to enforce the obligations imposed by this subsection; and

"(B) complete an inquiry to determine whether the interconnection offered by a local exchange carrier pursuant to this subsection should provide for the portability of telephone numbers and report to Congress within 18 months.

"(C) NETWORK ACCESS.—

"(1) REVISIONS TO ORDER.—The Commission shall further revise the order of the Commission entitled 'Filing and Review of Open Network Architecture Plans,' CC Docket 88-2, Phase I, released December 22, 1988, and subsequently revised, to require that—

"(A) the plans for compliance with such order offer unbundled features and functions;

"(B) such features and functions are made available on a reasonably uniform basis by all of the common carriers subject to such order, and that such features and functions are accessible throughout the service territory of each such carrier;

"(C) such plans include a schedule for timely offering of new features and functions; and

"(D) common carriers subject to such order not unreasonably discriminate between affiliated and unaffiliated providers of information services in offering tariffed features, functions, and capabilities, and the features, functions and capabilities necessary for billing and collection.

"(2) REVIEW OF ORDER AND PLANS.—At least once every three years, the Commission shall—

"(A) conduct a proceeding in which interested parties shall have an opportunity to comment on whether and to what extent the order described in paragraph (1), as further revised, and the plans filed pursuant to it have opened the networks of the carriers subject to such order to reasonable and non-discriminatory access by providers of telecommunications services and information services; and

"(B) not later than 180 days after receiving the reply comments filed in such proceeding, revise such order as it deems necessary or appropriate and require the common carriers subject to such order to file new or amended plans consistent with such revisions, which new or amended plans shall also be subject to public comment and Commission review prior to their becoming effective.

"(d) PRIVACY.—Personally identifiable customer information obtained or collected by a local exchange carrier in the course of providing telephone exchange service shall be used only in connection with the provision of such service, and shall not be made available to any affiliate of such carrier or any other person except—

"(1) as required by law; or

"(2) with the affirmative consent of the customer to which such information relates.

"(e) TARIFFS.—

"(1) GENERALLY.—A local exchange carrier shall prepare and file tariffs in accordance with this Act with respect to the interconnection and network access services required under this section. The costs that a local exchange carrier incurs in providing such services shall be borne solely by the users of the features and functions comprising such services. The Commission shall review such tariffs to ensure that—

"(A) the charges for such services are cost-based; and

"(B) the terms and conditions contained in such tariffs do not unreasonably bundle together any separable elements, features, or functions.

"(2) SUPPORTING INFORMATION.—A local exchange carrier shall submit supporting information with its tariffs for interconnection and network access services that is sufficient to enable the Commission and the public to determine the relationship between the proposed charges and the costs of providing such services. The submission of such information shall be pursuant to rules adopted by the

Commission to ensure that similarly situated carriers provide such information in a uniform fashion.

"(3) UNIVERSAL SERVICE ELEMENT.—A local exchange carrier may, subject to regulation, include in its tariffs for interconnection services an element intended to recover the amount necessary to preclude any substantial increases in the rates for telephone exchange service that would otherwise result from the offering of interconnection services. Such element shall be imposed at a uniform rate on any person who purchases such services, and shall also be included at the same rate in such carrier's charges for services offered by the carrier in competition with the services offered by interconnecting parties. No later than 270 days after the date of enactment of the Telecommunications Act of 1991, the Commission shall adopt and make effective rules governing the calculation of such element. Any amounts recovered by the local exchange carrier through the imposition of this additional element shall be used to defray the costs of providing telephone exchange service.

"(f) RESALE.—The resale of telephone exchange service (or unbundled elements of such service) in conjunction with the furnishing of an interstate telecommunications service or any information service shall not be prohibited or subject to unreasonable conditions by the Commission, any State, or any local exchange carrier.

"(g) COORDINATED PLANNING.—The Commission shall adopt and make effective rules for the conduct of coordinated network planning by common carriers, subject to Commission supervision, to ensure (1) the effective and efficient interconnection and interoperability of common carrier networks, and (2) that the design of such networks does not impede access to information services by subscribers to telephone exchange service furnished by a rural exchange carrier.

"(h) STUDY.—No later than 270 days after the enactment of the Telecommunications Act of 1991, the Commission shall initiate an inquiry to examine the effect of competition in the provision of telephone exchange access and telephone exchange service on the availability and rates for telephone exchange service furnished by rural exchange carriers."

SEC. 102. EXPEDITED REVIEW OF CERTAIN COMPLAINTS.

Section 208 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) EXPEDITED REVIEW OF CERTAIN COMPLAINTS.—The Commission shall issue a final order with respect to any complaint arising from alleged violations of section 201A within one year after such complaint is filed.".

SEC. 103. EXPEDITED LICENSING OF NEW TECHNOLOGIES AND SERVICES.

Section 7 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) LICENSING OF NEW TECHNOLOGIES.—Within twenty-four months after making a determination under subsection (b) that a technology or service related to the furnishing of telecommunications services or information services is in the public interest, the Commission shall adopt and make effective rules for—

"(1) the provision of such technology or service; and

"(2) the filing of applications for the authorizations necessary to offer such technology or service to the public,

and shall act on any such application within twenty-four months after it is filed. Any application filed by a carrier under this subsection for the construction or extension of a line shall also be subject to section 214 and to any necessary approval by the appropriate State commissions.".

TITLE II—PROVISIONS AFFECTING OPERATING COMPANIES

SEC. 201. PROVISION OF INFORMATION SERVICES.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

SEC. 227. PROVISION OF INFORMATION SERVICES BY OPERATING COMPANIES.

"(a) PROVISION OF SERVICES.—An operating company or an affiliate thereof may only provide information services, subject to this section and title VI.

"(b) ELECTRONIC PUBLISHING.—

"(1) ENTRY TEST.—An operating company or an affiliate thereof may not offer electronic publishing services in a State in which such company or affiliate provides telephone exchange service until the Commission, after notice and opportunity for public comment and after consultation with the Department of Justice and the appropriate State commission, determines that—

"(A) at least 50 percent of all businesses and residences within the areas in such State which such company or any affiliate thereof provides telephone exchange service have access to transmission and switching facilities (other than those owned or controlled by an operating company or its affiliate) that are comparable in quality, cost, geographic range, and functionally to those offered by the operating company for the delivery of electronic publishing services; and

"(B) at least 10 percent of all businesses and residences within the areas in such State in which such company provides telephone exchange service subscribe to services delivered over such alternative facilities; and

"(C) it is unlikely that the operating company could use its position as a local exchange carrier to (i) impede competition in the provision of such electronic publishing services, or (ii) impose additional costs upon subscribers of telephone exchange service.

"(2) SUNSET.—Subparagraphs (A) and (B) of paragraph (1) shall cease to be effective 12 years after the date of enactment of the Telecommunications Act of 1991.

"(c) WAIVER.—An operating company or an affiliate thereof may petition the Commission for a waiver of subsections (b)(1) and (h) to provide a particular electronic publishing service. Such petition shall be granted if such company or affiliate can demonstrate to the Commission by a preponderance of the evidence that (A) such service would not exist unless offered by such company or affiliate, and (B) the provision of such service by such company or affiliate would not impose additional costs upon subscribers of telephone exchange service. The Commission shall provide notice and opportunity for public comment with respect to any petition for a waiver pursuant to this subsection, and shall issue a final order with respect to any such petition no later than one year after it is filed. The provision of any service authorized pursuant to this subsection shall be subject to all of the other provisions of this Act, including the requirements of this section.

"(d) SEPARATE SUBSIDIARY.—

"(1) GENERALLY.—Except as provided in subsection (e), an operating company or affiliate thereof may provide information services only through a subsidiary that is separated from the telephone exchange service operations of the operating company, in accordance with the requirements of this subsection and the regulations prescribed by the Commission to carry out this subsection.

"(2) MINIMUM NUMBER OF OUTSIDE DIRECTORS.—Any subsidiary required by this subsection shall have a board of directors not less than 33 percent of whom are not employees, officers, or directors of any operating company or any affiliate of such company.

"(3) TRANSACTION REQUIREMENTS.—Any transaction between a subsidiary required by this section and any operating company or between such subsidiary and any other affiliate of such company—

"(A) shall not be based upon any preference or discrimination in favor of the subsidiary arising out of the subsidiary's affiliation with the operating company;

"(B) shall be carried out in the same manner as such company or affiliate conducts such business with unaffiliated persons;

"(C) shall be pursuant to contract or tariff reported to the Commission and made available for public inspection;

"(D) shall be fully auditable and reflect all costs associated with the conduct of such business; and

"(E) shall not have the effect of permitting any violation of the requirements of subsection (f) of this section.

"(4) SEPARATE OPERATION AND PROPERTY.—A subsidiary required by this subsection may not—

"(A) enter into any joint venture or partnership with the operating company or any affiliate of such company;

"(B) have employees or a financial structure (other than as provided in this section) in common with the operating company or any affiliate of such company;

"(C) own any property in common with an operating company or any affiliate of such company; or

"(D) establish any other subsidiary or affiliate except after notice to the Commission in such form and containing such information as the Commission may require.

"(5) SEPARATE COMMERCIAL ACTIVITIES.—A subsidiary required by this subsection shall carry out directly its own marketing, sales, accounting, hiring and training of personnel, purchasing, and maintenance.

"(6) BOOKS, RECORDS, AND REPORTS.—Any subsidiary required by this subsection shall—

"(A) maintain books, records, and accounts in a manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the operating company and the other affiliates of the operating company, and which shall identify any conduct of business with such company and any such affiliates; and

"(B) prepare its own financial statements (including balance sheets and the related statements of operations, stockholders' equity, and cash flows) that are not consolidated with the financial statements of the operating company and any other affiliate of such company; and

"(C) prepare and file with the Commission, whether or not such subsidiary is publicly traded, the annual and periodic reports required of publicly traded companies by the Securities and Exchange Commission.

"(7) ADVERTISING.—A subsidiary required by this subsection may not carry out advertising with the operating company, except that such subsidiary may carry out institutional advertising with such company if (A) such advertising does not specifically relate to any service, and (B) the subsidiary and the operating company share any costs of such advertising in proportion to their revenue.

"(8) SECURITIES INFORMATION.—A subsidiary required by this subsection shall submit to the Commission a copy of any statement or prospectus that such subsidiary is required to file with the Securities and Exchange Commission.

"(9) OUTSIDE OWNERSHIP.—An operating company or an affiliate thereof may not own more than 90 percent of any class of outstanding capital stock of any affiliated subsidiary required by this subsection.

"(10) TRANSMISSION CAPACITY.—A separate subsidiary required by this subsection may not own any transmission facilities, and may obtain the use of such facilities from an affiliated operating company or affiliate thereof only pursuant to tariffs of general applicability.

"(11) PRESERVATION OF SEPARATE SUBSIDIARY REQUIREMENTS FOR GRANDFATHERED FUNCTIONS.—Nothing in this subsection shall be construed to relieve an operating company or any affiliate thereof (or any other local exchange carrier or affiliate thereof) of any separate subsidiary requirement imposed before December 1, 1991.

"(12) PROVISION OF SERVICES AND INFORMATION.—An operating company may not provide any services or information to a subsidiary required by this subsection unless such services or information are made available to others on the same terms and conditions.

"(e) EXCEPTION TO SEPARATE SUBSIDIARY REQUIREMENT.—An operating company or affiliate thereof shall not be required to establish a subsidiary pursuant to subsection (d) with respect to any information service that such company or affiliate was authorized to provide on or before December 1, 1991.

"(f) PREVENTION OF CROSS SUBSIDIES.—

"(1) COST ALLOCATION SYSTEM REQUIRED.—Any operating company that provides information services, or which has an affiliate that is engaged in the provision of such services, shall establish and administer, in accordance with the requirements of this subsection and the regulations prescribed thereunder, a cost allocation system that, together with the subsidiary requirements of subsection (d), is intended to prohibit any cost of providing such services from being subsidized by revenue from telephone exchange service or telephone exchange access services.

"(2) COST ASSIGNMENT AND ALLOCATION REGULATIONS.—

"(A) GENERALLY.—The Commission shall establish regulations to require the just and reasonable assignment and allocation of all costs that are in any way incurred by an operating company or any affiliate thereof in the provision of any information service.

"(B) JOINT AND COMMON COSTS.—The regulations adopted pursuant to this paragraph shall include a requirement that any costs of any investment or other expenditure that cannot be allocated based upon direct or indirect measures of cost causation shall be allocated to unregulated services—

"(i) under a formula that ensures that the rates for telephone exchange service are no greater than they would have been in the absence of such investment (taking into account any decline in the real costs of providing such service), or

"(ii) based upon the highest forecast unregulated usage of the investment over the life of the investment,

whichever method results in the lesser allocation of such costs to telephone exchange service.

"(3) INSULATION OF RATEPAYERS.—

"(A) ASSETS.—The Commission shall, by regulation, ensure that the economic risks associated with the provision of information services by operating companies or affiliates thereof (including any increases in the operating company's cost of capital that occur as a result of the provision of such services) are not borne by customers of telephone exchange service. In the event of a business loss or failure, investments or other expenditures assigned to information services shall not be reassigned to telephone exchange service or telephone exchange access service.

"(B) DEBT.—Any operating company affiliate—

"(i) which is providing information services, and

"(ii) which is required to be or is structurally separate from an affiliate engaged in the provision of telephone exchange service,

shall not obtain credit under any arrangement that (I) would permit a creditor, upon default, to have recourse to the assets of the operating company, or (II) would induce a creditor to rely on the tangible or intangible assets of the operating company in extending credit.

"(4) TRANSFERS OF ASSETS BETWEEN AFFILIATED COMPANIES.—The Commission shall prescribe regulations governing the accounting for the transfer of assets between a subsidiary required by this section and any operating company or between such subsidiary and any other affiliate of such company. Such regulations shall protect the interests of ratepayers of telephone exchange service and require such transfer to be conducted by means of a transaction that complies with subsection (d)(3). Such regulations shall require that—

"(A) any transfer of assets from such subsidiary to its affiliated operating company or any affiliate of that company be valued at the lesser of net book cost of fair market value; and

"(B) any transfer of assets from an operating company or its affiliate to such subsidiary be valued at the greater of net book cost or fair market value.

"(5) ANNUAL AUDITING REQUIREMENT.—

"(A) AUDIT APPLICABILITY AND PURPOSE.—Each operating company that engages in, or has an affiliate that engages in, or has a financial or management interest in an organization or entity that provides information services, shall provide annually to the Commission, and to the State commission of each State within which such company provides telephone exchange service, a report on the results of an audit by an independent auditor conducted for the purpose of determining whether the company has—

"(i) established and administered a cost allocation system as required by paragraph (1) of this subsection, and

"(ii) complied with the cost assignment and allocation regulations prescribed under this subsection.

"(B) CONDUCT OF AUDIT.—Such audit shall be conducted, at operating company expense, in accordance with audit procedures prescribed by the Commission, by regulation, which shall include approval of auditor selection by the Commission and rotation of auditors or other procedures to ensure the independence of such auditor.

"(C) SUBMISSION OF AUDIT RESULTS; CERTIFICATION.—The operating company shall submit the audit to the Commission, which shall make the audit report available for public inspection. Such report shall be certified by the person conducting the audit and by an appropriate officer of such affiliate and shall identify with particularity any qualifications or limitations on such certification and any other information relevant to the enforcement of the requirements of this section.

"(D) ACCESS TO DOCUMENTS.—For purposes of conducting and reviewing such audit—

"(i) the auditor, the Commission, and a State commission with jurisdiction over the operating company shall have access to the accounts and records of the operating company and to those accounts and records of any of its affiliates necessary to verify transactions conducted with the operating company; and

"(ii) the Commission and a State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this paragraph.

"(g) RECOVERY OF USE OF INTANGIBLE ASSETS.—The Commission and a State commission shall, within their respective jurisdictions, require an operating company or any affiliate thereof that provides telephone exchange service to assess any subsidiary providing information services a charge for the reasonable value of any intangible assets used in the provision of information services, and to credit the amount of such charge to the provision of telephone exchange service.

"(h) REMOVAL OF BARRIERS TO COMPETITIVE ENTRY.—

(1) GENERALLY.—An operating company or affiliate thereof may not provide electronic publishing services, other than those it provided on or before December 1, 1991, in a State in which such company or affiliate provides telephone exchange service, unless and until all legal and regulatory entry barriers to the competitive provision of telecommunications services imposed by such State or the State commission in such State have been removed with respect to such company or affiliate.

(2) SUNSET.—Paragraph (1) shall cease to be effective 12 years after the date of enactment of the Telecommunciations Act of 1991.

"(i) PROVISION OF GATEWAY SERVICES.—Any operating company or affiliate thereof that offers a gateway service shall make such service available concurrently to all of its subscribers under non-discriminatory rates, terms, and conditions.

"(j) ENFORCEMENT.—A person who is injured by a violation of any of the requirements of this section may, in lieu of filing a complaint under section 208, commence a civil action for injunctive relief and monetary damages in any Federal judicial district in which the defendant resides or has an agent. A residential customer of telephone exchange service shall have standing to commerce an action under this section, without regard to the amount in controversy. In any action brought under this section, the court may award the costs of litigation (including reasonable attorneys fees).

"(k) ADDITIONAL AUTHORITY.—In addition to any other authority which the Commission may exercise under this Act, the Commission shall take such actions as are necessary—

"(1) to prevent anticompetitive practices between a subsidiary required by subsection (d) and operating company or any affiliate of the operating company;

"(2) to protect ratepayers of operating companies from subsidizing the provision of information services by such companies or their affiliates; and

"(3) to prevent any operating company or any affiliate thereof from imposing any unjust or unreasonable rates or charges for any common carrier services that are provided in connection with the provision of information services.

(l) APPLICABILITY TO OTHER LOCAL EXCHANGE CARRIERS.—Subsections (a), (d), (e),

(f), (g), (i), (j), (k), and (m), shall apply to any local exchange carrier that, as of December 1, 1991, was subject to the order entered on December 21, 1984, as restated January 11, 1985, in *United States* v. *GTE Corporation*, Civil Action No. 83-1298 (United States District Court, District of Columbia), or any affiliate of such carrier.

"(m) DEFINITIONS.—As used in this section—

"(1) AFFILIATE.—The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, or is owned or controlled by, or is under common ownership or control with, an operating company. For purposes of this paragraph, the terms 'own' 'owned', and 'ownership' means a direct or indirect equity interest (or equivalent thereof) of more than 10 percent of an organization or entity, or the right to more than 10 percent of the gross revenues of an organization or entity under a revenue sharing or royalty agreement, or any substantial management or financial interest.

"(2) OPERATING COMPANY.—The term 'operating company'—

"(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, new England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, US West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, the Bell Telephone Company of Pennsylvania, the Chesapeake and Potomac Telephone Company, the Chesapeake and Potomac Telephone Company of Maryland, the Chesapeake and Potomac Telephone Company of Virginia, the Chesapeake and Potomac Telephone Company of West Virginia, the Diamond State Telephone Company, the Ohio Bell Telephone Company, the Pacific Telephone and Telegraph Company, and Wisconsin Telephone Company; and

"(B) includes any success or assign of any such company, but does not include any affiliate of any such company.

"(3) GATEWAY SERVICE.—The term 'gateway service' means an information service that, at the request of the provider of an electronic publishing service or other information service, provides a subscriber with access to such electronic publishing service or other information service, utilizing the following functions: data transmission, address translation, billing information, protocol conversion, and introductory information content.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(d) SEPARATE SUBSIDIARY REQUIREMENTS.—Such sums as may be necessary are authorized to be appropriated for the implementation and enforcement of the requirements of section 208(c) and 227 of this Act. Such funds shall be in addition to any appropriations authorized under subsection a.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DEFINITIONS.

Section 3 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsections:

"(hh) 'Electronic publishing service' means the provision of any information—

"(1)(A) that the provider or publisher has (or has caused to be) authored, originated, gathered, collected, produced, compiled, edited, categorized, or indexed; or

"(B) in which the provider or publisher has a direct or indirect financial or proprietary interest; and

"(2) which is disseminated to an unaffiliated person through some electronic means.

"(ii) 'Information services' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information that may be conveyed via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(jj) 'Local exchange carrier' means a provider of telephone exchange service that is classified by the Commission as a dominant carrier.

"(kk) 'Rural exchange carrier' means a local exchange carrier serving a total of 50,000 or fewer access lines.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the customer, of information of the customer's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(mm) 'Telecommunications service' means the public or private offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 302. JURISDICTION.

Section 2 of the Communications Act of 1934 is amended—

(1) in subsection (b), by striking out "223 or 224" and inserting "223, 224, 225, and 227"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b), a State may not regulate the rates, terms, or conditions for the offering of information services, except as provided in this subsection and title VI.

"(2) A State may impose regulations upon a local exchange carrier with respect to the intrastate provision of information services by such carrier or an affiliate thereof if—

"(A) such regulations are necessary and appropriate to separate the provision of such services from the provision of telephone exchange services by such carrier or affiliate;

"(B) such regulations are intended to protect the privacy rights of customers of telephone exchange services;

"(C) such regulations do not affect the rates, terms, or conditions for the provision of such information services or the types of such services offered by such carrier or affiliate; and

"(D) such regulations are not inconsistent with the purposes of this Act or impede significantly the enforcement of this Act or any regulation or order prescribed by the Commission pursuant to this Act.".

SEC. 303. TELEPHONE EXCHANGE SERVICE IN RURAL AREAS.

Nothing in the amendments made by this Act shall be construed to limit the authority of the States to take actions, consistent with the findings and purposes of this Act, to ensure the availability of telephone exchange service at reasonable rates in areas served by rural exchange carriers (as such terms is defined in section 3(kk) of the Communications Act of 1934).

SEC. 304. APPLICABILITY OF OTHER PROVISIONS OF COMMUNICATIONS ACT.

Nothing in the amendments made by this Act shall be construed to relieve an operating company or affiliate thereof (as such terms are defined in section 227 (m) of the Communications Act of 1934) of any of the obligations, limitations, or responsibilities imposed by any other provision of the Communications Act of 1934, as amended.

SEC. 305. APPLICABILITY OF ANTITRUST LAWS.

(a) APPLICABILITY OF THE MODIFICATION OF FINAL JUDGMENT.—An operating company shall remain fully subject to the Modification of Final Judgment in all respects except as expressly provided in the amendments made by this Act.

(b) NO ANTITRUST, IMMUNITY.— Nothing in the amendments made by this Act shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law to the actions of an operating company or affiliate thereof (as such terms are defined in section 227(m) of the Communications Act of 1934).

(c) DEFINITIONS.— For purposes of this section—

(1) FEDERAL ANTITRUST LAWS.— The term "Federal antitrust laws" means—

(A) the acts cited in section 1 of the Clayton Act (15 U.S.C. 12);

(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

(C) any law enacted after the date of enactment of this Act by the Congress which prohibits, or makes available to the United States or to any person in any court of the United States any civil remedy with respect to, any restraint upon, or monopolization of, interstate or foreign trade or commerce.

(2) MODIFICATION OF FINAL JUDGMENT.— The term "Modification of Final Judgment" means the order entered August 24, 1982, in *U.S. V. Western Electric Co.*, Civil Action No. 82-0192 (United States District Court, District of Columbia).•

By Mr. PACKWOOD:

S. 2114. A bill to amend the Social Security Act to provide access to health care benefits for all Americans, and for other purposes; to the Committee on Finance.

COMPREHENSIVE HEALTH INSURANCE PLAN OF 1991

• Mr. PACKWOOD. Mr. President, I introduce a bill which I ask that it be appropriately referred. I ask unanimous consent that the entire contents 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. 2114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Health Insurance Plan of 1991" (to be known as CHIP of 1991).

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—EMPLOYER-PROVIDED HEALTH INSURANCE

Sec. 101. Employers required to offer basic health plans to employees and families.

Sec. 102. Tax penalties on noncomplying employers and insurers.

TITLE II—HEALTH CARE COVERAGE FOR INDIVIDUALS NOT OTHERWISE COVERED UNDER QUALIFIED EMPLOYER PLANS OR MEDICARE

Sec. 201. Expanded medicaid health care coverage of individuals not otherwise covered by qualified employer plans or medicare.
Sec. 202. Permitting buy-in to medicare for certain uninsured individuals.

TITLE III—HEALTH CARE ACCESS—TAX PROVISIONS

Sec. 301. Refundable credit for small business health care costs.
Sec. 302. Health insurance credit doubled to assist low-income employees.
Sec. 303. Repeal of EITC interactions.
Sec. 304. Deductibility for self-employed individuals.

TITLE IV—ADMINISTRATIVE PROVISIONS AND REPORT

Sec. 401. Development and application of uniform administrative procedures.
Sec. 402. Additional funding for outcomes research and practice guidelines.
Sec. 403. Annual report on health care.

TITLE I—EMPLOYER-PROVIDED HEALTH INSURANCE

SEC. 101. EMPLOYERS REQUIRED TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—EMPLOYER-PROVIDED HEALTH PLANS

"PART A—REQUIREMENT TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES

"Subpart 1—General Requirements and Definitions

"Sec. 2101. Application to employees.
"Sec. 2102. Treatment of all family members as a unit.
"Sec. 2103. Definitions relating to employment and employees.
"Sec. 2104. Definitions relating to families.
"Sec. 2105. Application of requirement to employers.

"Subpart 2—Qualified Employer Plans

"Sec. 2111. Certification of qualified employer plans.
"Sec. 2112. Definitions relating to qualified employer plans.

"Subpart 3—Requirements for Qualified Employer Plans

"Sec. 2121. Basic benefits.
"Sec. 2122. Timing of enrollment; period of coverage; employer plan cards.
"Sec. 2123. Limits on exclusions and coverage standards for basic benefits.
"Sec. 2124. Employee premiums and cost-sharing.
"Sec. 2125. Coordination and portability of health coverage under qualified employer plans.
"Sec. 2126. Use of uniform claims forms.

"Subpart 4—General Protections

"Sec. 2131. Consumer protections.
"Sec. 2132. Preemption of certain State requirements.

"PART B—SMALL EMPLOYER PURCHASING GROUPS

"Sec. 2141. Grants to small employer purchasing groups.
"Sec. 2142. Rules of operation.
"Sec. 2143. Freedom of contract.
"Sec. 2144. Small employer defined.

"PART C—SMALL EMPLOYER HEALTH INSURANCE REFORM

"Sec. 2151. General requirements for health insurance plans issued to small employers.
"Sec. 2152. Rating practices.
"Sec. 2153. Stricter State standards permitted.

"PART A—REQUIREMENT TO OFFER BASIC HEALTH PLANS TO EMPLOYEES AND FAMILIES

"Subpart 1—General Requirements and Definitions

"SEC. 2101. APPLICATION TO EMPLOYEES.

"(a) GENERAL RULE.—Except as provided in succeeding subsections of this section, each employer shall, in accordance with this part, offer to each of its eligible employees a qualified employer plan. Such offer—

"(1) shall include at least—

"(A) 1 basic health plan, and

"(B) 1 basic coordinated care plan (if the employer is located in the service area of such a plan), and

"(2) may include 1 or more—

"(A) enhanced health plans, or

"(B) enhanced coordinated care plans.

"(b) MULTIPLE EMPLOYERS.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), in the case of an individual who is an eligible employee of more than 1 employer, if more than 1 such employer offers the employee enrollment under a qualified employer plan, the individual shall elect (in a manner specified by the Secretary) the qualified employer plan under which the individual (and the individual's family) will be enrolled.

"(2) ALTERNATIVE PROCEDURE DEVELOPED BY THE SECRETARY.—Paragraph (1) shall not apply if the Secretary develops a procedure to require an individual who is an eligible employee of more than 1 employer to enroll in the qualified employer plan of the employer for which the individual reasonably expects to work the most hours.

"(3) BOTH ELIGIBLE EMPLOYEES.—In the case of married individuals who are both eligible employees of 1 or more employers, rules established by the Secretary based on the rules under paragraph (1) or (2) shall apply.

"(4) OTHER EMPLOYER'S OBLIGATIONS.—An employer who is not elected under paragraph (1) nor identified under paragraph (2) is not obligated to offer the employee (and family members) a qualified employer plan and may not charge the individual any premiums for coverage under such qualified employer plan.

"(c) TREATMENT OF EMPLOYEES UNDER COLLECTIVE BARGAINING AGREEMENT.—The requirements of this part shall not apply to eligible employees of an employer subject to a collective bargaining agreement between representatives of the employees and the employer if—

"(1) there is evidence health benefits of the employees were the subject of good faith bargaining, and

"(2) the agreement does not provide that this part shall apply.

"(d) NONAPPLICATION TO RESIDENTS OF PUERTO RICO AND TERRITORIES.—The provisions of this title shall not apply with respect to an employee who is not a resident of one of the 50 States or the District of Columbia.

"SEC. 2102. TREATMENT OF ALL FAMILY MEMBERS AS A UNIT.

"The offer of enrollment of an individual in a qualified employer plan required under section 2101(a) shall include enrollment of the family of the individual.

"SEC. 2103. DEFINITIONS RELATING TO EMPLOYMENT AND EMPLOYEES.

"(a) EMPLOYMENT, ETC.—In this title—

"(1) EMPLOYMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'employment' has the meaning given such term by section 3121(b) of the Internal Revenue Code of 1986.

"(B) TREATMENT OF FEDERAL EMPLOYMENT.—In applying subparagraph (A), the term 'employment' shall not be considered to include service performed in the employ of the United States if, in connection with the performance of such service (or the service of a family member), the individual is provided medical and dental benefits under chapter 55 of title 10, United States Code.

"(3) EMPLOYEE; EMPLOYER.—The terms 'employee' and 'employer' have the same meanings as such terms have for purposes of chapter 21 of the Internal Revenue Code of 1986.

"(b) DEFINITIONS RELATING TO EMPLOYEES.—In this title:

"(1) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means, with respect to an employer, an employee who is reasonably expected to perform for that employer on a weekly basis at least 25 hours of service and on a yearly basis at least 16 weeks of service.

"(2) TREATMENT OF CONSULTANTS AND CONTRACTORS.—The term 'eligible employee' includes an individual who is a consultant or contractor of an employer if the Secretary determines that the consulting arrangement or contract was entered into to avoid the requirements of this title.

"(3) EXCLUSION OF FOREIGN EMPLOYMENT.—The term 'eligible employee' does not include an individual—

"(A) who is not a citizen or resident of the United States with respect to service performed outside the United States, or

"(B) who is a citizen or resident of the United States with respect to services performed outside the United States for an employer other than an American employer (as defined in section 3121(h) of the Internal Revenue Code of 1986).

"SEC. 2104. DEFINITIONS RELATING TO FAMILIES.

"In this title:

"(1) IN GENERAL.—Except as provided in paragraph (2), the terms 'family' and 'family member' mean an individual, the individual's spouse, and the dependents of the individual (as defined under section 152 of the Internal Revenue Code of 1986).

"(2) TREATMENT OF FAMILIES WITH MEDICARE BENEFICIARIES FOR COVERAGE PURPOSES.—In the case of a family with a medicare beneficiary, if coverage is provided to family members other than on the basis of employment of a family member, the beneficiary shall not be treated under this title as a member of the family for purposes of determining eligibility for coverage but shall be treated as a separate individual.

"(3) SPOUSE.—The term 'spouse' means, with respect to an individual, the individual to which the individual is married.

"(4) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703 of the Internal Revenue Code of 1986.

"SEC. 2105. APPLICATION OF REQUIREMENT TO EMPLOYERS.

"The requirements of this part apply as of January 1, 1993.

"Subpart 2—Qualified Employer Plans

"SEC. 2111. CERTIFICATION OF QUALIFIED EMPLOYER PLANS.

"(a) IN GENERAL.—An employer plan shall be treated as a qualified employer plan if,

upon application, it is certified as meeting the requirements of each section of subpart 3 of this part by the State in which such plan is located, or, in the absence of State procedures or in the case of a self-insured plan, by the Secretary.

"(b) CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—Each State and the Secretary shall establish, not later than October 1, 1992, or the date specified by paragraph (2), procedures for the certification and periodic review and recertification of plans as qualified employer plans.

"(2) EXCEPTION TO EFFECTIVE DATE OF PROCEDURES.—In the case of a State—

"(A) requiring State legislation (other than legislation appropriating funds) in order to establish the procedures described in paragraph (1), and

"(B) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(c) TERMINATION OF CERTIFICATION.—A State or the Secretary, as appropriate, shall terminate the certification of a plan as a qualified employer plan if the State or Secretary determines that the plan no longer meets the requirements for certification. Before effecting a termination, the State or Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"SEC. 2112. DEFINITIONS RELATING TO QUALIFIED EMPLOYER PLANS.

"For purposes of this title:

"(1) EMPLOYER PLAN.—The term 'employer plan' means any health plan offered by an employer to its employee, but does not include any of the following:

"(A) Accident only insurance, disability only insurance, or long-term care only insurance.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Workmen's compensation or similar insurance.

"(D) Automobile medical-payment insurance.

"(2) BASIC HEALTH PLANS; BASIC COORDINATED CARE PLANS.—The terms 'basic health plan' and 'basic coordinated care plan' mean a health plan and a coordinated care plan, respectively, which only provide the basic benefits required under section 2121.

"(3) ENHANCED HEALTH PLANS; ENHANCED COORDINATED CARE PLANS.—The terms 'enhanced health plan' and 'enhanced coordinated care plan' mean a health plan and a coordinated care plan, respectively, which, in addition to providing the basic benefits required under section 2121, provide supplemental benefits. The terms 'enhanced health plan' and 'enhanced coordinated care plan' do not include plans which only provide supplemental benefits.

"(4) HEALTH PLAN.—The term 'health plan' means any plan which is a hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement.

"(5) COORDINATED CARE PLAN.—

"(A) IN GENERAL.—Until such time as the definition provided by the Secretary under subparagraph (G) takes effect, the term 'coordinated care plan' means a plan operated by a coordinated care entity that provides for the financing and delivery of health care services to individuals enrolled in such plan through—

"(i) arrangements with participating providers to furnish health care services;

"(ii) explicit standards for the selection of participating providers;

"(iii) organizational arrangements for ongoing quality assurance and utilization review programs;

"(iv) financial incentives for individuals enrolled in the plan to use the participating providers and procedures provided for by the plan; and

"(v) a care coordinator responsible for guiding individuals enrolled in the plan to appropriate health care services in cost-effective settings.

"(B) COORDINATED CARE ENTITY.—The term 'coordinated care entity' includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer, or employee organization, or a coordinate care contractor, that operates a coordinated care plan.

"(C) COORDINATED CARE CONTRACTOR.—The term 'coordinated care contractor' means an individual or entity that—

"(i) establishes, operates or maintains a network of participating providers;

"(ii) conducts or arranges for a qualified utilization review program; and

"(iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a coordinated care plan.

"(D) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, pharmacy, laboratory, or other appropriately licensed or certified provider of health care services or supplies, that has entered into an agreement with a coordinated care entity to provide such services or supplies to a patient enrolled in a coordinated care plan.

"(E) CARE COORDINATOR.—The term 'care coordinator' means a physician, nurse practitioner, or other participating provider as determined by the Secretary.

"(F) QUALIFIED UTILIZATION REVIEW PROGRAM.—

"(ii) IN GENERAL.—The term 'qualified utilization review program' means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of this title.

"(ii) UTILIZATION REVIEW PROGRAM.—The term 'utilization review program' means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies provided under a coordinated care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

"(G) DEFINITION BY SECRETARY.—The Secretary shall develop, not later than January 1, 1995, a definition for the term 'coordinated care plan' for purposes of this title, including such requirements for financial participation and risk sharing as the Secretary deems appropriate.

"Subpart 3—Requirements for Qualified Employer Plans

"SEC. 2121. BASIC BENEFITS.

"(a) IN GENERAL.—The requirements of this section are met if an employer plan provides for basic benefits described in subsection (b) and meets the requirements of subsection (c).

"(b) SCOPE OF BASIC BENEFITS.—

"(1) GENERAL BENEFITS.—Except as provided in succeeding paragraphs of this subsection, the benefits provided to an eligible employee by a qualified employer plan shall consist of the same benefits as described in title XVIII to an individual entitled to benefits under part A, and enrolled under part B, of title XVIII.

"(2) ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—Subject to periodicity schedules established by the Secretary, additional benefits shall be provided to an eligible employee by a qualified employer plan for the following items and services:

"(i) Newborn and well-baby care.

"(ii) Well-child care, including routine office visits, and routine laboratory tests, for individuals who have not attained age 7.

"(iii) Cancer screening, including pap smears, mammograms, colorectal and prostate screening, and other tests as specified by the Secretary.

"(iv) Routine immunizations (including the vaccine itself).

"(v) Preventive and routine dental services for individuals who have not attained the age of 18.

"(vi) Eyeglasses and hearing aids, and routine examinations therefor for individuals who have not attained the age of 18.

"(vii) Outpatient prescription drugs, biologicals, and insulin (within the meaning of section 1927(k)).

"(viii) Family planning services.

"(B) PERIODICITY SCHEDULES.—The Secretary, in consultation with appropriate medical experts, shall establish schedules of periodicity which reflect the general, appropriate frequency with which services listed in subparagraph (A) (other than clause (vii) thereof) should be provided.

"(3) BENEFITS UNDER STATE STANDARDS.—A State may implement a standard which further limits the basic benefits required to be provided by qualified employer plans under the preceding paragraphs of this subsection, but in no event shall the State implement a standard that limits basic benefits beyond the amount, duration, and scope of benefits provided under the State plan under title XIX, as in effect on or after January 1, 1993.

"(c) MAINTENANCE OF EFFORTS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, provide rules similar to the rules of section 420(c)(3) of the Internal Revenue Code of 1986, to insure that any large employer shall maintain any benefits offered to the employees of such employer on January 1, 1993, which are in addition to the benefits required under subsection (b) for an additional 2 years after the such date.

"(2) LARGE EMPLOYER.—For purposes of paragraph (1), the term 'large employer' means, with respect to a calendar year, an employer that normally employs 100 or more eligible employees on a typical business day.

"SEC. 2122. TIMING OF ENROLLMENT; PERIOD OF COVERAGE; EMPLOYER PLAN CARDS.

"(a) GENERAL RULE.—The requirements of this section are met if an employer plan meets the requirements of subsections (b), (c), and (d).

"(b) TIMING OF ENROLLMENT.—The requirements of this subsection are met if an employer plan provides that:

"(1) ENROLLMENT UPON EMPLOYMENT.—Enrollment under the plan shall occur not later than the date on which the employment, for which such enrollment is required under this part, commences.

"(2) OPEN SEASON ONLY ONCE EVERY 2 YEARS.—Except in the case of a change in family, employment, or residence status for which coverage may be changed under subsection (c)(2), a currently enrolled eligible employee may change or modify coverage only once during any 2-year period.

"(c) PERIOD OF COVERAGE.—The requirements of this subsection are met if an employer plan provides that:

"(1) BEGINNING OF COVERAGE.—

"(A) IN GENERAL.—In the case of an individual enrolled under such plan, the benefits under the plan shall first become available for services furnished beginning on the first day of the month of enrollment.

"(B) TREATMENT OF ADDITIONS OF DEPENDENTS.—Any dependent added during the period of coverage under such plan shall, as of the date of the addition, be automatically enrolled and covered for benefits under the plan.

"(2) STANDARDS TO REFLECT OTHER CHANGES IN FAMILY, EMPLOYMENT STATUS, AND RESIDENCE.—

"(A) IN GENERAL.—Under standards established by the Secretary consistent with this paragraph, appropriate changes in coverage shall be provided to take into account—

"(i) changes in family composition or status resulting from marriage, divorce (or legal separation), and deletions of dependents,

"(ii) changes in employment status, including termination, and

"(iii) in the case of a coordinated care plan, changes in residence outside a plan's service area.

"(B) MONTHLY CHANGES.—Such standards shall be designed—

"(i) to effect a change in enrollment (or status of enrollment) as of the last day of the first month following the date of the event causing the change,

"(ii) to prevent any periods of noncoverage under any qualified employer plans, and

"(iii) to provide, in the case of a change of family status such as marriage, divorce, or legal separation, for accounting and crediting of cost-sharing among family members in an equitable and administrable manner.

"(d) EMPLOYER PLAN CARDS.—The requirements of this subsection are met if in conjunction with enrollment of individuals under an employer plan, such plan provides for the issuance of a card which may be used for purposes of identification of such enrollment and the processing of claims for benefits under the plan. The Secretary shall specify the information to be included on the card.

"SEC. 2123. LIMITS ON EXCLUSIONS AND COVERAGE STANDARDS FOR BASIC BENEFITS.

"The requirements of this section are met if an employer plan—

"(1) does not deny, limit, or condition the coverage under the plan with respect to basic benefits based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual, and

"(2) does not provide for exclusions from coverage for basic benefits that are more restrictive than the exclusions for such benefits under this part.

"SEC. 2124. EMPLOYEE PREMIUMS AND COST-SHARING.

"(a) ENROLLEE PREMIUMS AND COST-SHARING PERMITTED.—The requirements of this section are met if an employer plan provides for—

"(1) premiums, and

"(2) except as provided in subsection (e), cost-sharing amounts,

that comply with the provisions of subsections (b) and (c), respectively.

"(b) PROVISIONS RELATING TO PREMIUMS.—

"(1) LIMITATION ON PREMIUMS.—

"(A) MONTHLY PREMIUM LIMITED TO 20 PERCENT OF ACTUARIAL RATE.—

"(i) IN GENERAL.—A qualified employer plan may not require an eligible employee to pay a premium the amount of which on a monthly basis exceeds 20 percent (30 percent in the case of an eligible employee with a family member enrolled under the plan) of the monthly actuarial rate (as defined under clause (ii)).

"(ii) MONTHLY ACTUARIAL RATE DEFINED.—For purposes of this section, the term 'monthly actuarial rate' means, with respect to a qualified employer plan in a plan year, the average monthly per enrollee amount that the plan estimates, for enrollees under the plan during the year, would be necessary to pay for the total benefits required during the year under the plan, including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin.

"(2) LIABILITY FOR PAYMENT OF PREMIUMS.—An eligible employee enrolled under a qualified employer plan is liable for payment of premiums required under that plan in accordance with this subsection.

"(3) WITHHOLDING PERMITTED.—No provision of State law shall prevent an employer of an eligible employee enrolled under a qualified employer plan from withholding the amount of any premium due by the employee under this subsection from the wages paid the employee.

"(4) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing an employer from paying part or all of the employee premium for basic benefits or supplemental benefits, or

"(B) subject to subsection (f)(2), from requiring an eligible employee to pay for all or part of the premium for supplemental benefits.

"(5) NONDISCRIMINATION IN PREMIUM AMOUNTS.—Under a qualified employer plan, no eligible employee may be charged a different premium for the same coverage of basic benefits.

"(c) PROVISIONS RELATING TO COST-SHARING.—

"(1) LIMITATION ON DEDUCTIBLES.—

"(A) IN GENERAL.—Except as permitted under subparagraph (B), a qualified employer plan may not require a deductible amount for benefits provided with respect to any plan year beginning in a calendar year before 1994 that is—

"(i) in the case of a basic health plan—

"(I) with respect to any eligible employee with no family member enrolled under such plan, less than $200 or more than $400; and

"(II) with respect to any eligible employee with a family member enrolled under such plan, less than $400 or more than $800; and

"(ii) in the case of a basic coordinated care plan—

"(I) with respect to any eligible employee with no family member enrolled under such plan, more than $100 ($400 with respect to items and services provided outside the network); and

"(II) with respect to any eligible employee with a family member enrolled under such plan, more than $200 ($800 with respect to items and services provided outside the network).

"(B) DRUG DEDUCTIBLE.—A qualified employer plan may provide for a separate deductible amount for the provision of outpatient prescription drugs, biologicals, and insulin not greater than 2 times the limitation amount under subparagraph (A) applicable to the eligible employee.

"(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—A qualified employer plan may not require the payment of any copayment or coinsurance for an item or service—

"(A) in an amount that is—

"(i) in the case of a basic health plan, less than 20 percent, or more than 25 percent, of the amount payable for the item or service under the plan; and

"(ii) in the case of a basic coordinated care plan, more than 20 percent of the amount payable for the item or service under the plan; or

"(B) after an eligible employee and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in paragraph (3)) for a plan year.

"(3) LIMITATION ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an eligible employee in a plan year, amounts payable under the plan as deductibles, copayments, and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family members covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section, the term 'out-of-pocket limit' means, in the case of a basic health plan or basic coordinated care plan, for a plan year beginning in a calendar year before 1994, an amount that is—

"(i) with respect to any eligible employee with no family member enrolled under such plan, not less than $1,000 nor more than $5,000; and

"(ii) with respect to any eligible employee with a family member enrolled under such plan, not less than $2,000 nor more than $5,000.

"(d) ADJUSTMENTS TO LIMITATIONS.—

"(1) INFLATION ADJUSTMENTS.—For each calendar year after 1993, the dollar amounts described in paragraphs (1)(A) and (3)(B) of subsection (c) for the preceding calendar year shall be increased by the percentage increase in the wage index, as published by the Bureau of Labor Statistics, for the 12-month period ending on September 30 of such preceding calendar year.

"(2) APPLICATION ON BASIS OF FAMILY STATUS.—Except as provided by the Secretary, a qualified employer plan may, with respect to basic benefits, provide for premiums, deductibles, copayments, and coinsurance to be applied, and the monthly actuarial rate described in subsection (b)(1)(A)(ii) to be estimated, on the basis of the number of family members of an eligible employee.

"(e) COST CONTAINMENT ARRANGEMENTS IN LIEU OF COST-SHARING AMOUNTS.—A qualified employer plan shall be permitted to provide for lower employee cost-sharing amounts if the plan contains such cost containment arrangements as described by the Secretary.

"(f) TREATMENT OF SUPPLEMENTAL COVERAGE.—

"(1) GENERAL RULE.—Nothing in this section shall be construed as preventing a qualified employer plan from providing for deductibles, coinsurance, and copayments or other restrictions with respect to supplemental benefits that are different from those permitted with respect to basic benefits.

"(2) EXCEPTION FOR NON-OPTIONAL SUPPLEMENTAL BENEFITS.—If a qualified employer plan is an enhanced health plan or an enhanced coordinated care plan and the eligible employee may not elect to forego the supplemental benefits, the plan—

"(A) may not impose a premium, for such basic and supplemental benefits, that exceeds the premiums that may be imposed for the basic benefits, and

"(B) shall assure that cost-sharing is not imposed with respect to basic benefits once the cost-sharing limit has been reached in a year with respect to all benefits.

"SEC. 2125. COORDINATION AND PORTABILITY OF HEALTH COVERAGE UNDER QUALIFIED EMPLOYER PLANS.

"(a) IN GENERAL.—The requirements of this section are met if an employer plan meets the requirements of subsections (b) and (c).

"(b) REQUIREMENTS RELATING TO COORDINATION.—The requirements of this subsection are met if an employer plan provides for coordination of—

"(1) enrollment and termination of enrollment among the qualified employer plans, the State plan under section 1902(a)(10)(G), and the program under title XVIII, and

"(2) application of deductibles and limitations on cost-sharing among such plans,

in accordance with standards established by the Secretary consistent with this part.

"(c) REQUIREMENT OF NOTICES WITH RESPECT TO TERMINATION OF COVERAGE.—

"(1) IN GENERAL.—The requirements of this subsection are met if an employer plan provides notice at the time an individual's coverage under the plan is terminated. Such notice shall be provided (in a form and manner and at a time specified by the Secretary) to—

"(A) the individual (or in the case of a dependent, the eligible employee), and

"(B) the State agency administering the State plan under section 1902(a)(10)(G).

"(2) NOTICES OF TERMINATION.—Each notice of termination under paragraph (1) shall include—

"(A) the effective date of the termination,

"(B) the names and other identifying information of family members whose coverage is affected by the termination, and

"(C) in the case of notice to the State, sufficient information to facilitate enrollment of the individuals affected under the State plan under section 1902(a)(10)(G).

"SEC. 2126. USE OF UNIFORM CLAIMS FORMS.

"The requirements of this section are met if an employer plan provides for submission of claims using uniform claims forms developed by the Secretary.

"Subpart 4—General Protections

"SEC. 2131. CONSUMER PROTECTIONS.

"(a) COORDINATION AMONG PLANS.—The Secretary shall provide for such standards as may be necessary to provide for the allocation of responsibility among qualified employer plans (including the State plan under section 1902(a)(10)(G) and the program under title XVIII) in the case of—

"(1) an inpatient hospital stay, or

"(2) a single payment amount made for other services provided over a period of time, that begins during the period of coverage under one qualified employer plan and ends during a period of coverage under another qualified employer plan.

"(b) PROTECTION AGAINST PROVIDER CLAIMS.—In the case of a failure of a qualified employer plan to make payments with respect to basic benefits, an individual who is enrolled under the plan is not liable to any health care provider or practitioner with respect to the provision of such benefits for payments in excess of the amount for which the enrollee would have been liable if the plan were to have made payments in a timely manner.

"SEC. 2132. PREEMPTION OF CERTAIN STATE REQUIREMENTS.

"(a) BENEFIT AND COVERAGE RULES.—Effective as of January 1, 1993, no State shall establish or enforce any law or regulation that—

"(1) requires the offering, as part of a qualified employer plan which is a basic health plan or a basic coordinated care plan, of any services, category of care, or services of any class or type of provider other than the basic benefits required to be provided under section 2121,

"(2) specifies the individuals to be covered under such a qualified employer plan or the duration of such coverage, or

"(3) requires a right of conversion from such a qualified employer plan to an individual basic health plan or basic coordinated care plan.

"(b) COORDINATED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—Effective as of January 1, 1993, with respect to any qualified employer plan which is a coordinated care plan, no requirement of any State law or regulation shall—

"(A) prohibit or limit such coordinated care plan from including financial incentives for enrollees to use the services of participating providers;

"(B) prohibit or limit such coordinated care plan from restricting coverage of services to those—

"(i) provided by a participating provider; or

"(ii) authorized by a designated participating provider;

"(C) subject to paragraph (2)—

"(i) restrict the amount of payment made by such coordinated care plan to participating providers for services provided to enrollees; or

"(ii) restrict the ability of such coordinated care plan to pay participating providers for services provided to enrollees on a per-enrollee basis;

"(D) prohibit or limit such coordinated care plan from restricting the location, number, type, or professional qualifications of participating providers;

"(E) prohibit or limit such coordinated care plan from requiring that services be authorized by a primary care physician selected by the enrollee from a list of available participating providers;

"(F) prohibit or limit the use of utilization review procedures or criteria by a qualified utilization review program or such coordinated care plan;

"(G) require a qualified utilization review program or such coordinated care plan to make public utilization review procedures or criteria;

"(H) prohibit or limit a qualified utilization review program or such coordinated care plan from determining the location or hours of operation of a utilization review, provided that emergency services furnished during the hours in which the utilization review program is not open are not subject to utilization review;

"(I) require a qualified utilization review program or such coordinated care plan to pay providers for the expenses associated with responding to requests for information needed to conduct utilization review;

"(J) restrict the amount of payment made to a qualified utilization review program or such coordinated care plan for the conduct of utilization review;

"(K) restrict access by a qualified utilization review program or such coordinated care plan to medical information or personnel required to conduct utilization review;

"(L) define utilization review as the practice of medicine or another health care profession; or

"(M) require that utilization review be conducted—

"(i) by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or

"(ii) by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(2) EXCEPTIONS TO CERTAIN REQUIREMENTS.—

"(A) SUBPARAGRAPH (C).—Subparagraph (C) of paragraph (1) shall not apply where the amount of payments with respect to a block of services or providers is established under a statewide system applicable to all non-Federal payers with respect to such services or providers.

"(B) SUBPARAGRAPHS (L) AND (M).—Nothing in subparagraphs (L) or (M) of paragraph (1) shall be construed as prohibiting a State from

"(i) requiring that utilization review be conducted by a licensed health care professional, or

"(ii) requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

"(c) STATE DEFINED.—In this section, the term 'State' means the 50 States and the District of Columbia.

"PART B—SMALL EMPLOYER PURCHASING GROUPS

"SEC. 2141. GRANTS TO SMALL EMPLOYER PURCHASING GROUPS.

"(a) GRANT AUTHORITY.—The Secretary may award grants to qualified small employer purchasing groups to assist such groups in paying the expenditures associated with the formation and initial operations of such groups.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a qualified small employer purchasing group shall request such a grant as part of an application submitted by such group to the Secretary at such time, in such form, and containing such information, as the Secretary may require, including certification that such entity complies with all rules established by the State in which such entity is located, or in the absence of such rules, any rules established by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to award grants under this section, such sums as may be necessary.

"SEC. 2142. RULES OF OPERATION.

"(a) ESTABLISHMENT OF RULES.—Each State shall establish, not later than October 1, 1992, or the date specified by subsection (c), rules governing the approval of the operation of an entity as a small employer purchasing group in such State. Such rules shall require that—

"(1) the entity is administered solely under the authority and control of its member employers;

"(2) the membership of the entity consists solely of small employers (except that an employer member of the group may retain its membership in the group if, after the State determines that the entity meets the requirements of this subsection, the employer member ceases to be a small employer);

"(3) with respect to the State in which its members are located, the entity consists of not fewer than 10 employers;

"(4) the employer plans with respect to the employer members of the entity comply with applicable State laws and part A of this title;

"(5) each small employer in the geographic area covered by the program of the entity may become a member employer of the entity:

"(6) each enrollee in the program of the entity may enroll with any participating carrier that offers qualified employer plans in the geographic area in which the enrollee resides;

"(7) such entity will be a private, profit or nonprofit entity; and

"(8) the entity file an application for approval with the State.

"(b) APPLICATION FOR APPROVAL.—Each entity desiring approval to operate as a small employer purchasing group in any State shall submit an application to such State. Such application shall describe—

"(1) the details of the group program and the participation requirements for small employers;

"(2) the program goals for reducing the price of health insurance for small employers and increasing insurance coverage among employees of small employers and their dependents;

"(3) the approaches proposed for enlisting participation by insurers and small employers; and

"(4) relevant financial information, including plan sponsor fees, the procedure for the collection by the group of employer and employee premiums from employers, and the use of prepayment of premiums or other mechanisms to assure that premium payments will be made for coverage.

"(c) EXCEPTION TO EFFECTIVE DATE OF RULES.—In the case of a State—

"(1) requiring State legislation (other than legislation appropriating funds) in order to establish the rules described in subsection (a), and

"(2) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(d) ABSENCE OF STATE ACTION.—In the absence of any State action to establish rules described in subsection (a) by the date specified in such subsection, the Secretary shall promulgate rules, including application forms, for the approval of entities to operate as small employer purchasing groups in such State.

"SEC. 2143. FREEDOM OF CONTRACT.

"Nothing in this subpart shall be construed to prohibit a participating carrier from offering health care insurance coverage to small employers that are not participating in the program of a small employer purchasing group.

"SEC. 2144. SMALL EMPLOYER DEFINED.

"In this title, the term 'small employer' means, with respect to a calendar year, an employer that normally employs less than 100 eligible employees on a typical business day. For the purposes of this paragraph, the term 'employee' includes a self-employed individual.

"PART C—SMALL EMPLOYER HEALTH INSURANCE REFORM

"SEC. 2151. GENERAL REQUIREMENTS FOR HEALTH INSURANCE PLANS ISSUED TO SMALL EMPLOYERS.

"(a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—Each insurer shall register, not later than January 1, 1993, with the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for each State in which it issues or offers basic health plans or basic coordinated care plans to small employers.

"(b) GUARANTEED ELIGIBILITY.—No insurer may exclude from coverage any eligible employee, or the spouse or any dependent of the eligible employee, to whom coverage is made available by a small employer.

"(c) GUARANTEED AVAILABILITY.—

"(1) STATE STANDARD.—

"(A) IN GENERAL.—An insurer that offers a basic health plan or a basic coordinated care plan to small employers located in a State must meet—

"(i) the availability standard of the State which requires that any insurer offering a basic health plan or a basic coordinated care plan to a small employer in the State offer the same plan to all other small employers in the State, or

"(ii) if determined by the State to be in the best interests of the insured in such State, any other standard which insures such availability.

"(B) ADOPTION OF STANDARDS.—

"(i) IN GENERAL.—Each State shall adopt a standard described in subparagraph (A) not later than January 1, 1993, or the date specified in clause (ii).

"(ii) EXCEPTION TO EFFECTIVE DATE OF STANDARDS.—In the case of a State—

"(I) requiring State legislation (other than legislation appropriating funds) in order to adopt a standard described in subparagraph (A), and

"(II) having a legislature which does not meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this clause is the first day of the first calendar quarter beginning after the close of the first regular legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular legislative session of the State legislature.

"(iii) ABSENCE OF STATE ACTION.—In the absence of any State action to adopt a standard described in subparagraph (A) by the date specified in such subsection, the Secretary, in consultation with the Secretary of the Treasury, shall develop requirements with respect to guaranteed availability to apply with respect to insurers located in such State.

"(2) TREATMENT OF COORDINATED CARE ENTITIES.—

"(A) GEOGRAPHIC LIMITATIONS.—A coordinated care entity may deny coverage under a basic coordinated care plan to a small employer whose employees are located outside the service area of the entity, but only if such denial is applied uniformly without regard to health status or insurability.

"(B) SIZE LIMITS.—A coordinated care entity may apply to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for a State to cease enrolling new small employer groups in basic coordinated care plans (or in a geographic area served by such plans) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups.

"(3) GROUNDS FOR REFUSAL TO RENEW.—An insurer may refuse to renew, or may terminate, a basic health plan or a basic coordinated care plan under this part only for—

"(A) nonpayment of premiums,

"(B) fraud or misrepresentation, or

"(C) failure to maintain minimum participation rates.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—An insurer shall ensure that a basic health plan or a basic coordinated care plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for a reason specified in paragraph (2) or in subsection (c)(3).

"(2) TERMINATION OF SMALL EMPLOYER BUSINESS.—An insurer is not required to renew a basic health plan or a basic coordinated care plan with respect to a small employer if the insurer—

"(A) elects not to renew all of its basic health plans and basic coordinated care plans issued to small employers in a State; and

"(B) provides notice to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for such State and to each small employer covered under a plan of such termination at least 180 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any health insurance plan to a small employer in the State during the 5-year period beginning on the date of termination of the last plan not so renewed.

"(e) BASIC COORDINATED CARE OPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an insurer offers a basic coordinated care plan in a State or a geographic area within a State to employers that are not small employers, the insurer must offer such basic coordinated care plan to small employers in the State or geographic area.

"(2) SIZE LIMITS.—An insurer may cease enrolling new small employer groups in a basic coordinated care plan if it ceases to enroll any new employer groups in such plan.

"SEC. 2152. RATING PRACTICES.

"(a) LIMITATIONS ON EXPERIENCE RATING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in establishing premium rates for basic health plans and basic coordinated care plans offered to small employers in a State, an insurer may use experience ratings.

"(2) TOTAL CLAIMS EXCEEDING $10,000.—An insurer offering basic health plans and basic coordinated care plans to small employers in a State must apply the amount by which total claims for the calendar year on a per employee basis exceed $10,000 across all small employer blocks of business of such insurer in such State.

"(3) NONDISCRIMINATION.—Each State shall promulgate such rules as are necessary to insure that rating practices of insurers in such State do not treat similarly situated employees differently.

"(b) PUBLICATION OF RATES.—

"(1) IN GENERAL.—Not later than April 1 of each year beginning with calendar year 1993, each insurer which issues or offers basic health plans and basic coordinated care plans to small employers in a State shall

provide to the commissioner or superintendent of insurance or other authority responsible for regulation of health insurance for such State the average rates for such basic health plans and for such basic coordinated care plans charged by such issuer to small employer blocks of business in such State for the previous calendar year.

"(2) PUBLICATION.—Not later than July 1 of each year, each State shall publish a schedule of the average rates provided under paragraph (1).

"(c) BLOCK OF BUSINESS DEFINED.—In this section:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'block of business' means, with respect to an insurer, all of the small employers with either basic health plans or basic coordinated care plans issued by the insurer (as shown on the records of the insurer).

"(2) DISTINCT GROUPS.—

"(A) IN GENERAL.—Subject to subparagraph (B), a distinct group of small employers with either basic health plans or basic coordinated care plans issued by an insurer may be treated as a block of business by such insurer if all of the plans in such group—

"(i) are marketed and sold through individuals and organizations that do not participate in the marketing or sale of other distinct groups by the insurer,

"(ii) have been acquired from another insurer as a distinct group, or

"(iii) are provided through an association with membership of not less than 10 small employers that has been formed for purposes other than obtaining health insurance.

"(B) EXCEPTION ALLOWED.—Except as provided in paragraph (3), an insurer may not establish more than one distinct group of small employers for each category specified in subparagraph (A).

"(3) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in paragraph (1) or (2) to account for differences in characteristics (other than differences in plan benefits) of basic health plans and basic coordinated care plans that are expected to produce substantial variation in health care costs.

"SEC. 2153. STRICTER STATE STANDARDS PERMITTED.

"Nothing in this subpart shall be construed as preventing any State from imposing—

"(1) stricter requirements than those imposed by section 2151(d) and 2152, or

"(2) requirements in addition to those imposed by this subpart,

on insurers which issue or offer basic health plans or basic coordinated care plans to small employers.".

SEC. 102. TAX PENALTIES ON NONCOMPLYING EMPLOYERS AND INSURERS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to taxes on qualified pension plans, etc.) is amended by adding at the end thereof the following new sections:

"SEC. 4980C. FAILURE TO OFFER TO ENROLL ELIGIBLE EMPLOYEES IN QUALIFIED EMPLOYER PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to offer to enroll any eligible employee in a qualified employer plan under part A of title XXI of the Social Security Act.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to an eligible employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to offer to enroll any eligible employee in a qualified employer plan under part A of title XXI of the Social Security Act with respect to any eligible employee shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the eligible employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the eligible employee shall be treated as if the employee had elected the most favorable coverage in light of the expenses incurred since the failure first occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a qualified employer plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the qualified employer plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(e) DEFINITIONS.—For purposes of this section, the terms 'eligible employee' and 'qualified employer plan' have the meanings given such terms by sections 2103(b)(1) and 2111 of the Social Security Act, respectively.

"SEC. 4980D. FAILURE TO SATISFY CERTAIN STANDARDS FOR SMALL EMPLOYER HEALTH INSURANCE COVERAGE.

"(a) GENERAL RULE.—In the case of any person issuing a qualified employer plan to a small employer, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year the applicable requirements of part C of title XXI of the Social Security Act. The Secretary of Health and Human Services shall determine whether any person meets the requirements of such part.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 25 percent of the gross premiums received during such taxable year with respect to all qualified employer plans issued to small employers by the person on whom such tax is imposed.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 person. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 person. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

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

"(1) QUALIFIED EMPLOYER PLAN; SMALL EMPLOYER.—The terms 'qualified employer plan' and 'small employer' have the meanings given such terms by sections 2111 and 2144 of the Social Security Act, respectively.

"(2) PERSON.—The term 'person' means any person that offers a qualified employer plan to a small employer, including a licensed insurance company, a prepaid hospital or med-

ical service plan, a health maintenance organization, or in States which have distinct insurance licensure requirements, a multiple employer welfare arrangement.".

(c) CLERICAL AMENDMENT.—The table of sections for such chapter 43 is amended by adding at the end thereof the following new items:

"Sec. 4980C. Failure to offer to enroll eligible employees in qualified employer plans.

"Sec. 4980D. Failure to satisfy certain standards for small employer health insurance coverage.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on or after January 1, 1993.

TITLE II—HEALTH CARE COVERAGE FOR INDIVIDUALS NOT OTHERWISE COVERED UNDER QUALIFIED EMPLOYER PLANS OR MEDICARE

SEC. 201. EXPANDED MEDICAID HEALTH CARE COVERAGE OF INDIVIDUALS NOT OTHERWISE COVERED BY QUALIFIED EMPLOYER PLANS OR MEDICARE.

(a) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" at the end of subparagraph (F); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) subject to section 1916(g), for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17), and (21), to uninsured individuals described in section 1905(t);".

(b) UNINSURED INDIVIDUALS DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) The term 'uninsured individual' means an individual—

"(1) who is not otherwise eligible under this title or title XVIII of this Act;

"(2) who is not eligible for coverage under a qualified employer plan (described in part A of title XXI of this Act); and

"(3) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 240 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.".

(c) LONG-TERM CARE COVERAGE EXCEPTED.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) as amended by subsection (a), is amended in the matter following subparagraph (G)—

(1) by striking "; and (XI)" and inserting "(XI)";

(2) by striking ", and (XI)" and inserting "(XII)"; and

(3) by adding at the end the following new clause: "and (XIII) the medical assistance made available to an individual described in section 1905(t) who is eligible for medical assistance only because of subparagraph (G) shall not include medical assistance for long-term care services (as determined by the Secretary);".

(d) STATE FLEXIBILITY IN PROVIDING BENEFITS AND COVERAGE.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) as amended by subsection (c)—

(A) by striking "and (XIII)" and inserting "(XIII)"; and

(B) by adding at the end the following new clause: "and (XIV) the medical assistance made available to an individual described in section 1905(t) may be made available to such individuals without regard to the requirements of paragraph (1) or subparagraph (B) of this paragraph;"; and

(2) in section 1905(a)(22) (42 U.S.C. 1396d(a)(22)), by striking "medical care" and inserting "medical care (including, at the option of a State, payment of premiums for enrollment of individuals described in subsection (t) in private insurance plans or coordinated care plans (as defined in section 2112(5) of title XXI of this Act) or other insurance plans as approved by the Secretary)".

(f) PREMIUMS AND COST SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (b), by striking "(A) or (E)" and inserting "(A), (E) or (G)"; and

(2) by adding at the end the following new subsection:

"(g) The State plan shall provide that in the case of uninsured individuals described in section 1905(t)—

"(1) whose family income (as determined under paragraph (3) of that section) does not exceed 100 percent of the official poverty line referred to in that paragraph, there may be imposed premiums, deductibles or other cost sharing with respect to such individuals as long as such requirements are nominal in amount (as determined by the Secretary); and

"(2) whose family income (as determined under paragraph (3) of that section) is greater than 100 percent of the official poverty line referred to in that paragraph, there may be imposed premiums, deductibles or other cost sharing with respect to such individuals on a sliding-scale basis based on the individuals' level of income as long as such requirements do not exceed the limitations for such requirements specified in section 2124 of part A of title XXI of this Act.".

(g) INCREASE IN FEDERAL PAYMENT TO STATES ENROLLING INDIVIDUALS IN COORDINATED CARE PLANS.—Section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be increased by 5 percent with respect to amounts expended as medical assistance with respect to individuals described in section 1905(t) who are enrolled in coordinated care plans (as defined in section 2112(5) of title XXI of this Act).".

(h) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a state that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 202. PERMITTING BUY-IN TO MEDICARE FOR CERTAIN UNINSURED INDIVIDUALS.

(a) IN GENERAL.—Section 1818(a)(1) of the Social Security Act (42 U.S.C. 1395i-2(a)(1)) is amended by inserting "(A)" after "(1)" and by adding at the end "or (B) has attained the age of 55 but has not attained the age of 65 and is not otherwise eligible under a qualified employer plan described in part A of title XXI of this Act,".

(b) BUY-IN UNDER PART A THROUGH PAYMENT OF PREMIUMS OF FULL BENEFIT COSTS.—Section 1818(d) of such Act (42 U.S.C. 1395i-2(d)) is amended—

(1) in paragraph (1), by inserting "and individuals described in subsection (a)(1)(B)" after "individuals age 65 and over"; and

(2) in paragraph (3), by inserting "and individuals described in subsection (a)(1)(B)" after "individuals age 65 and over".

(c) BUY-IN UNDER PART B THROUGH PAYMENT OF PREMIUMS OF FULL BENEFIT COSTS.—Section 1839(a) of such Act (42 U.S.C. 1395i(a)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall, during September of 1992, and of each year thereafter, determine and promulgate the monthly actuarial rate which shall be applicable for the succeeding calendar year for individuals described in section 1818(a)(1)(B). Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals and enrollees age 65 and older will equal 100 percent of the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals and such enrollees. In calculating the actuarial rate, the Secretary shall include an appropriate amount for a contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage under parts A and B for months beginning on or after January 1, 1993.

TITLE III—HEALTH CARE ACCESS—TAX PROVISIONS

SEC. 301. REFUNDABLE CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the qualified health care costs paid by such employer during the taxable year.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HEALTH CARE COSTS.—The term 'qualified health care costs' means the excess of—

"(A) the amounts paid by the eligible small employer for health care coverage or benefits of its eligible employees for the taxable year, over

"(B) 5 percent of the wages paid or incurred with respect to such employees for such taxable year.

"(2) ELIGIBLE SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small employer' means any person—

"(i) which, on an average business day during the preceding taxable year, had more than 1 but less than 100 eligible employees, and

"(ii) at least 50 percent of the eligible employees of which during the taxable year received health care coverage.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means an employee who—

"(A) with respect to an eligible small employer, is reasonably expected to perform for that employer on a weekly basis at least 25 hours of service and on a yearly basis at least 16 weeks of service, and

"(B) does not have any health care coverage or benefits other than that provided by the eligible small employer.

The term 'eligible employee' shall not include a self-employed individual as defined in section 401(c)(1).

"(4) WAGES.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to dollar limitation contained in such section).

"(c) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—Rules similar to the rules of subsection (g) of section 32 shall apply to any credit to which this section applies.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 77 of such Code is amended by inserting after section 7523 the following new section:

"SEC. 7524. ADVANCE PAYMENT OF CREDIT FOR SMALL BUSINESS HEALTH CARE COSTS.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 35.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(1) determine whether the taxpayer will be entitled to a refund by reason of section 35 for the taxable year, and

"(2) estimate the amount of qualified health care costs of the taxpayer for such taxable year.

"(c) EMPLOYMENT TAX PAYMENTS OFFSET IN LIEU OF DIRECT PAYMENTS.—

"(1) IN GENERAL.—An eligible taxpayer may, in lieu of receiving payments under subsection (a) from the Secretary, reduce such taxpayer's employment tax payments by an amount equal to the payments under subsection (a).

"(2) EMPLOYMENT TAX PAYMENTS.—For purposes of this subsection, the term 'employment tax payments' means payments made of—

"(A) amounts required to be deducted and withheld under section 3401 (relating to wage withholding),

"(B) amounts required to be deducted under section 3102 (relating to FICA employee taxes), and

"(C) amounts of taxes imposed under section 3111 (relating to FICA employer taxes).

"(3) TREATMENT OF REDUCED PAYMENTS.—For purposes of this title, any reduction of an eligible taxpayer's employment tax payments shall be treated as if such taxpayer had paid to the Secretary, on the day on which wages are paid to such taxpayer's employees, an amount equal to such reduction.".

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(d) CLERICAL AMENDMENTS.—

(1) The table sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for small business health care costs.

"Sec. 36. Overpayments of tax.".

(2) The table sections for chapter 77 of such Code is amended by inserting after the item relating to section 7523 the following new item:

"Sec. 7524. Advance payment of credit for small business health care costs.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 302. HEALTH INSURANCE CREDIT DOUBLED TO ASSIST LOW-INCOME EMPLOYEES.

(a) IN GENERAL.—Subparagraph (A) of section 32(b)(2) of the Internal Revenue Code of 1986 (relating to health insurance credit) is amended—

(1) by striking "6 percent" in clause (i) and inserting "12 percent", and

(2) by striking "4.285 percent" in clause (ii) and inserting "8.57 percent".

(b) ADVANCE REFUNDING OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 3507 of such Code (relating to advance payment of earned income credit) is amended by striking "equal to such employee's earned income advance amount." and inserting "equal to the sum of such employee's—

"(1) earned income advance amount, plus

"(2) health insurance advance amount."

(2) ELIGIBILITY CERTIFICATE.—Section 3507(b) of such Code (relating to earned income eligibility certificate) is amended by striking "and at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) estimates the amount of health insurance costs (within the meaning of section 32(b)(2)(B)) of the employee for the taxable year."

(3) HEALTH INSURANCE ADVANCE AMOUNT.—Section 3507 of such Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) HEALTH INSURANCE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'health insurance advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated health insurance costs included in the earned income eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under subsection (c)."

(4) CONFORMING AMENDMENTS.—

(A) Section 3507(e) of such Code (as so redesignated) is amended—

(i) by striking "earned income advance payments" in paragraph (2) and inserting "advance payments under subsection (a)", and

(ii) by inserting "and health insurance advance amounts" after "amounts" in paragraph (3).

(B) Section 7524(c)(2) of such Code (as added by section 301) is amended by striking "section 3507(d)(2)(B)" and inserting "section 3507(e)(2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 303. REPEAL OF EITC INTERACTIONS.

(a) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(b) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) of such Code is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(c) REPEAL OF INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) of such Code is amended by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 304. DEDUCTIBILITY FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking out "25 percent of".

(b) DEDUCTION MADE PERMANENT.—Section 162(l) of such Code is amended by striking out paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE IV—ADMINISTRATIVE PROVISIONS AND REPORT

SEC. 401. DEVELOPMENT AND APPLICATION OF UNIFORM ADMINISTRATIVE PROCEDURES.

Part A of title XI of the Social Security Act (42 U.S.C. 1101 et seq.) is amended by adding at the end the following new section:

"UNIFORM ADMINISTRATIVE PROCEDURES

"SEC. 1144. The Secretary shall to the extent practicable, by no later than January 1, 1994, develop and implement a universal health identification card, uniform claims form and reporting standards to be utilized

under titles XVIII, XIX, and XXI of this Act.".

SEC. 402. ADDITIONAL FUNDING FOR OUTCOMES RESEARCH AND PRACTICE GUIDELINES.

(a) EXTENSION AND EXPANSION OF INITIAL GUIDELINES AND STANDARDS.—Subparagraph (A) of section 1142(a)(3) of the Social Security Act (42 U.S.C. 1320b-12(a)(3)) is amended—

(1) by striking "January 1, 1991" and inserting "January 1, 1993", and

(2) by striking clause (i)(I) and inserting the following:

"(i)(I) account for a significant portion of national health expenditures (including expenditures under titles XVIII and XIX); and".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 1142(i) of the Social Security Act is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $175,000,000 for fiscal year 1992;

"(B) $225,000,000 for fiscal year 1993; and

"(C) $275,000,000 for fiscal year 1994."; and

(2) in paragraph (2), by striking out "70 percent" and inserting in lieu thereof "50 percent".

SEC. 403. ANNUAL REPORT ON HEALTH CARE.

The Secretary of Health and Human Services shall not later than January 15 of each year beginning with calendar year 1994, submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives providing information (including recommendations to address problems identified) with respect to—

(1) access to health care services including the effects on access of—

(A) patterns of utilization;

(B) supply and distribution of services and providers; and

(C) demographic changes;

(2) sources of significantly changing health care costs;

(3) the effects on costs of—

(A) utilization by service, region, provider type and payer;

(B) supplies, labor, capital, and new and emerging technology;

(C) State and private efforts to contain such costs; and

(D) outcomes research and practice guidelines; and

(4) such other matters as the Secretary may consider appropriate.•

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2115. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Finance.

SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES

• Mr. MACK. Mr. President, today, with my colleague Senator GRAHAM as an original cosponsor, I will be introducing legislation to amend the Internal Revenue Code of 1986 to treat spaceports as airports under tax-exempt facility bond rules. A similar bill, H.R. 1358, has been introduced by Congressmen SHAW and BACCHUS.

Current law allows exempt facility bonds to be issued to finance certain transportation facilities: airports, docks and wharves, mass commuting facilities, high-speed intercity rail facilities, and storage or training facilities directly related to these. With the exception of high-speed intercity rail facilities, the facilities must be owned by a governmental unit to be eligible for such financing. The bill would clarify that the interest earned on bonds issued by spaceports would be exempt from Federal taxation.

The definition of spaceports includes facilities directly related and essential to servicing spacecraft, enabling spacecraft to take off or land, and transferring passengers or space cargo to or from spacecraft. The facilities must be located at, or close proximity to, the launch site to perform these functions. It also includes other functionally related and subordinate facilities at or adjacent to the spaceport, such as launch control centers, repair shops, maintenance or overhaul facilities, and rocket assembly facilities that must be located at or adjacent to the launch site.

Under the bill, spaceport property which is located on land owned by the United States and leased to a governmental unit will be treated as owned if the lease term is at least 15 years. In addition, the land will be treated as owned as long as the lease term is equal to the useful life of the property.

My State contains the Spaceport Florida Authority, created in 1989 as the Nation's first transportation authority to stimulate the development of a commercial launch facility and related infrastructure at Cape Canaveral and Cape San Blas, FL. This was the beginning of the revival of the U.S. aerospace industry in the competitive international market. The passage of my bill will be another aid in positioning our aerospace industry to compete with the rest of the world.

The Joint Committee on Taxation has looked at this bill and has estimated the proposal would reduce the Federal fiscal year budget receipts by the following: (in millions) 1992(−1); 1993(−1); 1994(−2); 1995(−3); 1996(−3); for a total revenue loss to the Treasury of $10 million between 1992–96.

In order to compete in the global marketplace, I urge my colleagues to cosponsor this bill in order to allow our infant commercial spaceports the same advantages under our tax systems as other similar facilities.

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

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPACEPORTS TREATED LIKE AIRPORTS UNDER EXEMPT FACILITY BOND RULES.

(a) IN GENERAL.—Paragraph (1) of section 142(a) of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended to read as follows:

"(1) airports and spaceports,".

(b) TREATMENT OF GROUND LEASES.—Paragraph (1) of section 142(b) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR SPACEPORT GROUND LEASES.—For purposes of subparagraph (A), spaceport property which is located on land owned by the United States and which is leased to a governmental unit shall be treated as owned by such unit if—

"(i) the lease (as defined in section 168(i)(3)) is at least 15 years, and

"(ii) such unit would be treated as owning property if such lease term were equal to the useful life of such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. RIEGLE:

S. 2116. A bill to improve the health of children by increasing access to childhood immunizations, and for other purposes; to the Committee on Finance.

COMPREHENSIVE CHILD HEALTH IMMUNIZATION ACT

Mr. RIEGLE. Mr. President, today, I am introducing the Comprehensive Child Health Immunization Act, S. 2116, to ensure that America's children get the healthy start in life that we thought we had ensured more than a decade ago.

BACKGROUND ON THE PROBLEM

In 1979, the United States reached the goal of getting 90 percent of children immunized against common but dangerous diseases before they started school. In the last 3 years, however, we've seen a dramatic rise in the number of toddlers getting sick—even dying—from measles, an entirely preventable disease. Last year, more than 25,000 kids got measles—a two-thirds jump from the year before. In Michigan, measles jumped from a record low in 1988 of 31 cases to 359 in 1989, only to be exceeded again in 1990 with 478 cases—the highest since 1979—and 1 death. Nationally, nearly 4,500 mumps cases and 3,700 whopping cough cases also developed. In fact, in Michigan whooping cough cases almost doubled between 1989 and 1990.

This frightening trend is partly due to the fact that the country's earlier success in immunizing school children has made our system lax. It's also because our vaccine delivery system has not kept up its aggressive pace of pursuing these children, and making the shots affordable and easy to obtain. The sad fact is that about a third of U.S. 2-year-olds are not protected against measles, mumps, rubella, polio, diphtheria, whopping cough, tetanus and HiB—Haemophilus influenza type B. In Michigan, where the number of children fully immunized has been dropping, the rates parallel the national figures. Among poor children in big cities, the immunization rate among 2-year-olds often is as low as 40 percent.

GOAL OF COMPREHENSIVE LEGISLATION

We in Congress responded to the measles outbreak a year ago by increasing the Federal appropriations for immunizations significantly for 1991—and we've increased funding again this year. We're trying to help the Centers for Disease Control [CDC] to attack the problem head on, but it's time to go beyond mere damage control in the short term to correct some basic infrastructure problems. That is the goal of the Comprehensive Child Health Immunization Act and I am introducing today.

Ideally, Mr. President, children should receive immunizations as part of a comprehensive, preventive health care program. Declining immunization status reflects a larger lack of access to basic health services for too many children. For many of us today, the ultimate goal is to guarantee financial access to coordinated health care for all Americans. But improvements in the childhood vaccine delivery system are needed now. The National Vaccine Advisory Committee [NVAC] to the CDC and the many child advocacy organizations it represents have set a new objective for the country. It's called every child by two and the objective is to get 90 percent immunization coverage of 2-year-olds by the year 2000.

We need to do several things to accomplish this, and I believe the Comprehensive Child Health Immunization Act will address them in a thoughtful manner, giving our public health professionals the tools and information they need to solve this problem.

Many groups, including the American Academy of Pediatrics, the Children's Defense Fund, the March of Dimes, and the Michigan Council for Maternal and Child Health, are supportive of this bill. I will continue to work with these and other groups to further refine and improve this bill as it moves through the legislative process.

IMPLEMENTATION OF CDC IMMUNIZATION PRACTICE STANDARDS

First, we have to remove the artificial barriers. For example, often children go to doctors or public health clinics for checkups, or minor illnesses, and no one checks to be sure they are up to date with their shots. It's a missed opportunity—and these opportunities also exist in our public aid programs when kids come along with their parents to offices where their benefit status is checked, and could easily receive shots, or at least have their immunization records checked. To remove these barriers, a set of standards for sound immunization practices is being drawn up by the CDC with input from a great number of public health professionals across the country through the NVAC. Adherence to these standards should be required among all who administer child vaccines, and I propose such adherence wherever Federal moneys are supporting immunizations.

Some of the opportunities for immunization will cost more money to implement—such as keeping vaccination clinics open beyond routine business hours so that working parents have more of a chance to get their kids immunized on the recommended schedule. Under S. 2116, I would authorize funds to ensure that public facilities can take steps such as these where necessary.

UTILIZING PUBLIC PROGRAMS TO INCREASE IMMUNIZATIONS

Child care programs that receive Federal assistance would be required to know the immunization status of all the children they serve and tell parents that full immunization is expected for children's participation and where to go to get them immunized. The bill would require that States getting Federal funds for these programs ensure that this happens. The programs provide assistance for child day care to working parents, including some parents who are in transition from public aid to work, as well as assistance for food programs at child care centers serving poor children.

Public aid offices should have informational materials about vaccination to give to parents, as should facilities in the private sector, such as maternity rooms of hospitals. Community centers, churches, even employment sites, present other opportunities for mothers and fathers to find useful reminders about how critical it is for kids to get their shots, and where they can get them. My legislation would require public aid programs to provide information ensuring that parents know how to get their children immunized, and allocate funds for HHS to develop consumer materials for wide distribution in communities.

INCREASED OUTREACH AND ACCESS TO IMMUNIZATIONS

In several locations, local government and private groups have mobilized to plan innovative ways for achieving their immunization objectives. Detroit is one of these areas, and some of the ideas there include setting up vaccination clinics in places where lots of children can be found, such as day care centers and adult health care clinics where kids accompany parents, even getting the word out to grandparents through AARP chapters. Here again, the local areas that have developed these plans need funds to fully operate them, and the Federal Government must help these as well as other locations that work out creative approaches. Under the Comprehensive Child Health Immunization Act, these programs are funded and funds are also used to spread the results of the techniques that work nationwide.

RESTORING MEDICAID OUTREACH FOR CHILDHOOD IMMUNIZATIONS IN MICHIGAN

Another kind of outreach required under this legislation relates to the health screening program for children in the Medicaid Program, called the Early and Periodic Screening, Diagnosis, and Treatment [EPSDT] Program. In a general way, that program already requires examinations of poor children on welfare, but States must begin to track the immunization status of those kids and aggressively try to reach out to communities at risk to ensure that children are immunized.

Mr. President, Governor Engler recently cut a successful outreach program in Medicaid's preventive health care program for children in Michigan. As reported by Michigan's Department of Public Health, these cuts mean that 40,000 children will not be immunized. The bill I am introducing today directly addresses this problem by requiring outreach for immunization under Medicaid.

NATIONWIDE TRACKING SYSTEM OF IMMUNIZATION STATUS

Public health officials need to keep track of immunization levels nationwide by location and age, but we don't have a reliable way of getting that information. Physicians, furthermore, don't have a good way to check on what shots a child needs if they haven't seen the child before. What's needed is a computerized national registry. It's going to take a couple of years to get one fully developed, but we have to start now by assisting States to put together tracking systems based on their vital records data. Under S. 2116, State demonstration projects would be funded next year. And, ultimately, we should gain a nationwide capability to assess a child's status by 1995. Having that capability will go a long way toward making all of the other outreach activities pay off.

EMERGENCY VACCINE FUND

The CDC must have funds available to respond quickly when an epidemic strikes, such as the measles outbreak that we've recently been confronting. CDC needs a permanent fund to purchase more vaccines in such emergencies to immunize those kids who have not had their second doses for measles, mumps, and rubella. This bill would authorize $20 million each year to be set aside for that purpose.

SUPPORT FOR NEEDED RESEARCH

Under this comprehensive legislation, research specifically dedicated to developing new vaccines would be supported. These are vaccines for younger infants, vaccines that combine several now administered separately, and vaccines against other childhood diseases such as chicken pox.

DEMONSTRATIONS TO TEST NEW PURCHASE AND DISTRIBUTION METHODS OF VACCINES

Finally, the high cost to physicians of purchasing vaccines directly from manufacturers is a problem we have to begin to address by finding ways to get affordable vaccines to primary care givers. One way potentially is to encourage states to buy vaccines under

CDC's contracts and distribute it to all providers at no charge. At least in Medicaid, States might save money this way by not reimbursing physicians with Medicaid funds, and physicians would not lose money as they do now when they have to accept Medicaid's low reimbursement rate.

Our goal in this part of the bill is to create incentives for all children to go back to receiving their immunizations from private providers who furnish ongoing, comprehensive health care. We also must relieve the burden on the public clinics which have been taking on an increasing portion of the task. Through demonstration grants, this bill would help States to experiment with different purchasing and distribution methods in order to find the most cost-effective way of achieving these objectives.

NEED FOR COMPREHENSIVE IMMUNIZATION PROGRAM

Mr. President, public health experts often say that the level of medical attention given to children is a measure of a country's health overall. Certainly, a child's immunization status is a strong indicator of a family's use of personal health services. The United States is now lagging behind other Western countries in its immunization rates. Our declining immunization status indicates a larger lack of access to basic health services for too many children.

Until this country reforms its health care system to make coordinated, comprehensive health care services available to all Americans, we must set our sights on an objective of giving America's children the benefit of the best our system can offer. But the system of delivering immunizations to them needs immediate improvement in order to eliminate the preventable diseases that threaten their future, and I believe this legislation takes important steps to ensure such improvement. The estimated cost of its implementation is $92.5 million in fiscal year 1993, $115.5 million in fiscal year 1994, and $140.5 million in fiscal year 1995, plus such as sums as may be needed for educational materials and to implement certain CDC practice standards.

I ask unanimous consent that the text of the bill, and a detailed summary, be printed in the RECORD.

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

S. 2116

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 "Comprehensive Child Health Immunization Act".

SEC. 2. IMPLEMENTATION OF CENTERS FOR DISEASE CONTROL PRACTICE STANDARDS.

(a) IN GENERAL.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended—

(1) by redesignating section 2106 (42 U.S.C. 300aa-6) as section 2111; and

(2) by inserting after section 2105 (42 U.S.C. 300aa-5) the following new section:

"SEC. 2106. IMPLEMENTATION AND COMPLIANCE WITH IMMUNIZATION PRACTICE STANDARDS.

"(a) DESIGNATION BY SECRETARY.—Not later than 6 months after the date of enactment of this section, the Secretary shall publish in the Federal Register a designation of those Standards for Immunization Practices, developed and published by the Centers for Disease Control under the auspices of the National Vaccine Advisory Committee (hereafter referred to in this section as the 'standards'), that the Secretary determines can be implemented without cost.

"(b) COMPLIANCE.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations that require all individuals or entities receiving assistance from the Secretary for public sector immunization and social service programs, or for private sector immunization services provided through reimbursements made under title XIX of the Social Security Act or with vaccines made available by the Centers for Disease Control, to comply with the standards designated under subsection (a) not later than 18 months after the date of enactment of this section.

"(2) STATES.—Regulations promulgated under paragraph (1) shall require States receiving Federal funds that are used to provide vaccines, to insure that recipients of such vaccines adhere to the standards designated under subsection (a).

"(3) AUDIT PROCEDURES.—The Secretary shall utilize and expand existing audit procedures to monitor compliance with the requirements of this subsection.

"(c) OTHER STANDARDS.—

"(1) PROVISION OF ASSISTANCE.—The Secretary may provide assistance to entities that receive Federal immunization grant funds, to enable such entities to implement those Standards for Immunization Practices that the Secretary determines will necessitate the commitment of additional financial resources and to increase the access of children to immunizations.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to provide assistance under paragraph (1), such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(b) CONFORMING AMENDMENTS.—

Section 2102(a)(9) of such Act (42 U.S.C. 300aa-2(a)(9)) is amended by striking out "2106" and inserting in lieu thereof "2111".

Section 2111(a) of such Act (as redesignated by subsection (a)(1)) is amended by striking out "section 2102(9)" and inserting in lieu thereof "sections 2102(9), 2106, 2107, 2108, 2109, and 2110".

SEC. 3. INCREASED IMMUNIZATION THROUGH ENROLLMENT INFORMATION.

Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2106 (as added by section 2) the following new section:

"SEC. 2107. DEVELOPMENT OF ENROLLMENT AND REFERRAL INFORMATION.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and with appropriate organizations, shall develop—

"(1) model questions concerning immunization status and medical history; and

"(2) model packets of information concerning—

"(A) the risks and benefits associated with vaccines;

"(B) locations of immunization providers with respect to each State;

"(C) other material determined appropriate by the Secretary;

for use by States in enrolling and recertifying individuals with respect to programs under this Act, part A of title IV and title XIX of the Social Security Act, the special supplemental food program under section 17 of the Child Nutrition Act of 1966, and other programs designated by the Secretary.

"(b) INCORPORATION AND PROVISION OF INFORMATION.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall require States to—

"(A) incorporate the model questions developed under subsection (a)(1) into the forms and procedures utilized by such States with respect to the programs referred to in subsection (a); and

"(B) provide the appropriate information developed under subsection (a)(2) to recipients of benefits provided under the programs referred to in subsection (a).

"(2) OTHER ENTITIES.—The model questions and informational packets developed under subsection (a) shall be administered and provided to recipients of benefits under other Federally administered health programs, including benefits under the block grant program under title V of the Social Security Act, the preventive health block grant program under part A of title XIX of this Act, and benefits provided through community and migrant health centers.

"(c) REFERRAL PROCEDURES.—Not later than 1 year after the date of enactment of this section, the Secretary shall develop and apply, and require States to apply, procedures relating to the referral of individuals for immunization services, including a plan for the provision of transportation assistance for children eligible to receive assistance under title XIX of the Social Security Act.".

SEC. 4. REQUIREMENT OF IMMUNIZATIONS WITH RESPECT TO CHILD CARE.

(a) AFDC AND FAMILY SUPPORT SERVICES.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new section:

"IMMUNIZATION STATUS OF CHILDREN

"SEC. 418 In addition to meeting the other requirements of this part, to be eligible to receive payments under this part, a State shall provide assurances to the Secretary that child care providers within the State that provide services for which assistance is provided under this part will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(b) SOCIAL SERVICES BLOCK GRANTS.—Section 2005 of the Social Security Act (42 U.S.C. 1397d) is amended by adding at the end thereof the following new subsection:

"(c) To be eligible to receive payments under this part, a State shall provide assurances to the Secretary that child care providers within the State that provide services for which assistance is provided under this part will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(c) CHILD CARE FOOD PROGRAM.—Section 17(a)(2) of the National School Lunch Act (42 U.S.C. 1766(a)(2)) is amended—

(1) in subparagraph (B), by striking out "and" at the end thereof;

(2) in subparagraph (C), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(d) CHILD CARE AND DEVELOPMENT BLOCK GRANTS.—Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e(c)(2)) is amended by adding at the end thereof the following new subparagraph:

"(K) IMMUNIZATION STATUS.—Provide assurances that child care providers within the State that provide services for which assistance is provided under this subchapter will utilize the questions concerning immunization status with respect to the children served by such providers, and provide such information to the parents or guardians of such children, as developed under section 2107 of the Public Health Service Act.".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of enactment of this Act.

SEC. 5. INCREASED OUTREACH AND ACCESS TO IMMUNIZATIONS.

(a) INFANT IMMUNIZATION INITIATIVE PLANS.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2107 (as added by section 3) the following new section:

"SEC. 2108. GRANTS FOR IMPLEMENTATION OF INFANT IMMUNIZATION PLANS AND SUPPORT OF INNOVATIVE PROGRAMS.

"(a) IN GENERAL.—The Secretary shall award demonstration grants to eligible State and local entities to enable such entities to fully implement the plans of such entities with respect to the Infant Immunization Initiative.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a State or local entity that has developed a plan under the Infant Immunization Initiative; and

"(2) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary determines appropriate, including a description of the activities the entity intends to carry out using amounts received under the grant.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to an entity unless the entity agrees to maintain the expenditures of the entity for activities of the type described in subsection (e), at a level equal to not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity is applying to receive the grant.

"(d) AMOUNT OF GRANT.—The amount of each grant provided under this section shall be determined by the Secretary based on the size and demonstrated need of the entity.

"(e) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the implementation of the immunization plan of the entity. Activities under such plan may include—

"(1) the establishment of express vaccination facilities in health clinics;

"(2) the provision of vaccinations in hospital emergency rooms, through in-home visits and in day or child care centers, Head Start institutions, and in schools;

"(3) the establishment of mobile vaccination teams; and

"(4) other activities determined appropriate by the Secretary.

"(f) INNOVATIVE LOCAL PROGRAMS.—The Secretary may make grants to local communities submitting applications that meet the requirements of subsection (b)(2), to assist such communities in carrying out innovative programs designed to increase access to immunizations.

"(g) REPORTING REQUIREMENT.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report concerning the activities undertaken using amounts received under the grant. The Secretary shall compile information received in such reports, make such information available to the public, and provide for the use of such information in the immunization planning activities of other State or local entities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GENERAL PROGRAM.—There are authorized to be appropriated to carry out this section, other than subsection (f), $20,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995. A grant awarded with amounts appropriated under this paragraph shall not be for a period in excess of 3 years.

"(2) LOCAL INNOVATIVE PROGRAMS.—There are authorized to be appropriated to carry out subsection (f), $30,000,000 for fiscal year 1993, $40,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as may be necessary for each fiscal year thereafter.".

(b) COMPLIANCE WITH PRACTICE STANDARDS.—Section 2106 of such Act (as added by section 2) is amended by adding at the end thereof the following new subsection:

"(d) SUPPORT OF OPERATIONAL ACTIVITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control, may provide assistance to entities of the type referred to in subsection (b)(1), to support the additional operational activities of immunization sites necessary to maintain compliance with the standards relating to infrastructure changes. Such assistance may also be provided to support innovative approaches designed to increase the access of children to immunization services.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(c) CONSUMER MATERIALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall provide for the development and distribution of consumer educational materials concerning childhood immunizations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993, such sums and may be necessary to carry out this subsection.

(d) EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT PROGRAM.—The Secretary of Health and Human Services shall modify regulations with respect to the Early and Periodic Screening, Diagnosis and Treatment program under title XIX of the Social Security Act, to require States to undertake aggressive outreach efforts in contacting parents concerning the immunization of their children and in tracking the immunization status of children through information submitted to the State from immunization providers seeking reimbursement under such title XIX.

SEC. 6. COMPREHENSIVE IMMUNIZATION TRACKING SYSTEM AND NATIONWIDE REGISTRY.

(a) NATIONAL HEALTH INTERVIEW SURVEY.—There are authorized to be appropriated to the Centers for Disease Control, $500,000 for fiscal year 1993, and such sums as may be necessary for each fiscal year thereafter, to pay the costs associated with the utilization of the National Health Interview Survey compiled by the National Center for Health Statistics.

(b) RESEARCH AND DEMONSTRATION PROGRAM.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2108 (as added by section 5(a)) the following new section:

"SEC. 2109. NATIONWIDE COMPUTERIZED REGISTRY RESEARCH AND DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a research and demonstration grant program to award grants to States, or other entities determined appropriate by the Secretary, for the development of computerized immunization registries in such States.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a State or other entity shall prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require, including a description of the immunization registry that such State or entity intends to develop and implement through the use of amounts received under the grant.

"(c) USE OF AMOUNTS.—A State or entity shall use amounts received under a grant awarded under this section to—

"(1) develop and implement a computerized system for the identification and tracking of children for immunization purposes;

"(2) identify appropriate mechanisms for collecting, updating, maintaining and accessing data concerning the immunization of children;

"(3) implement procedures under which vaccine providers will have access to the current immunization records of their patients;

"(4) carry out any other activities determined appropriate by the Secretary.

"(d) REPORTING REQUIREMENTS AND NATIONAL COORDINATION.—Each State or entity that receives a grant under this section shall prepare and submit to the Secretary annual reports concerning the activities undertaken with amounts provided under this section. The Secretary shall utilize such reports to develop a nationwide, computerized registry containing immunization information concerning children throughout the United States. In developing such system, the Secretary shall establish procedures—

"(1) to collect information, through coordination with existing data gathering methods utilized by the Centers for Disease Control, from health care providers and State entities concerning the immunization status of individuals;

"(2) to enable health care providers to access information concerning their patients' immunization status; and

"(3) for tracking the immunization status of children.

"(e) COORDINATION WITH OTHER PROGRAMS.—The Secretary, and each State or entity that receives a grant under this section, shall coordinate the activities under

such grant with activities carried out under section 2108.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to award grants under subsection (a), $12,000,000 for fiscal year 1993.

"(2) PURCHASE OF EQUIPMENT.—There are authorized to be appropriated to enable the Secretary to provide assistance under this section for the purchase of computer equipment, to States or entities that demonstrate the likely success of their Statewide registry system, $20,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995.

"(g) REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress, a report concerning the results of the implementation of various Statewide immunization tracking systems established under this section until such time as a nationwide system is fully implemented.".

SEC. 7. VACCINE PURCHASE AND DISTRIBUTION DEMONSTRATION PROGRAMS.

(a) PUBLIC HEALTH SERVICE ACT.—Subtitle 1 of title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by inserting after section 2109 (as added by section 6(b)) the following new section:

"SEC. 2110. PRIVATE PROVIDER VACCINE PURCHASE DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which grants will be awarded to eligible States to enable such States to purchase vaccines for distribution to and use by private health care providers.

"(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to a State unless the State agrees to maintain the expenditures of the State for activities of the type described in subsection (d), at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(d) USE OF AMOUNTS.—

"(1) IN GENERAL.—A State shall use amounts received under a grant awarded under this section to purchase vaccines (in addition to those vaccines that such State would otherwise purchase), and distribute such vaccines at no cost to private health care providers for the immunization of children.

"(2) REQUIREMENTS OF PROVIDERS.—A private health care provider that receives vaccines purchased by the State under this section shall—

"(A) administer such vaccines to patients without assessing such patients for the cost of such vaccines;

"(B) with respect to any assessments made for the costs of administering such vaccines to patients—

"(i) prominently display information that indicates that no individual will be denied a vaccine made available under this section because of the inability of such individual to pay for the costs associated with the administration of such vaccine by the provider; and

"(ii) base such assessments on the ability of the patients to pay, consistent with applicable State requirements;

"(C) provide the State with information concerning the number of individuals treated with such vaccines; and

"(D) carry out any other activity determined appropriate by the State.

"(3) REPORTS.—A State that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the findings of the State with respect to any decrease, during the period for which the report is prepared, in the number of individuals referred by private health care providers to public providers for immunization purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1993 through 1995.

"(f) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section. Such report shall include an assessment of whether the number of individuals referred by private health care providers to public providers for immunization purposes decreased in States awarded grants under this section during grant years.".

(b) SOCIAL SECURITY ACT.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE PROVIDER VACCINE PURCHASE DEMONSTRATION PROGRAM

"SEC. 1931. (a) ESTABLISHMENT.—The Secretary shall establish a demonstration program under which grants will be awarded to eligible States to enable such States to purchase vaccines for distribution to and use by private health care providers and to provide such providers with increased reimbursements for immunization services provided under this title.

"(b) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) MAINTENANCE OF SUPPORT.—The Secretary may not award a grant under this section to a State unless the State agrees to maintain the expenditures of the State for activities of the type described in subsection (d), at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(d) USE OF AMOUNTS.—

"(1) IN GENERAL.—A State shall use amounts received under a grant awarded under this section to—

"(A) purchase vaccines (in addition to those vaccines that such State would otherwise purchase), and distribute such vaccines at no cost to private health care providers, on a use and replacement basis, for the immunization of children who are eligible for medical care under this title; and

"(B) provide increased reimbursements under this title to private health care providers with respect to immunization services for which reimbursement is provided under this title.

"(2) REQUIREMENTS OF PROVIDERS.—A private health care provider that receives vaccines purchased by the State under this section shall—

"(A) provide the State with information concerning the number of individuals treated with such vaccines; and

"(B) carry out any other activity determined appropriate by the State.

"(3) REPORTS.—A State that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the findings of the State with respect to—

"(A) any decrease, during the period for which the report is prepared, in the number of individuals referred by private health care providers to public providers for immunization purposes;

"(B) any increase in the number of individuals immunized under this title; and

"(C) any savings achieved by the State in the expenses of such State under this title.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1993 through 1995.

"(f) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the demonstration program established under this section. Such report shall include an assessment of—

"(1) whether the number of individuals referred by private health care providers to public providers for immunization purposes decreased in States awarded grants under this section during grant years: and

"(2) the potential savings under this title with respect to immunized children.".

SEC. 8. NATIONAL FUND FOR DISEASE OUTBREAK CONTROL.

Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended—

(1) in paragraph (1)(A), by inserting "as provided in paragraph (3), and except" after "Except"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) There are authorized to be appropriated $20,000,000 for fiscal year 1993, and each fiscal year thereafter, to be deposited in the National Fund for Disease Outbreak Control established under subparagraph (B).

"(B) The Secretary shall establish and administer a National Fund for Disease Outbreak Control. Such Fund shall be used by the Secretary to provide additional resources to enable the Centers for Disease Control to control the outbreaks of diseases requiring additional vaccine purchases.

"(C) Upon the determination by the Secretary that an unanticipated disease outbreak of the type described in subparagraph (B) occurs, the Secretary shall utilize the Fund established under such subparagraph to provide the Centers for Disease Control with the resources necessary to control the spread of such disease through the implementation of necessary preventive measures, including the reimmunization of children in disease-affected areas who have not yet received the recommended second-dose immunization against the disease.

"(D) Amounts appropriated under this paragraph shall remain available without fiscal year limitation.".

SEC. 9. SUPPORT FOR SPECIAL VACCINE RESEARCH.

Section 2102(a) of the Public Health Service Act (42 U.S.C. 300aa-2(a)) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RESEARCH.—The Director of the Program shall make appropriations available to appropriate Federal agencies to enable such agencies to carry out special research with respect to—

"(A) the development of vaccines that are safe and effective in younger infants and newborns;

"(B) the development of vaccine combinations to decrease the number of injections and required vaccine provider visits; and

"(C) the development of new vaccines, including vaccines for chicken pox and

rotovirus strains common throughout the United States.".

SEC. 10. CENTERS FOR DISEASE CONTROL PROGRAM GUIDANCE.

The Centers for Disease Control shall develop a program guidance for all entities receiving a grant under this Act (or the amendments made by this Act), or any other childhood immunization grant under the Public Health Service Act, that shall require, as a condition of receiving such grants, that such grantees describe in detail the objectives, and plans for achieving such objectives, of such grantees and the specific activities to be undertaken by such grantees to reach out to high-risk populations for immunization purposes. Such program guidance shall also require such grantees to submit end-of-year reports to the Director of the Centers for Disease Control describing the success of such grantees in achieving such objectives and in carrying out such plans.

SEC. 11. REPORT.

Not later than 6 months after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the immunization status of preschool and school-aged children nationwide. Such report shall contain a description of the major impediments to the attainment of desired levels of immunization and recommendations for necessary programmatic, policy and legislative changes.

SUMMARY OF THE COMPREHENSIVE CHILD HEALTH IMMUNIZATION ACT

Purpose: To increase childhood immunizations.

Section I—Implement the Standards for Immunization Practices published by the Centers for Disease Control (CDC) under the auspices of the National Vaccine Advisory Committee.

Many of the standards call for elimination of unnecessarily restrictive policy barriers to immunizations which will not require added resources. Others, such as standards calling for clinic staff to give one-to-one information to parents; expanded hours of operation; and for staff to create record systems to track immunization status, will require use of additional funds. CDC, in conjunction with the National Vaccine Advisory Committee and grantees, is in process of developing standards to be completed and promulgated by spring 1992.

1. Change Practice Restrictions in Public Immunization Programs.

Background: Administrative requirements of many public clinic immunization programs frequently make immunizations less accessible to children. Although these restrictions are well meaning, public and private health providers widely agree that they have no valid medical basis and should be eliminated. These barriers include, among others: requirements of advance appointments and physical exams, physician referral, enrollment in well-baby clinics, multiple visits for all vaccinations due at the same time, use of false medical contra-indications to deny vaccination.

Legislative Proposal: Require the Secretary of the Department of Health and Human Service (HHS) to designate those standards which may be implemented in the public sector without reliance on additional resources by six months following enactment of this legislation, and require compliance with them, in all HHS-funded programs, within one-and-a-half years after enactment. Such programs conduct public-sector activities that operate immunization and social service programs and support private sector immunizations either through Medicaid reimbursement or receipt of vaccines from entities which purchased them through CDC grant funds. States which have received federal funds and used them to provide vaccines would be required to assure adherence to these standards by recipients. Require HHS to build on current audit procedures to assure compliance with these standards.

2. Increase funding authorization to implement the remaining standards that require more resources.

Legislative Proposal: Authorize such sums as necessary in FY 1993, 1994 and 1995 for the programs established under the Public Health Service Act to permit CDC to support the additional operational activities of public immunization sites, supported with CDC funds, needed to come into compliance with the CDC practice standards relating to infrastructure changes.

Section II—Utilize enrollment in, and interaction with, other federal public programs to increase immunizations.

Background: Studies have shown that about one-third of unvaccinated measles patients had one or more previous health service contacts—visits with providers that were missed opportunities for vaccination. Many inner-city preschool children are in regular contact with public assistance programs which see families each month. Yet state welfare enrollment, and periodic visits to welfare office by clients, do not incorporate screening of immunization status of children.

Legislative Proposal: Require HHS and the Department of Agriculture, in conjunction with appropriate groups, to develop questions about immunization status and medical history, and provide information on vaccine risks and benefits and where to obtain immunizations, for use by states in enrolling and recertifying individuals in the Aid to Families with Dependent Children (AFDC), Medicaid, and Women, Infants and Children (WIC) programs. Such questions should be incorporated into existing procedures and forms. These questions should be administered, and the information provided, also to recipients of services given in federally administered health and social services programs such as those funded by maternal and child health, prevention and Title XX social services block grants or rendered in community and migrant health centers. The questions and information will be developed for use within one year after enactment.

HHS will also develop referral procedures across federally-supported programs one year after enactment, and require states to develop such procedures for state-administered programs as well as a plan for transportation assistance to Medicaid-eligible children.

Section III—Assess and Improve Immunizations in Child Care Programs.

Background: States receive federal funds to assist child care programs under at least five different programs. Two of these assist current or former AFDC recipients who are in transition to employment ("welfare to work" and "at risk" programs) by providing payments vouchers or placements of their children in child care. Another supports child care through social services block grants under Title XX of the Social Security Act. A fourth assists food programs in child care and family day care centers that serve poor children, under the National School Lunch Act. The fifth supports child care centers, as well as group, in-home and family day care programs for poor children under the Child Care and Development Block Grant Act.

Legislative Proposal: Require states, as a condition of receiving funds under these programs, to mandate that recipients of the funds, including child and family day care centers, assess the up-to-date immunization status of all children they serve and provide information as described in Section II. This requirement will be effective six months after enactment.

Section IV—Increase Outreach and Access to Immunizations.

Background: Funding is needed to enable HHS to support innovative approaches to increasing access to immunizations.

1. In September 1991 HHS announced it had identified and would provide technical assistance to six local areas to develop plans that will improve access to immunizations. These plans have not been funded for complete implementation, however, and replication in other locations of any activities that succeed will not be possible without federal assistance.

2. In addition to the need for greater support of the immunization delivery system is the need for more widespread consumer educational materials to increase parental desire to have children immunized. Although existing coalitions, representing private organizations devoted to improving the nation's immunization levels, may succeed in gaining philanthropic and corporate funding to develop such materials, success will require use of government financial assistance, as well.

3. The Early and Periodic Screening Diagnosis and Treatment (EPSDT) program, established under Title XIX of the Social Security Act, requires state Medicaid agencies to ensure that the health status of Medicaid-eligible children is checked regularly. This program has not required states to track the immunization status of children, however, or to contact parents to urge them to have their children vaccinated.

Legislative Proposal: 1(a). Authorize a program of demonstration grants under the Public Health Service Act, totaling $20 million in FY 1993, $25 million in FY 1994, and $30 million in FY 1995, to be used by the six model communities in order to fully implement their plans. These plans include such activities as opening "express" lanes in clinics for vaccinations; providing vaccinations in hospital emergency rooms, in home visits, in day care/child care, Head Start and WIC centers, and in schools; and activating mobile vaccination teams. The results of these model plans will be distributed and used in planning activities in other areas that will improve access to immunizations.

1(b). Authorize $30 million in FY 1993, $40 million in FY 1994, $50 million in FY 1995, and such sums as may be needed thereafter, to permit CDC to assist local innovative programs designed to increase access to immunizations.

2. Authorize new funds under the Public Health Service act, such sums as necessary in FY 1993, to finance the development and distribution by HHS of consumer educational materials on childhood immunizations to a wide range of types of facilities, such as hospitals, employment sites and community centers.

3. The HHS Secretary will amend regulations for the EPSDT program to require states to make aggressive outreach efforts in contacting parents about immunization and tracking children's immunization status, using information submitted to states by

medical providers seeking Medicaid reimbursement.

Section V—Create a Comprehensive Immunization Tracking System through a Nationwide Registry.

Background: 1. The last time a comprehensive national survey of immunization was conducted was in 1985. This year an immunization assessment of all children is included as part of the National Health Interview Survey conducted for the National Center for Health Statistics. This surveillance system of age-specific vaccination rates should be maintained to help monitor compliance with recommended immunization schedules. In the past, the funding for the inclusion of this assessment in the survey has come from CDC operational funding.

2. State computerized tracking systems are needed to permit all providers to accurately assess immunization status each time a child has a medical encounter, as well as to compile national statistics on levels of immunization across the country. Presently, assessment of a child's status depends on the memory or records available from a parent, except when all vaccinations have been done by one provider. The basis for data systems exists through vital statistics records and birth certificate information. CDC plans to assist several cities this year to participate in a demonstration of tracking systems and some of the cities indicate they cannot initiate such systems without outside funding.

Legislative Proposal: 1. Create a new, permanent authorization for the CDC immunization program of $500,000 for FY 1993, and such sums as may be needed in years thereafter, to enable the agency to pay for the cost of using the next national survey. The results of the survey regarding immunization should be published in a timely manner.

2. The HHS Secretary will establish a research and demonstration program under the Public Health Service Act which ultimately will lead to full development of an interstate computerized registry which can be widely used by both public and private providers. Information in the registry will come from medical providers and state entities, such as vital records diversions. HHS will ensure that such demonstrations protect confidential information about children and are coordinated with CDC's existing methods of data gathering.

For FY 1993, demonstration grants to states or appropriate organizations will be authorized, totaling $12 million, to identify appropriate mechanisms for collecting, updating and maintaining data and effective means of accessing it. The demonstration programs will include a means of tracking the immunization status of children in the EPSDT program and will be coordinated with program under Section IV. The Secretary will make annual reports to Congress on the results of various state tracking methods until a nationwide tracking system is fully operational.

An authorization of $20 million will be created in FY 1994, and $30 million in FY 1995, for HHS to assist states or appropriate organizations to purchase computer equipment and software, where necessary. The purpose of the authorization is to make computer tracking effective and full integrated across all states through HHS, in order to make the data nationally available.

Section VI—Demonstrate New Purchase and Distribution Methods.

Background: The cost of vaccination in physician office is too high for many middle-income parents, due to market prices of private-sector purchase. Therefore, an increasing number of parents seek immunizations for their children at already burdened public clinics, often interrupting the coordination of children's preventive care. States now purchase approximately half of the vaccines administered to children in the public sector; the balance of vaccines administered in the public sector in provided with federal funds. Most state purchases are at a more favorable price than private providers can obtain because they are made under contracts between CDC and manufacturers. If states were to increase their purchases through the CDC contract in order to distribute vaccines to private providers at no cost, they could expect to recover part of the cost of doing so through avoidance of Medicaid reimbursements to private providers. In addition, if private providers were more fully reimbursed for Immunizations under Medicaid, more physicians might participate and more children get immunized.

Legislative Proposal: To reduce the financial disincentive to receiving immunizations at physician offices, or other private facilities, HHS will develop two demonstration programs to be carried out over three years. Funding for these programs will be authorized at $5 million for each program in each of the three years. One will examine two mechanisms for increasing immunizations of Medicaid-eligible children in the private sector; the other will demonstrate whether vaccines made available to physicians at no cost will bring a substantial number of non-welfare children back to the private physician for immunization, and relieve the burden on public clinics. The cost-effectiveness of the different approaches will be assessed. For both demonstrations, funds will be authorized under the Public Health Service Act.

1. In the first demonstration, participating states will use grant funds from the Health Care Financing Administration to: 1) increase Medicaid reimbursement rates to private providers and, 2) purchase additional vaccines to give to private providers—on a use and replacement basis—who immunize children covered by Medicaid. The demonstration will examine, among other things, the degree of increased immunizations among children eligible for Medicaid and, in the second part, the potential savings to Medicaid.

2. In the second demonstration, participating states will use immunization grant funds provided by CDC under the Public Health Service Act to purchase additional vaccines to give to private providers for any and all immunizations. The demonstration will assess possible decreased referrals to public clinics from the private sector.

In the second demonstration, although providers will not be allowed to charge for the cost of vaccines, they will be allowed to charge for administration of vaccines, based on ability to pay or consistent with state requirements. If providers charge for administration, they will prominently display information which indicates that no one may be denied vaccine provided by the federal government for failure to pay the administration fee or failure to make a donation to the provider.

Section VII—Establish a national fund for outbreak control.

Background: When a disease outbreak occurs, emergency appropriations must be provided and often this does not happen fast enough.

Legislative Proposal: Under the Public Health Service Act, authorize an amount of $20 million each beginning in FY 1993, to be placed in a permanent reserve fund for use when unanticipated outbreaks require CDC to purchase additional vaccines. In those instances, as determined by the HHS Secretary, the fund could be used for the re-vaccination of children in affected areas who have not received the second dose recommended against measles, mumps, and rubella, or as the Secretary deems necessary.

Section VIII—Support special research.

Legislative Proposal: Authorize such sums as necessary to the National Vaccine Program within HHS to dispense to appropriate federal agencies for special research. This research will be for the purpose of: 1) developing vaccines that are safe and effective in younger infants and, ideally, newborns; 2) developing vaccine combinations to decrease the number of injections and visits required; and 3) developing new vaccines, including vaccines against chicken pox and rotoviruses common in the U.S.

Section IX—Report to Congress.

Legislative Proposal: The HHS Secretary will report to Congress six months after enactment, and annually thereafter, on the immunization status of pre-school and school-age children nationwide, describing the major barriers to attaining desired levels of immunization and identifying necessary programmatic, policy and legislative changes.●

By Mr. SASSER (for himself, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. SIMON, Mr. DECONCINI, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DODD, Mr. WIRTH, Mr. GLENN, Mr. ADAMS, Mr. METZENBAUM):

S. 2117. A bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses; pursuant to the order of August 4, 1977, referred jointly to the Committee on Budget and the Committee on Governmental Affairs.

SOCIAL SECURITY SERVICE PRESERVATION ACT OF 1991

Mr. SASSER. Mr. President, I rise today to introduce a vital piece of legislation: the Social Security Preservation Act of 1991. I am pleased to have as original cosponsors Senators MOYNIHAN, RIEGLE, SANFORD, SARBANES, PRYOR, HOLLINGS, SIMON, DECONCINI, GRAHAM, ROCKEFELLER, MIKULSKI, DODD, WIRTH, GLENN, ADAMS, and METZENBAUM.

The Social Security system is perhaps the most important program that is administered by the Federal Government. Social Security represents a sacred trust between the US Government and its citizens. It provides benefits to 40 million beneficiaries and it takes 3.6 million new applications every year.

The Social Security Program is administered by the Social Security Administration—SSA in shorthand. Unfortunately, in 1985, the President set in motion the termination of 17,000 SSA positions over a 6-year period ending in 1990. This action has had very adverse impacts on service to Social Security beneficiaries and applicants.

The Social Security Disability Program now has a backlog of more than

600,000 cases pending. Even if the entire amount requested by the President for 1992 is appropriated, the backlog will grow to 700,000 by the end of 1992. In an unprecedented disclosure, a press release accompanying the President's budget this year acknowledged that the applications of disabled Americans could require as much as 6 months to process by the end of 1992, even if the Congress approved the full amount of the President's budget request for SSA.

Just think of that. Some of the most vulnerable Americans—those who are completely disabled and cannot hold a job—have to wait 6 months to get Social Security benefits that they are entitled to by law. And all because the President and his advisers slashed the number of people working for the Social Security Administration over the last 6 years or asked for insufficient funds to pay for its activities. This is unjust and unfair.

But this is just the beginning. The pending number of hearings and appeals rose from 154,000 in late 1989 to 187,000 in August. Why? Because there are not enough staff and not enough other resources.

There has been a severe problem with telephone service. In a misguided attempt to solve this telephone service difficulty, SSA attempted to switch to one 800 number for the entire Nation and make it impossible for people to call their local offices. But there are not enough people to answer the 800 number. During peak periods in February, the busy signal rate was 74 percent; during nonpeak periods in the same month the busy signal rate was 64 percent. This is unacceptable. And in efforts to reduce this busy signal rate, SSA is switching staff out of handling Social Security claims in order to answer the 800 number. They are robbing Peter to pay Paul.

Manpower shortages are so severe that there are not enough people to train new claims representatives. In years past a new worker was given at least 13 weeks of training. This made sense because the Social Security rules and formulas take up 26 huge volumes. But now workers receive a maximum of only 10 weeks of training. Some workers are receiving no formal training. This is obviously unacceptable.

I could go on, but I think the point is clear. The unwarranted cutbacks in Social Security staff and resources have resulted in significant reductions in service to the public. And the problem has been compounded because OMB has repeatedly refused to release contingency funds appropriated for the agency by the Congress.

Fortunately, there is a solution. The Social Security Administration needs more money to hire additional staff and to have greater resources available. But as I will show in a moment, Social Security is competing with all other domestic appropriated programs for scarce funds. My legislation would eliminate this competition, enabling sufficient funding so that Social Security service to the public can be restored to needed levels.

Why are Social Security Administrative costs forced to compete with all other domestic appropriated programs for scarce dollars? Did not the Congress enact a law last year completely removing Social Security from the budget?

Congress certainly did enact a law last year that did just that. The law was very clear: for all budgetary purposes, Social Security was to be excluded. In particular, Social Security was to be excluded from the caps or limits that were placed on total domestic appropriations in each year.

But the Office of Management and Budget made the dubious legal decision that Social Security administrative costs were not excluded from the caps. As a result Social Security administrative money must compete with all other domestic appropriations for funding. Given the very tight limits on domestic spending and the significant unmet domestic needs in this country, it is small wonder that Social Security does not get enough money to provide adequate service to the public.

The legislation I am introducing today would fix this problem. It would make it clear in statute that Social Security administrative expenses must be excluded from the domestic discretionary spending caps. In this way the Social Security Administration could be given the amount of funding necessary to provide needed services to the public.

Social Security administrative expenses would not be completely unrestricted. To maintain budgetary control, these funds would be subject to the Social Security firewall, which already provides budgetary controls on all Social Security benefits and revenues. The legislation makes clear the precise manner in which administrative costs would be subject to this firewall.

We must protect the Social Security system in full. Full protection means that beneficiaries and applicants must receive adequate service. This legislation will make it possible to ensure that service. I strongly urge my colleagues to support this legislation.●

● Mr. SANFORD. Mr. President, I am pleased to be a cosponsor of this important legislation to remove Social Security administrative funds from the Federal budget. This was what Congress intended last year when legislation removing Social Security trust funds from the deficit calculations was approved. I thought we had made a clean break, but the Office of Management and Budget determined that administrative costs would not be removed, and instead would be counted under the domestic discretionary cap.

This administration, as was the case with the previous administration, likes to be creative with trust fund money. This creativity continued in the President's fiscal year 1992 budget proposal by counting Social Security administrative money as domestic discretionary money. This administration wants to pit Social Security, a program that more than pays for itself against Head Start, public health services and many other important underfunded nontrust fund programs. Where is the logic in that?

My staff spends an enormous amount of time helping people in North Carolina with Social Security problems. Most of these problems could be prevented if Social Security offices had enough manpower to get the job done. There are fewer offices to help people, and fewer people within those offices that remain. The problem may be as simple as getting through to the new 800 number to get a question answered. "Why is it taking so long?" is a question I get often as I move around the State. Well the answer is that during the past decade insufficient funding has created larger and larger backlogs and more problems for citizens and workers alike. And these problems are getting worse.

To hold Social Security administrative funds hostage under a domestic discretionary spending cap only makes matters worse. President Bush should not be doing this, and I am pleased to cosponsor legislation to end this unfair practice.●

● Mr. SARBANES. Mr. President, I rise today in strong support of the Social Security Service Preservation Act introduced by the distinguished chairman of the Budget Committee. I am proud to join him as an original cosponsor of this important piece of legislation.

Last year, we removed Social Security from the Federal budget and exempted what is this Nation's largest and most important service delivery program from the constraints of the Budget Enforcement Act. When the Senate supported this change by a vote of 98 to 2, it was unknown that language in another provision of the Budget Act raised some question as to whether the off-budget status of the Social Security Program included the administrative costs of the Social Security Administration. Clearly the intent of the legislation we passed last year was to have the entire program off budget. The bill offered by the Senator from Tennessee will clarify this by removing the administrative costs of the Social Security Administration from the discretionary spending limits in the Budget Enforcement Act and by reducing the spending caps accordingly.

Mr. President, I am privileged to represent the tens of thousands of Federal employees who are at the heart of Social Security operations. They rep-

resent the finest and best-trained employees found anywhere in our civil service. However, the budget cuts and staff reductions of the last two administrations have deprived these dedicated employees of the resources they need to provide adequate services to Social Security beneficiaries. Recent studies cited by the Senator from Tennessee indicate how these services have suffered under the pressure of dwindling resources.

This is not the first time I have taken the floor urging that we ensure that the Social Security Administration has sufficient resources to meet the needs of the public. In 1987, I authorized the Federal Government Service task force to study the service provided by the Social Security Administration through a survey of congressional caseworkers. The study revealed that, notwithstanding the diligent efforts of an overworked, underfunded staff, there existed a gross deficiency in service delivery. In fact, the problem of insufficient and declining service is such that I currently have legislation before the Senate to ensure that Social Security service offices are not closed unnecessarily.

The legislation introduced by Senator SASSER is critical to the effort of restoring Social Security services to an acceptable level. It would clarify the intent of last year's Budget Enforcement Act that the administrative costs be excluded from Federal budgetary constrictions. Most importantly, this legislation will help to ensure that this Nation's most important domestic program has the resources necessary to deliver its vital services to the public.

Mr. President, I commend the Senator from Tennessee for his work on this important issue. I urge my colleagues to support this legislation; and I yield the floor.●

● Mr. RIEGLE. Mr. President, today I am pleased to join with Senator SASSER, Senator MOYNIHAN and others in introducing legislation to remove the administrative expenses of the Social Security Program from the discretionary caps established under last fall's budget summit agreement. As a member of both the Senate Budget and Finance Committees, I strongly believe that the administrative costs of the Social Security Program should be treated in the same way as the old age, survivors, and disability insurance trust fund.

As my colleagues are aware, Social Security is a self-financed program, funded entirely from a dedicated payroll tax. I was a strong advocate in the early 1980's of removing Social Security from the Federal budget because there were some people who wanted to cut Social Security benefits to balance the budget. I felt it was important to protect the benefits that people had earned and eliminate once and for all the temptation to use Social Security funds for purposes other than those for which they were intended. The old age, survivors, and disability insurance trust funds were finally taken out of the Federal budget in 1985 as part of the original Gramm-Rudman-Hollings law.

Despite this action, Social Security continued to be counted toward the deficit calculations under Gramm-Rudman-Hollings. As my colleagues are well aware, the Social Security trust funds are currently running a surplus—this year it's going to be $63 billion according to the Congressional Budget Office [CBO]. When these surpluses are included in the deficit calculations, they make the operating deficit of the Federal Government look much smaller than it actually is. That's why we took the step last year of removing Social Security from the deficit calculations under Gramm-Rudman. When we did this, we believed we were taking all of Social Security, including the administrative expenses, out of these calculations.

Providing adequate levels of funding for administrative expenses is essential for the smooth operation of the Social Security Program. Currently, the administration of Social Security programs is hampered by the budgetary limits placed on the administrative expenses. For example, right now it takes anywhere from 2 to 6 months for the State disability determination services to make a decision on applications for disability benefits. People are waiting 6 to 14 months in some cases for a decision on an appeal to an Administrative Law Judge; in some cases people are waiting over 1 year just to get a hearing. And it's not just the disability program that is affected, seniors have been hurt by the problems at SSA. The entire system is fraught with delays, and services have deteriorated.

If the administrative expenses are treated as domestic discretionary spending and subjected to the spending caps enacted last fall, as the Office of Management and Budget [OMB] has indicated it intends to do, these funds could be subjected to any across-the-board cuts triggered if spending exceeds the levels set under the caps for this area of spending. This risk is unwarranted and unjustified. First of all, these expenses are paid directly by the trust funds, not from general revenues. And keeping the administrative costs on-budget is not what we intended last year when we took Social Security—all of it—out of Gramm-Rudman.

Mr. President, Social Security, including the administration of the program, is not contributing to the Federal budget deficit in any way. In order for the program to be run smoothly and for senior citizens and disabled persons to receive the benefits to which they are entitled, it is essential that the administrative aspect of the program be fully funded, and not subject to political manipulation. I urge our colleagues to join us in supporting this legislation to clarify the intent of Congress in this area.●

By Mr. D'AMATO:

S.J. Res. 236. Joint resolution designating the third week in September 1992 as "National Fragrance Week"; to the Committee on the Judiciary.

NATIONAL FRAGRANCE WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation designating the week beginning the second Sunday in September as "National Fragrance Week."

"National Fragrance Week" is the offspring of the Fragrance Foundation based in Manhattan. The Fragrance Foundation is responsible for many outstanding community and industry-wide contributions. They are a nonprofit organization geared toward education and community outreach. Not only does the foundation offer a central library and support international sensory research, it also participates in the mentor program at the Fashion Institute of Technology. Additionally it is an ardent supporter of Fragrance Gardens for the Blind. The Fragrance Forum, the foundation's quarterly newsletter, keeps the industry up to date on trends and activities.

The city of New York has had an annual celebration of Fragrance Week since 1987. Fragrance Week is marked by a mayoral proclamation and city-wide celebrations. This year, the Fragrance Foundation and I seek a nationwide celebration during the third week of September 1992.

Mr. President, I ask unanimous consent that the text of my 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. 236

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the Fragrance Foundation, a nonprofit educational organization, has grown and prospered since its establishment in 1949;

Whereas the Fragrance Foundation's goals are to advance the understanding and enjoyment of fragrance, one of humankind's greatest sensory pleasures, and to explore through scientific inquiry the therapeutic benefits of fragrance;

Whereas fragrance has the power to evoke memories, reduce anxiety, increase alertness, and elevate the spirits;

Whereas the fragrance industry employs more than 1,000,000 people and generates more than $4,000,000,000 in sales in the United States;

Whereas the Fragrance Foundation has celebrated the observance of Fragrance Week each year since 1987 and wishes to expand the festivities of Fragrance Week into a nationwide celebration; and

Whereas on September 13th, 1992, the Fragrance Foundation will inaugurate a nationwide educational effort through the leading retailers of the United States to acquaint the people of the United States with the ben-

efits and pleasures of fragrances: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in the Congress assembled, That the week beginning September 13th, 1992, is designated as "National Fragrance Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.•

By Mr. DASCHLE:

S.J. Res. 237. A joint resolution proposing an amendment to the Constitution of the United States to set the compensation of services for Members of Congress, and for other purposes; to the Committee on the Judiciary.

COMPENSATION OF SERVICES FOR MEMBERS OF CONGRESS

• Mr. DASCHLE. Mr. President, public confidence in Congress as an institution is near an all-time low. That is understandable given the recent attacks from the President, the media, and certain members of the House and the Senate.

Some of the criticism is fair, some of it is not. But the need for constructive change cannot and should not be ignored.

As someone who believes in the constitutionally designated role of this institution, I am convinced that we have to take serious action to address this decline in public confidence by attacking its root causes. If people cannot trust that Congress will serve the national interest rather than individual Members' interests, if people cannot believe that their voices will be heard above the fray of partisan politics, then the very principles that drive our democratic system are threatened. We cannot have a government "of the people, for the people, and by the people" if the people do not believe or participate in it.

How do we restore public faith in our Government? There is no quick fix, and at least some of the responsibility lies with those who use cheap shots to denigrate the institution for short-term political gain or increased newspaper sales. But there are several things we in Congress can and must do to protect the integrity of this institution—not because it is "ours," or because we might be affected in the next election, but because our democracy depends on it.

First, we must acknowledge our faults. Although some of the attacks on Congress are arguably unfair or misleading, they would would not be so harmful if we did not create fertile ground for them. We, as an institution, have our problems, and we should acknowlege them honestly and do our best to correct them.

Second, we must fight the tendency to allow style and symbolism to overtake substance. The real problems in America are all too often neglected in favor of petty politics or symbolic speeches.

Third, we must, I am convinced, enact serious campaign finance reform. The long reach of special interests must be withdrawn and replaced by greater citizen participation in the electoral process.

Finally, we must develop a package of internal reforms to ensure that we avoid even an appearance of conflict of interest. There are several proposals already under consideration. Over the next few months. I will be introducing a package of legislation to initiate several reforms I believe are key to restoring the public trust in Congress.

Today I am introducing the first pillar of that package—the Congressional Pay Limitation Amendment. This joint resolution would amend the Constitution to ensure that Congress does not establish its own pay.

Instead of giving itself pay raises, Congress's pay would rise or fall with the income of the average American family. Not only would Congress be removed from pay decisions, Member's pay would be indirectly based on their performance in addressing our national economic issues, since improvements or declines in our economic strength would bring with them corresponding increases or decreases in congressional pay. The amemdment reads: "The Congress shall make no law affecting the compensation for services for Members of Congress. On January 1, of each year of the first session of a Congress, the compensation of Members of Congress shall be adjusted to correspond to any increase or decrease in the median income of all citizens of the United States."

In the near future, I will be introducing two other pieces of this package: first, a bill to eliminate congressional perks; and, second, a bill to ensure congressional coverage under workplace laws.

Congress is, by definition, the people's body. Taxpayers should not be required to subsidize special privileges or benefits for Members of Congress that are unrelated to the conduct of their official duties.

As for workplace laws, I have long believed that if Congress makes a law, we should live by it. The Grassley-Mitchell amendment to the Civil Rights Act of 1991 brought the Senate into compliance with antidiscrimination laws, and I look forward to working to ensure that all other appropriate laws also cover Congress.

Finally, it is necessary to overcome the public perception that the Senate is becoming an anachronism in the modern age. The feeling—within and outside of the Senate—that it is becoming increasingly difficult to accomplish substantive policy goals, is pervasive. We need to begin an earnest review of Senate rules to determine whether or not changes can be enacted to facilitate genuine debate and policymaking in the Senate.

No doubt there are other reforms that may prove necessary. We should remain open to them, and I look forward to working with my colleagues from both parties to bring some badly needed changes to help restore the people's trust in the people's government.

There being in objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 237

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE

"The Congress shall make no law affecting the compensation for services for Members of Congress. On January 1, of each year of the first session of a Congress. the compensation of Members of Congress shall be adjusted to correspond to any increase or decrease in the median income of all citizens of the United States.". •

By Mr. RIEGLE (for himself and Mr. LEVIN):

S.J. Res. 238. A joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week"; to the Committee on the Judiciary.

NATIONAL SENIOR SOFTBALL WEEK

• Mr. RIEGLE. Mr. President, for 7 glorious days in September of next year, in Wayne County, MI, a hearty group of people will participate in a softball tournament. Now a softball tournament is not a particularly exceptional event, a lot of people—some 32 million—play softball. What makes this particular tournament different is the age of the participants: they all will be at least 50 and they will be playing in the Seniors Softball World Series. In honor of this wonderful project, today I am introducing a joint resolution to designate the last week of September 1992 as National Senior Softball Week.

The idea for the Seniors Softball World Series began in 1985 with Mr. Ken Maas and Ms. Jacqui Jolly. They established the National Association of Senior Citizen Softball [NASCS], and I am proud to say that they founded it in Michigan. The NASCS is the only national organization promoting senior softball; teams from around the United States and Canada know the work of the NASCS. The first NASCS tournament, held in Clinton Township, MI, attracted 12 teams. The following year 21 teams participated and the year after that, 30 teams.

The success of the NASCS tournament caught on and in 1988, Mr. Maas, working with the Sporting Goods Manufacturers Association, established Seniors Softball World Series, Inc. The first Seniors Softball

World Series was held in Greensboro, NC, in 1989 with 68 teams. Since then, this Fall Classic has been played in Scottsdale, AZ, and Palm Beach County, FL. The event continues to grow—in 1991, 83 teams participated in the Seniors Softball World Series.

Mr. President, the growth and success of the NASCS and the Seniors Softball World Series provides further evidence of the energy and joy that seniors bring to this country. Every day we hear about or see examples of seniors throwing out the myth that getting older means you have to give up staying active. Seniors Softball also promotes an atmosphere of friendly competition and physical fitness among older americans. The NASCS also promotes international harmony; twice, teams from the NASCS have made road trips to the United Kingdom to share with them this uniquely American game. I urge my colleagues to acknowledge the spirt of our seniors by joining me in supporting this resolution.●

By Mr. DECONCINI:

S. 2118. A bill to create a Department of the Treasury Forfeiture Fund; to the Committee on Finance.

DEPARTMENT OF THE TREASURY FORFEITURE FUND

● Mr. DECONCINI. Mr. President, today I rise to introduce legislation, along with my colleague from Maryland, Senator MIKULSKI, to establish a Department of the Treasury forfeiture fund.

Mr. President presently, there are two Federal law enforcement forfeiture funds into which agencies of the Department of Justice and Treasury deposit receipts from forfeitures assets seized through drug, currency and customs violations: The Department of Justice assets forfeiture fund, and the U.S. Customs forfeiture fund. The Internal Revenue Service [IRS], the U.S. Secret Service and the Bureau of Alcohol, Tobacco and Firearms [ATF], law enforcement agencies of the Treasury Department, deposit all the proceeds for assets seized under violations of the laws they enforce into the Department of Justice Assets forfeiture fund. The Customs Service, on the other hand, has it own fund and deposits its proceeds from assets forfeited from violations of its laws into the Customs forfeiture fund. [The only proceeds for seized assets by Customs which are deposited into the Justice Fund are proceeds from assets seized for violations under 21 U.S.C. 881].

The legislation I am introducing today will allow all of the Treasury law enforcement bureaus to deposit receipts from Secretary of the Treasury. The Customs Service would serve as the management agent for the other bureaus by managing the seized property program and serving as the management agent for the fund itself.

This legislation provides a permanent indefinite appropriation for all costs related to seizures, awards of compensation to informants, satisfaction of liens, remission and mitigation payments, claims of parties in interest to certain low value property disposed of under 19 U.S.C. 1612(b), the expense of training related to seizure and forfeiture, and costs of certain experts and consultants.

A capped amount of $100 million would be available during each fiscal year for certain purposes including: publication of availability of moiety payments; payment of certain costs of joint operations with Treasury bureaus; payment of the attributable costs of the IRS Detroit Data Center.

The uncapped portion, estimated at $200 million, would be available for a number of other critical law enforcement needs including: equipment for vessels, vehicles or aircraft and other equipment related to seizure and forfeiture; purchase of evidence or information regarding violations of laws enforced by the Treasury law enforcement bureaus; reimbursement of private persons for expenses incurred by such persons in cooperation with Treasury law enforcement bureau investigations and to offset the necessary and reasonable costs of undercover operations.

This legislation would also authorize equitable sharing payments, out of the uncapped portion of the fund, to State and local law enforcement agencies based upon their participation in joint operations. Subject to State Department approval, the Treasury fund would make similar payments to foreign law enforcement agencies. The Department of the Treasury would have control over the amount paid out and the procedures used to determine the criteria for payment.

In an April 1991 article in The Police Chief, entitled "Equitable sharing of Federal Forfeiture Proceeds", George J. Terwilliger III, Associate Deputy Attorney General, U.S. Department of Justice, wrote:

> By all accounts, the sharing of federal forfeiture proceeds with cooperating state and local law enforcement agencies has been a dramatic success. In fact, in the past five years, more than half a billion dollars has been shared with cooperating state and local law enforcement officials—more than an eight fold increase over the fiscal year 1986 level of $22.5 million. Sharing in fiscal years 1990 had risen to $200 million. The prospects for continued growth of the program are excellent.
>
> Forfeiture proceeds are most effectively used to identify, investigate and prosecute more criminals.

While the Justice Department statistics are impressive, I want to point out to this body that one small Treasury Bureau, the Customs Service, is responsible for contributing over $224 million during the last 5 years in equitable sharing payments to State and local law enforcement agencies through its Customs forfeiture fund.

In addition to fostering improved relations between Federal, State and local law enforcement agencies, these equitable sharing transfers have helped agencies expand the number of criminal investigations; modernize their motor fleets; purchase computers and other high technology equipment, as well as new weapons and protective equipment; salaries and over time expenses; and meet the myriad of other expenses encountered by law enforcement agencies.

Clearly, State and local law enforcement organizations have been and will continue to our overall efforts in combating drug trafficking and crime generally—with equitable sharing playing a central role in expanding the number of criminal investigations undertaken.

Unobligated balances remaining in the fund in excess of $30 million at the end of each fiscal year will be transferred to the Department of Education for activities authorized under the Drug Free Schools and Communities Act. These funds are not intended to supplant normal appropriations for the Department of Education.

Last, Mr. President, this legislation makes changes to title 18 and title 26 to permit Treasury bureaus to seize assets under the provisions of these statutes which they enforce.

Mr. President, there have been concerns expressed in the past about the proliferation of forfeiture funds in the Federal Government. To be clear, this bill will not create an additional fund since one already exists under the Department of Treasury—the Customs forfeiture fund. Upon enactment, there will still only be one fund at the Treasury Department, however it will be one that is diversified with the participation of the three other Treasury bureaus: The Bureau of Alcohol Tobacco and Firearms, the U.S. Secret Service; and the Internal Revenue Service. This fund will, of course, receive oversight from the Secretary of the Treasury.

Having all of the Treasury bureaus participate in a Treasury-wide fund, managed by the Department of Treasury, they will avoid unnecessary communication problems or delays as these agencies have in place a variety of mechanisms for communicating and resolving concerns through their parent cabinet agency. This approach is also preferable to having a forfeiture fund at each individual law enforcement agency—with the accompanying duplication of management overhead and potential for waste, fraud, and abuse.

Mr. President, I have heard considerable testimony over the years as chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee as well as through the Judiciary Committee on forfeiture funds and related issues.

It is my experience that the Treasury bureaus have not received fair and eq-

uitable treatment through the Department of Justice assets forfeiture fund and that such participation has lead to difficulties for the Treasury bureaus. Most recently, I have heard this concern expressed directly from Secretary Brady during his testimony before the Appropriations Committee this last spring as well as from the Treasury law enforcement bureaus. It is my understanding that these difficulties have still not been resolved through direct negotiations and that additional problems continue to arise.

It is my view that having the Treasury bureaus participate in a Treasury fund will lead to a reduction in conflicts between the Treasury and Justice Departments—since the day-to-day forfeiture issues will not have to be resolved across Departmental lines. And, it will allow the two major Federal law enforcement agencies to focus additional time addressing issues associated with the war on drugs and combatting violent crime than on issues associated with the proceeds of forfeited property.

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. 2118

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 "Department of the Treasury Forfeiture Fund Act".

SEC. 2. DEPARTMENT OF THE TREASURY FORFEITURE FUND.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 9702 the following new sections:

"§ 9703. Department of the Treasury Forfeiture Fund

"(a) IN GENERAL.—

"(1) There is established in the Treasury of the United States a Fund to be known as the 'Department of the Treasury Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be managed by the Secretary of the Treasury (hereafter in this section referred to as the 'Secretary'). The Fund shall be available to the Department of the Treasury, subject to appropriation, with respect to seizures and forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) by the United States Customs Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, and the United States Secret Service (hereafter in this section referred to as the Treasury law enforcement bureaus), and the United States Coast Guard for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all costs incurred by the Treasury law enforcement bureaus related to seizures, including costs leading to seizures and all proper expenses of seizures or the proceedings of forfeiture and disposition, and all expenses of inventory, security, and maintenance of custody of the property, advertisement, and disposition of the property, and, if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B)(i) awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(ii) awards for information or assistance that leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000 for a violation of the provision of the Bank Secrecy Act (except that any such award shall not exceed the lesser of 25 percent of the net amount of the fine, penalty, or forfeiture or $150,000);

"(iii) purchases by—

"(I) the United States Customs Service of evidence or information with respect to violations of drug smuggling, drug trafficking or money laundering statutes;

"(II) the United States Secret Service of evidence or information with respect to violations of any of the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments, or of any of the laws of the United States relating to fraud in or against a financial institution or the Resolution Trust Corporation;

"(III) the Internal Revenue Service of evidence or information with respect to violations of sections 5313, 5314, 5315, and 5324 of this title and of violations of sections 1956 and 1957 of title 18; and

"(IV) the Bureau of Alcohol, Tobacco and Firearms, of evidence or information with respect to violations of section 924(c) of title 18, section 844 (d) through (i) of title 18, or section 842(h) of title 18;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with Customs according to law; and

"(ii) other valid liens and mortgages against property that have been forfeited pursuant to any law referred to in this paragraph, subject to the discretion of the Secretary to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(D) amounts authorized by law with respect to remission and mitigation;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure;

"(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or section 201 of the Department of the Treasury Forfeiture Fund Act and all costs related thereto;

"(G) equipment for any vessel, vehicle, or aircraft available for official use by a Treasury law enforcement bureau to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment related to seizure or forfeiture, including, but not limited to, laboratory equipment, communications equipment, and the operation and maintenance costs of such equipment;

"(H) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with any Treasury law enforcement bureau which may result in seizure or forfeiture;

"(I) overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting in law enforcement operations with any Treasury law enforcement bureau which may result in seizure or forfeiture;

"(J) at the discretion of the Secretary, the reimbursement of the expenses of private persons incurred by such persons in cooperating with any Treasury law enforcement bureau in investigations or undercover law enforcement operations;

"(K) the expenses of training the personnel of the Treasury law enforcement bureaus in carrying out their duties relating to seizure and forfeiture, including administrative duties related to inventory, maintenance, and disposition of seized or forfeited items;

"(L) the expenses incurred pursuant to regulations promulgated by the Secretary, that are necessary and related to seizure or forfeiture programs, including payments for the purchase or lease of automatic data processing equipment (if the majority of the use of such equipment is related to such programs), training, printing, and contracting for services directly related to the processing of and accounting for forfeitures, and contracting for services directly related to the identification of forfeitable assets, and the storage, protection, and destruction of controlled substances, explosives, and explosive materials; and

"(M) the costs of retaining the services of experts and consultants needed by the Treasury law enforcement bureaus to carry out their duties related to seizure and forfeiture.

"(2)(A) Any payment made under paragraph (1) (C) or (D) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of such seizure.

"(B) Any payment made under paragraph (1)(H) with respect to a seizure or forfeiture of property shall not exceed the value of such property at the time of disposition.

"(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) publication of the availability of awards under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(B) payment of overtime salaries, travel, fuel, training, equipment (including equipment for any vessel, vehicle, or aircraft available for official use by a foreign law enforcement agency), and other similar costs of foreign law enforcement officers incurred in joint law enforcement investigations with a Treasury law enforcement bureau, if such payments may result in seizure or forfeiture and are—

"(i) agreed to by the Secretary of State;

"(ii) authorized in an international agreement between the United States and the foreign country; and

"(iii) made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h));

"(C) payment of contract services relating to the receipt, processing, maintenance, and dissemination of reports filed in accordance with section 6050I of the Internal Revenue Code or sections 5313, 5314, 5315, or 5316 of this title; and

"(D) deposits pursuant to subsection (f)(3).

"(b) UNITED STATES COAST GUARD.—The Secretary of the Treasury shall make available to the United States Coast Guard, from funds appropriated under subsection (f)(2) not to exceed $10,000,000 for a fiscal year, an amount equal to the amount in the Fund de-

rived from seizures by the Coast Guard. Funds made available under this subsection may be used for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(c) DEPOSITS.—There shall be deposited into the Fund:

"(1) All forfeited currency and proceeds from forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code) by any Treasury law enforcement bureau or the United States Coast Guard.

"(2) Deposits and transfers pursuant to paragraphs (1) and (3) of subsection (g).

"(3) Income from investments made pursuant to subsection (d).

"(d) INVESTMENT.—Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) ANNUAL REPORTS; AUDITS.—

"(1) The Secretary shall transmit to the Congress, not later than February 1 of each year—

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Treasury law enforcement bureaus or the United States Coast Guard with respect to which funds were not deposited in the Fund during the previous fiscal year;

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iii) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(iv) any defendant's equity in property valued at $1,000,000 or more; and

"(v) the balance of the Fund at the end of the previous fiscal year; and

"(C) a report containing, for the previous fiscal year—

"(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

"(ii) an analysis of income and expenses showing the revenue received or lost—

"(I) by property category (general property, vehicles, vessel, aircraft, cash, and real property); and

"(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).

"(2) The Fund shall be subject to annual financial audits conducted by the Comptroller General of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to administer the Fund and to carry out the purposes set forth in subsection (a)(1).

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $100,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for each such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $100,000,000 for fiscal year 1993.

"(ii) $100,000,000 for fiscal year 1994.

"(3)(A) Subject to subparagraph (B), in each of fiscal years 1992, 1993, and 1994, the Secretary may transfer from the Fund any unobligated balances remaining unexpended to the Department of Education for activities authorized under the Drug Free Schools and Communities Act (20 U.S.C. 3181). Such transfers shall be made on a quarterly pro rata basis.

"(B) Transfers under subparagraph (A) may be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a)(1).

"(C) At the end of each of fiscal years 1992, 1993, and 1994, the Secretary may retain in the Fund not more than $30,000,000, or if determined by the Secretary to be necessary for asset specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in the preceding fiscal year. Any amount in excess of $30,000,000 shall be transferred to the Department of Education for activities authorized under the Drug Free Schools and Communities Act.

"(g) MISCELLANEOUS.—Notwithstanding any other provision of law, during any period when forfeited currency and proceeds from forfeitures under any law enforced or administered (other than sections 7301 and 7302 of the Internal Revenue Code) by the Treasury law enforcement bureaus and the United States Coast Guard, are required to be deposited in the Fund—

"(1) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall be transferred to the Fund;

"(2) except as provided in paragraph (1), no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

"(3) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the date of the enactment of this Act shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

"(h) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"§ 9704. Authority of the Secretary relating to forfeited property

"(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the 'Secretary') with respect to any property forfeited under any law enforced or administered by the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, or the United States Secret Service may—

"(1) retain such property for official use; or

"(2) transfer such property to—

"(A) any other Federal agency; or

"(B) any State or local law enforcement agency that assisted in the seizure or forfeiture of such property.

"(b) TRANSFER TO FOREIGN COUNTRY.—The Secretary may transfer any forfeited personal property or the proceeds from the sale of any forfeited personal or real property to any foreign country which participated, directly or indirectly, in the seizure or forfeiture of the property, if such a transfer—

"(1) is one with which the Secretary of State has agreed;

"(2) is authorized in an international agreement between the United States and the foreign country; and

"(3) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).

"(c) AUTHORITY UNDER THE TARIFF ACT OF 1930.—Nothing in this section shall affect the authority of the Secretary under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

"(d) LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.

"(e) TITLE TO FORFEITED PROPERTY.—Following completion of procedures for the forfeiture of property pursuant to any law enforced or administered by a Treasury law enforcement bureau (as defined in section 9703), the Secretary is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

"(f) FORFEITED PROPERTY DEFINED.—For purposes of this section and section 9703, and notwithstanding any other provision of law, property shall be deemed forfeited pursuant to a law enforced or administered by a Treasury law enforcement bureau if it is forfeited pursuant to—

"(1) a judicial forfeiture proceeding where the underlying seizure was made by an officer of a Treasury law enforcement bureau or where the property was maintained by a Treasury law enforcement bureau; or

"(2) a civil administrative forfeiture proceeding conducted by a Treasury law enforcement bureau.".

(b) CLERICAL AMENDMENT.—The table of sections for subtitle VI of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new items:

"9703. Department of the Treasury Forfeiture Fund.
"9704. Authority of the Secretary relating to forfeited property.".

SEC. 3. AMENDMENTS TO OTHER LAWS.

(a) DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(4) of title 28, United States Code, is amended—

(1) by striking "the Secretary of the Treasury or";

(2) by inserting ": (1)" after the word "except"; and

(3) by inserting before the period "; or (2) all proceeds of forfeitures of property seized

by the Treasury law enforcement bureaus (as defined in section 9703 of title 31, United States Code) deposited into the Department of the Treasury Forfeiture Fund established pursuant to such section".

(b) ANTI-DRUG ABUSE ACT of 1988.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended by inserting before the period: "and from the Department of the Treasury Forfeiture Fund in the manner provided in section 9703(f)(3) of title 31, United States Code".

(c) AMENDMENTS TO TITLE 18.—

(1) Section 981(a)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) Any property, real or personal, involved, used or intended to be used in, or constituting, derived from or traceable to any proceeds obtained directly or indirectly from, a violation of—

"(i) section 842 or 844 of this title (relating to explosives or arson) or section 924(c) of this title (relating to firearms), including a predicate offense to a violation of section 924(c);

"(ii) any of the laws of the United States relating to coins, obligations, or other securities of the United States or of any foreign government; or

"(iii) section 1028, 1029, or 1030 of this title.".

(2) Section 981(b)(1) of title 18, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) subject to forfeiture to the United States under subparagraph (F) of subsection (a)(1) of this section may be seized by the Secretary of the Treasury.".

(3) Section 981(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Nothing in this section shall prohibit the seizure or forfeiture of property that has been commingled with other property.".

(4) Section 982(a) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

"(A) section 842 or 844 of this title (relating to explosives or arson) or section 924(c) of this title (relating to firearms), including a predicate offense to a violation of section 924(c);

"(B) any of the laws of the United States relating to coins, obligations or other securities of the United States or of any foreign government; or

"(C) section 1028, 1029 or 1030 of this title, shall order that the person forfeit to the United States any property, real or personal, involved, used or intended to be used in, or constituting, derived from or traceable to any proceeds obtained directly or indirectly from such violation.".

(d) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 5872(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) LAWS APPLICABLE.—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture and (except as provided in subsection (b)) the provisions of law relating to searches, seizure, condemnation, and summary and judicial forfeiture of unstamped articles are extended to and made to apply to articles taxed under this chapter, and the persons to whom this chapter applies.".●

By Mr. MOYNIHAN:

S. 2119. A bill to amend title II of the Social Security Act to waive the 24 month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], and for other purposes; to the Committee on Finance.

MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS

● Mr. MOYNIHAN. Mr. President, I rise today to reintroduce health legislation that will remove a significant barrier to health care access for individuals with acquired immune deficiency syndrome. The legislation I propose today would waive the 24 month waiting period for disability insurance beneficiaries with AIDS.

Four years ago, when I first introduced this legislation, I cited the following information:

According to the Centers for Disease Control (CDC), as of December 31, 1986, there have been about 29,003 cases of full-blown AIDS reported in this country and of those 29,003, 16,301 have died.

When I reintroduced similar legislation in 1989, the death toll had risen 270 percent in just 2 years. By December 1988, more than 80,000 cases of AIDS had been reported to the CDC.

As of October 1991, more than 195,000 Americans have been diagnosed with AIDS since 1981, of whom over 120,000 have died. And these are only the documented cases. The Centers for Disease Control estimates that as many as 1 million Americans may be infected with the AIDS virus. Most of them will develop full blown AIDS in the next decade.

Mr. President, these numbers are rising at an alarming rate and we still have not addressed a fundamental problem confronting those with the syndrome: inadequate health insurance coverage for AIDS patients who become disabled.

There is currently a 24 month waiting period for disabled individuals before receiving Medicare benefits. The Medicare waiting period was established primarily to ensure that Medicare does not overlap with the disabled individuals's private health insurance. Unlike most other disability insurance beneficiaries, however, the AIDS patient cannot wait 24 months for health insurance coverage after the onset of opportunistic diseases like Kaposi's sarcoma or pneumonia. Even with AZT treatments, and AIDS patient's chance of surviving the waiting period are small. Given that AIDS patients are increasingly denied private health insurance coverage, we offer them little choice but to impoverish themselves by spending down to the level of Medicaid eligibility in order to obtain the coverage they need.

Mr. President, these individuals have worked and paid Social Security taxes and they are entitled to Medicare benefits. Until a cure is found for this tragic disease, let us at least minimize their suffering by granting disabled AIDS patients the benefits they deserve.

I urge all my colleagues to support this necessary legislation in our fight against AIDS. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TWENTY-FOUR MONTH WAITING PERIOD FOR MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS.

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h)(1) Subject to paragraph (2), in the case of an individual who is medically determined to have acquired immune deficiency syndrome (AIDS) and who files an application for hospital insurance benefits under part A of title XVIII pursuant to this subsection, subsection (b) shall be applied as if—

"(A) in paragraph (2)(A), ', and has for 24 calendar months been entitled to,' were deleted;

"(B) in paragraph (2)(B), ', and has been for not less than 24 months,' were deleted;

"(C) in paragraph (2)(C)(ii), ', including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted;

"(D) in the matter in the first sentence following subparagraph (C), 'first month' were substituted for 'twenty-fifth month'; and

"(E) in the second sentence, 'twenty-fourth' were deleted.

"(2) Paragraph (1) shall not result in an individual becoming entitled to hospital insurance benefits under part A of title XVIII for any month before the first month in which the individual both—

"(A) is medically determined to have acquired immune deficiency syndrome; and

"(B) has filed an application under paragraph (1).

"(3) For purposes of this subsection, an individual will be presumed to have acquired immune deficiency syndrome (AIDS) if the individual has been diagnosed, in accordance with standards established by the Secretary after consultation with the Director of the Centers for Disease Control, as having such disease.".

(b) EFFECTIVE DATE—The amendments made by subsection (a) shall take effect on the first day of the first month that begins more than forty-five days after the date of the enactment of this Act.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. STEVENS] was added as a cospon-

sor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 353

At the request of Mr. GLENN, his name was added as a cosponsor of S. 353, a bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes.

S. 447

At the request of Mr. ROBB, his name was added as a cosponsor of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 456

At the request of Ms. MIKULSKI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 456, a bill to amend chapter 83 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 456, supra.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 511

At the request of Mr. DODD, the names of the Senator from Nevada [Mr. REID] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 511, a bill to establish programs to improve foreign instruction and to amend the Higher Education Act of 1965 in order to promote equal access to opportunities to study abroad, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 689

At the request of Mr. HATFIELD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 689, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the United States Peace Tax Fund to receive such tax payments; to establish a United States Peace Tax Fund Board of Trustees; and for other purposes.

S. 765

At the request of Mr. BREAUX, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Florida [Mr. GRAHAM] 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. 1040

At the request of Mr. GLENN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1040, a bill to provide a Government-wide comprehensive energy management plan for Federal agencies.

S. 1100

At the request of Mr. KERRY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1125

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1125, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 1159

At the request of Mr. GORE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1159, a bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States.

S. 1227

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1227, a bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes.

S. 1289

At the request of Mr. HARKIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor 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. 1294

At the request of Mr. FOWLER, the names of the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. SHELBY], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1294, a bill to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 1424

At the request of Mr. CONRAD, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1424, a bill to amend chapter 17 of tile 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. 1482

At the request of Mr. DIXON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1482, a bill to amend the Social Security Act to improve the notice of medicaid payment of medicare cost-sharing, and for other purposes.

S. 1521

At the request of Mr. MCCONNELL, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1521, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON], the Senator from Illinois [Mr. SIMON], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors

of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1614

At the request of Mr. GRAHAM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1614, a bill to amend the Rehabilitation Act of 1973 to revise and extend the program regarding independent living services for older blind individuals, and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1667

At the request of Mr. FORD, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1667, a bill to provide for a 2-year Federal budget cycle, and for other purposes.

S. 1686

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of S. 1686, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1691

At the request of Mr. COCHRAN, his name was withdrawn as a cosponsor of S. 1691, a bill to amend title 18, United States Code, to govern participation of Federal Prison Industries in Federal procurements, and for other purposes.

S. 1696

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of 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.

S. 1725

At the request of Mr. DIXON, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Florida [Mr. MACK] 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. 1731

At the request of Mr. MCCONNELL, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Florida [Mr. MACK], the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1731, a bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes.

S. 1738

At the request of Mr. LEVIN, his name 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.

At the request of Mr. COATS, his name was added as a cosponsor of S. 1738, supra.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1777

At the request of Mr. ADAMS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1793

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1830

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1830, a bill to require Senators and Members of the House of Representatives to pay for medical services provided by the Office of the Attending Physician, and for other purposes.

At the request of Mr. WOFFORD, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1830, supra.

S. 1838

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1838, a bill to amend title XVIII of the Social Security Act to provide for a limitation on use of claim sampling to deny claims or recover overpayments under medicare.

S. 1894

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free Trade Agreement, and for other purposes.

S. 1902

At the request of Mr. ADAMS, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1912

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1916

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1916, a bill to transfer Federal financial assistance currently used to develop herbicide resistant plants to nonchemical weed control systems, and for other purposes.

S. 1920

At the request of Mr. KASTEN, the names of the Senator from North Carolina [Mr. HELMS], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1920, a bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for children, to provide tax incentives for economic growth, and for other purposes.

S. 1927

At the request of Mr. D'AMATO, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1927, a bill to authorize the Secretary of Agriculture to carry out a grant program to increase the international competitiveness of the forest products industries in the United States, and for other purposes.

S. 1933

At the request of Mr. PACKWOOD, his name was added as a cosponsor of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1935

At the request of Mr. SIMPSON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1935, a bill to require the Secretary of Agriculture to submit a re-

port on, and establish a system for, lamb price and supply reporting services in the Department of Agriculture, and for other purposes.

S. 2000

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 2000, a bill to provide for the containment of prescription drug prices by reducing certain non-research related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 100

At the request of Mr. KOHL, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from North Carolina [Mr. SANFORD], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week".

SENATE JOINT RESOLUTION 224

At the request of Mr. SIMON, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Montana [Mr. BAUCUS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 224, a joint resolution designating March 1992 as "Irish-American Heritage Month".

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week".

SENATE JOINT RESOLUTION 227

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of Senate Joint Resolution 227, a joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Members of Congress.

SENATE JOINT RESOLUTION 229

At the request of Mr. BYRD, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Ms. MIKULSKI], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 229, a joint resolution designating the month of May, 1992, as "National Trauma Awareness Month".

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor 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 74

At the request of Mr. DECONCINI, the names of the Senator from Colorado [Mr. WIRTH], the Senator from California [Mr. CRANSTON], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution calling for acceptance and implementation by certain republics of the commitments on human rights, fundamental freedoms, and humanitarian cooperation contained in the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 184

At the request of Mr. DIXON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Resolution 184, a resolution to recommend that medical health insurance plans provide coverage for periodic mammography screening services.

SENATE RESOLUTION 221

At the request of Mr. COATS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 221, a resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION 231

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Resolution 231, a resolution expressing the sense of the Senate that the President should submit to the 102nd Congress a proposal for reforming the health care system of the United States.

SENATE CONCURRENT RESOLUTION 80—RELATIVE TO THE DEMOCRATIC SITUATION IN ZAIRE

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. WOFFORD, and Mr. HOLLINGS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 80

Whereas the people of the United States support the development of democratic institutions in Zaire that reflect the will of the people of Zaire and are concerned about ongoing human rights abuses in Zaire as confirmed by the Lawyers Committee for Human Rights;

Whereas Zairean security forces have repressed peaceful mass demonstrations protesting the government's economic policies and urging the implementation of democratic reforms;

Whereas recent press reports and other reliable sources indicate that these incidents caused the death of several people as well as the arrest of numerous people opposed to the regime;

Whereas these tragic events occurred following a period of continuous procrastination in convening a sovereign national conference composed of political, civic, religious, and other organizations;

Whereas President Mobutu has indicated, clearly, a lack of commitment to a transitional government to return the country to democracy by dismissing the new Prime Minister Tshisekedi Wa Mulumba;

Whereas the leaders of government in Zaire, beginning with President Mobutu, have systematically obstructed each attempt to facilitate this conference which could bring about a peaceful transition toward democracy; and

Whereas the catastrophic economic and social situation and the rampant corruption of authority, against which the population of Zaire is revolting, are being aggravated by the political uncertainty deliberately prolonged by President Mobutu: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls on President Mobutu to step down and permit the transitional government to return the country to democratic rule;

(2) firmly condemns all violations of human rights in Zaire;

(3) fully supports the aspirations of the Zairean people for democratic change, in particular the convocation of a sovereign national conference that would be fully representative of all the opposition forces, that would be conducted in a democratic manner, and that would have the full right to take its own decisions;

(4) supports the sovereign national conference to form the transitional government as soon as possible to organize free and democratic elections;

(5) invites the international community of nations to express their concern with respect to the repression and corruption of the regime and to provide support to the Zairean democratic forces desire for peaceful change;

(6) calls upon the President of the United States to urge that an appropriate international peacekeeping force be brought into Zaire to ensure stability during the political transition process; and

(7) calls upon the President of the United States to express his willingness to offer appropriate assistance to help implement any future international peacekeeping arrangement.

• Mr. SIMON. Mr. President, I would like to introduce today a resolution, concurrent with one sponsored by Representative Payne in the House and passed by the House last Tuesday, concerning Zaire. I have spoken on the floor regarding the situation in Zaire before now, and I remain gravely concerned. I feel that it is important that we in the Senate take urgent action on the very serious crisis Zaire is now facing. President Mobutu is still clinging to power, and has in fact used his power to choose still another prime minister, rather than seeking the input of the main opposition coalition on this important decision. Proposals to arrange for a transition to free and fair elections appear blocked. This resolution will express the Senate's desire to see a transitional government installed, a government which will begin to address the dire economic situation and to respect human rights in Zaire. It will send a message to Africa that America supports efforts to ensure democracy and peace for all Africans.•

SENATE CONCURRENT RESOLUTION 81—RELATIVE TO THE AMERICAN VISIONARY ART MUSEUM

Ms. MIKULSKI submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 81

Whereas visionary art is the art produced by self-taught individuals who are driven by their own internal impulses to create;

Whereas the visionary artist's product is a striking personal statement possessing a powerful and often spiritual quality;

Whereas prominent among the creators of visionary art are the mentally ill, the disabled, and the elderly;

Whereas there are many museums of visionary art located throughout Europe such as the Art Brut Museum located in Lausanne, Switzerland;

Whereas the American Visionary Art Museum is the first museum in North America to be wholly dedicated to assembling a comprehensive national collection of American visionary art;

Whereas the collection at the American Visionary Art Museum includes film, literature, and research on all fields related to visionary art;

Whereas the American Visionary Art Museum's mission is to increase public awareness of uncommon art produced by individuals in response to extraordinary circumstances;

Whereas the American Visionary Art Museum seeks to remove the stigma associated with disability by illuminating the power of humans to triumph over adversity through creativity;

Whereas the national policy of deinstitutionalization has resulted in the closure of many facilities and the destruction of visionary artwork;

Whereas the American Visionary Art Museum has the support of certain offices of the National Institute of Mental Health and other government agencies in its goal to function as a national repository for works produced by formerly institutionalized individuals; and

Whereas it is the best interest of the national welfare and all American citizens to preserve visionary art and to celebrate this unique art form: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) visionary art should be designated as a rare and valuable national treasure to which we devote our attention, support, and resources to make certain that it is collected, preserved, and understood; and

(2) the American Visionary Art Museum is the proper national repository and educational center for visionary art.

SENATE CONCURRENT RESOLUTION 82—URGING GREATER PROGRESS TOWARD DEMOCRATIZATION IN HONG KONG

Mr. MACK (for himself, Mr. MCCONNELL, and Mr. LUGAR) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 82

Whereas the 1984 Sino-British Joint Declaration on the Question of Hong Kong (hereafter in this concurrent resolution referred to as the "Joint Declaration") provides for the reversion of Hong Kong to China on July 1, 1997, after which Hong Kong will become a Special Administrative Region of the People's Republic of China;

Whereas the cornerstone of the Joint Declaration is the principle that the people of Hong Kong will govern themselves through an elected legislature and an executive accountable to the people and will enjoy "a high degree of autonomy" for at least 50 years after 1997;

Whereas the provisions of the Joint Declaration for an autonomous, democratically elected government were critical to persuading the people of Hong Kong to accept that agreement;

Whereas the Basic Law of the Special Administrative Region of the People's Republic of China (PRC), which will serve as the constitution of Hong Kong after 1997, was promulgated by the National People's Congress of the PRC but was never ratified or accepted by the people of Hong Kong;

Whereas, despite the statement in the Joint Declaration that the Hong Kong legislature "shall be constituted by elections", the Basic Law provides for only one-third of the legislature to be democratically elected by 1997, only one-half of the legislature by 2007, and contains no provision that the legislature will ever have a democratically elected majority;

Whereas confidence in the future of Hong Kong was severely eroded by the Government of China's June 1989 suppression of the pro-democracy movement in China;

Whereas the continued repression of the pro-democracy movement in China and statements and actions of the Government of China regarding Hong Kong have heightened concerns that the commitments of the Joint Declaration and the protections provided for in the Basic Law might not be adhered to and that the people of Hong Kong might be deprived of their freedom and human rights after 1997;

Whereas, in September 1991, members of the Hong Kong Legislative Council were selected by the people of Hong Kong in direct elections for the first time, but only 18 out of 60 members were allowed to be chosen through such direct elections;

Whereas in these elections a coalition of advocates of greater democracy received overwhelming support from the people of Hong Kong and won 16 out the 18 seats determined by the elections;

Whereas the people of Hong Kong, in voting for the pro-democracy coalition, expressed their desire for greater progress towards democracy in Hong Kong at the risk of displeasing the Government of the People's Republic of China; and

Whereas the people of Hong Kong, as evidenced by the voting in the September 1991 elections, believe that their freedoms, including the right to private property and other economic freedoms, will be best pro-

tected by accelerating the development of fully democratic institutions: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) fulfillment of the Joint Declaration and contemporaneous commitments of the governments of the United Kingdom and the People's Republic of China, require that the Legislative Council of Hong Kong be democratic elected;

(2) democratic institutions and practices should be firmly established before sovereignty over Hong Kong is transferred to the People's Republic of China in 1997;

(3) the Basic Law should be amended to be consistent with the Joint Declaration's commitments to democratic and autonomous government;

(4) the governments of the United Kingdom and the People's Republic of China should respect the will of the people of Hong Kong to establish further democratic institutions and practices and to take steps consistent with the Joint Declaration to safeguard their basic human rights before and after 1997; and

(5) the people of Hong Kong are to be commended for their efforts to maintain their freedom and prosperity and to attain fully democratic government.

Mr. MACK. Mr. President, it is ironic that just as democracy and freedom are sweeping the globe as never before, some six million of the freest people on earth are soon to be deliberately handed over to a Communist regime. The world cannot stand silently by as the fate of the free people of Hong Kong is put into the hands of the dictators of Beijing.

Today, Senators SIMON, MCCONNELL, and LUGAR join me in introducing a Senate concurrent resolution urging greater progress toward democracy in Hong Kong. Time is short for the people of Hong Kong, and it is time that the United States take a more active role in this struggle for freedom.

Mr. President, this is a situation Hong Kong faces, and how the people of Hong Kong are expressing their desire for democracy.

On July 1, 1997, the British colony of Hong Kong will become a "Special Administrative Region" of the People's Republic of China [PRC]. In September of this year, the people of Hong Kong voted overwhelmingly for legislative candidates advocating greater progress toward democracy in Hong Kong before the 1997 turnover.

Now, less than one third of the Hong Kong legislature is directly elected. The Chinese-drafted Basic Law—which will be Hong Kong's constitution after 1997—provides for only half the legislature to be directly elected by 2007, and has no provision for a majority of the legislature to ever be directly elected.

The people of Hong Kong voted for candidates who believe that the best hope of safeguarding their freedom and prosperity is to strengthen democratic institutions in Hong Kong before 1997. The resolution commends the people of Hong Kong for their efforts to maintain their freedom and prosperity and to attain fully democratic government.

The resolution also urges the British and Chinese governments to respect the will of the Hong Kong people to accelerate the building of democratic institutions before 1997 and to take steps consistent with the 1984 Sino-British Joint Declaration to safeguard their freedoms and human rights.

I would like to emphasize that this resolution does not ask or demand that the joint declaration be reversed. It calls for full and fair implementation of the declaration, whose letter was to guarantee a high degree of autonomy and whose spirit was to guarantee full democracy for Hong Kong well into the next century.

The problem is not joint declaration, but that Britain and China have betrayed the letter and spirit of the declaration by refusing to allow the Hong Kong people to guarantee their own freedoms. The Hong Kong people have been denied the ability to ratify or amend the Basic Law, or to institutionalize democracy in the precious years before 1997.

That is wrong, and it is time that the United States Congress, and United States policy, said so.

I ask unanimous consent that a background paper on Hong Kong be printed in the RECORD.

[From the office of Senator Connie Mack]

HONG KONG'S FREEDOM IN DANGER

Hong Kong is one of the world's great success stories. Once an impoverished backwater on the South China Sea, Hong Kong has become a free market showplace. With the world's highest population density and virtually no natural resources, the people of Hong Kong have built one of East Asia's richest economies on the principles of free trade (no tariff or nontariff barriers), low taxes, and little government interference in the economy. Hong Kong's achievements in standard of living, per capita income, life expectancy, literacy, and other indices have been the envy of the developing world.

Sadly, the "Hong Kong Miracle" may soon come to a halt. In 1997, without the consent of its people, Hong Kong will be turned over to the People's Republic of China, one of the most repressive communist totalitarian states and perpetrator of the 1989 "Tiananmen Square Massacre" in Beijing. While the rest of the world is enjoying an unprecedented trend toward democracy and free markets, the people of Hong Kong (many of them originally refugees from communist China) face being pulled down in the death throes of a failed system.

HISTORICAL BACKGROUND

Hong Kong is a British Crown Colony. In 1842, China ceded Hong Kong Island in perpetuity to the the United Kingdom, a result of 19th-century conflicts between Britain and China over the opium trade. In the 1860's, Britain received a perpetual lease in the nearby peninsula area south of Boundary Street in present-day Kowloon. Finally, in 1898, China granted the British a 99-year lease on areas adjoining Kowloon, called the "New Territories." Hong Kong was declared a free port in 1841, but its major importance and growth as a commercial and manufacturing center occurred after World War II.

In the early 1980s, the government of British Prime Minister Margaret Thatcher concluded that the parts of Hong Kong under permanent British control (Hong Kong Island and most of Kowloon) would not be viable after the expiration of the New Territories lease in 1997. Accordingly, in 1982 the British began negotiations with the Chinese communists over the colony's future. The result was a December 1984 Chinese/British "Joint Declaration," under which the entirety of Hong Kong (including the areas under British sovereignty or perpetual lease-rights) would be returned to China on July 1, 1997, along with the New Territories.

REVERSION WITHOUT REPRESENTATION

The Joint Declaration is a bilateral agreement between London and Beijing—the people of Hong Kong were not represented in the negotiations. (While not a party to the Declaration, the United States has been supportive of British policy.) The Joint Declaration states that for at least 50 years after the 1997 reversion Hong Kong will be a Special Administrative Region in China with "a high degree of autonomy," retaining its own economic and administrative system, and continuing to participate in international agreements and organizations. A new "Basic Law," specified under the Joint Declaration to serve as a constitution for Hong Kong after 1997, was drafted without any effective contribution by the Hong Kong people; it contains no provision for a legislature with an elected majority.

Thus, despite these assurances of "autonomy," most of Hong Kong faces 1997 with increasing trepidation, based upon past experience with the Chinese communists, and reinforced by the bloody events of June 1989. In addition, the communists' blunt opposition to any democratization of Hong Kong institutions has added to these fears. Despite Beijing's opposition, elections were held in September 1991 for 18 of the 60 seats on Hong Kong's largely rubber-stamp Legislative Council. To the surprise of many observers (and the chagrin of both Beijing and the British administration), 16 seats were won by the United Democrats of Hong Kong and their allies. The United Democrats, led by Legislative Council member Martin Lee, favor more democracy in Hong Kong and less interference by the Chinese communists in the colony's affairs. In particular, Mr. Lee and the United Democrats believe that international pressure on the Chinese and the British is essential to protecting Hong Kong's interests.

THE AMERICAN STAKE IN HONG KONG

Hong Kong is a major U.S. trading partner and a key link in the world trade network. The United States is tied with Japan (and far ahead of Britain) in its economic presence in Hong Kong, with over 800 U.S. corporations located there and investments of about $6 billion in the colony. In addition, Hong Kong is one of America's largest trading partners, with 1990 U.S. imports of almost $7 billion and exports to the U.S. of over $9 billion. In its global commercial importance, Hong Kong's foreign trade of nearly $100 billion outstrips that of the whole of mainland China. Hong Kong's demise as a commercial and financial center would send shock waves throughout East Asia and the Pacific region, with a negative impact on the U.S. economy.

But the crisis in Hong Kong cannot be measured purely in economic terms. The United States has taken the lead in promoting democratic and free market values in the developing world and, in particular, in the formerly communist countries of the Soviet Union and Eastern Europe. The collapse of the "Evil Empire" represents a triumph of

humane and civilized values over communist tyranny—the same tyranny that will swallow up almost 6 million Chinese people in Hong Kong in less than 6 years. Since 1984, Hong Kong has experienced an intensifying "brain drain" as its most talented people cast about with increasing desperation for a place of escape: Britain, Australia, Canada, Europe, the United States. As 1997 approaches, fears of public disorder and economic collapse are increasing.

A NEW U.S. POLICY NEEDED

What can the United States do? As of 1991, it is unlikely that the scheduled transfer of sovereignty can be avoided. The United Kingdom remains determined to abide by its agreement with Beijing. However, the United States must begin to make it clear to both Britain and the Chinese communists that the United States has important and independent interests in Hong Kong, and that disregard for these interests will have consequences.

It is important that the U.S. government distance itself from British policy (as it has begun to do, for example, over the recent British agreement to forcibly repatriate Vietnamese "boat people" from Hong Kong) and establish direct contacts with spokesmen for the people of Hong Kong, such as Martin Lee. Indeed, the recent meeting between Vice-President Dan Quayle and Martin Lee is a significant step in the development of such relationships.

Another significant step that can be taken to reassure the people of Hong Kong that America is both interested and concerned about their future is the adoption of the U.S.-Hong Kong Policy Act. Sen. Mitch McConnell (R-KY) has introduced this legislation that would formalize the U.S.'s bilateral relationship with Hong Kong. He correctly argues that "the more extensive and established U.S.-Hong Kong ties are before 1997, the more likely that they will be maintained after 1997."

Finally, and most importantly in my view, the United States must insist on democratization of Hong Kong institutions to guarantee the autonomy and respect for human rights promised in the Joint Declaration. The United States has been a beacon of democracy which has helped steer Eastern Europe and the Soviet Union away from totalitarianism. For the United States to passively allow the absorption of six million free Hong Kong citizens into an authoritarian China without democratic safeguards is unthinkable.

There are four steps which must be taken to provide for the development of democratic institutions in Hong Kong:

(1) All members of the Legislative Council of Hong Kong must be democratically elected-a requirement consistent with the Joint Declaration and contemporaneous commitments of the United Kingdom and the People's Republic of China;

(2) All democratic institutions and practices should be firmly established before sovereignty over Hong Kong is transferred to the People's Republic of China in 1997;

(3) The Basic Law should be amended to be consistent with the Joint Declaration's commitments to democratic and autonomous government; and

(4) The governments of the United Kingdom and the People's Republic of China should respect the will of the Hong Kong people to further establish democratic institutions and practices and to take steps consistent with the Joint Declaration to safeguard their basic human rights before and after 1997 by permitting the Hong Kong people to determine by referendum these matters which so dramatically affect their future.

It is time for the United States to take an active role in aiding the Hong Kong people to fulfill their desire for democracy. A democratic Hong Kong will assure both the freedom of its people and the vitality of its economy.

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

SENATE RESOLUTION NO. 234—RELATING TO COMMERCIAL AIRCRAFT SALES

Mr. BINGAMAN (for himself, Mr. EXON, Mr. GORE, Mr. GLENN, Mr. BRYAN, Mr. LIEBERMAN, Mr. ADAMS, Mr. HARKIN, Mr. FORD, Mr. DASCHLE, Mr. LEAHY, Mr. DODD, Mr. KERREY, and Mr. WELLSTONE) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 234

Whereas the United States would market position in many manufacturing and high-technology areas has deteriorated in part because of the sale of United States companies with developed technologies to foreign interests;

Whereas development of advanced technology industries, and the aerospace industry in particular, has been vigorously supported by the governments of most other industrialized nations;

Whereas the commercial aircraft industry is regarded as a strategic industry by most industrialized nations and is directly subsidized by foreign governments to the degree that it is often difficult to separate government from industry;

Whereas McDonnell Douglas has derived benefits for its commercial aircraft program from its contracts with the Department of Defense for research, development, and procurement of military transports, and there are close links between the technology of commercial airliners and of military transports;

Whereas current United States law restricts foreign equity investment in United States airlines on national security grounds;

Whereas Taiwan, in furtherance of its six-year economic plan to develop and promote high-technology industry, would instantly acquire world-class status in this strategic industry as a part of the world's third largest commercial aircraft firm for an investment of a mere $2,000,000,000, which is a small fraction of the investment already made by United States taxpayers and McDonnell Douglas' shareholders;

Whereas the United States has allowed Taiwan to pursue mercantile trade policies and run a cumulative trade surplus of $100,000,000,000 during the last 10 years, that is now being used to purchase a United States high technology company;

Whereas United States trade policy has allowed Airbus Industrie, a company that receives enormous direct subsides from European governments for aircraft manufacture in Europe, to compete unfairly with United States aerospace companies and to surpass McDonnell Douglas and become the second-largest aircraft producer in the world in the twenty-one years since it was established;

Whereas McDonnell Douglas has suffered gravely as a result of this unfair competition, and United States policy over the past decade has been ineffective in preventing the damage to McDonnell Douglas by Airbus;

Whereas if this proposed sale occurs, up to sixty percent of the manufacturing work on the MD-12 will be done in Taiwan, accelerating the transfer of high-technology manufacturing jobs to other countries over the long term;

Whereas the Exon-Florio law gives the President the power to suspend or prohibit a transaction if such transaction would result in a foreign interest exercising control over a United States company in a manner that might impair the national security of the United States;

Whereas United States foreign investment policy must not ignore serious national security concerns regarding foreign purchases of United States companies and technologies;

Whereas other nations have strategic technology, manufacturing, and trade policies that promote research, development, production, and domestic equity ownership of strategic technologies and industries such as aerospace; and

Whereas a strong American aerospace sector is critical to the economic security and long-term defense of the United States, and the best interest of the United States can only be served by thoroughly examining the long-term impact of the proposed sale on the United States industrial base: Now, therefore, be it

Resolved, That (a) the Senate has strong reservations about the long-term impact on the United States aerospace industry, including the supplier base, skilled workers, and technology and manufacturing capabilities, of the proposed sale of forty percent of McDonnell Douglas' commercial aircraft division to a corporation that is owned in large part by a foreign government.

(b) It is the sense of the Senate that the President should—

(1) conduct a 60-day review of the proposed sale, consulting with the departments and agencies of the United States that he deems appropriate;

(2) examine closely the proposal's long-term impact on the health and competitiveness of the United States aerospace industry, including the supplier base;

(3) examine closely the relationship between the civilian and defense sectors of the aerospace industry, with special attention to the impact of declining defense budgets, including cancellations and cutbacks in research and development and weapons procurement programs, on the industrial base of the United States, on the economic health of dual military-civilian aerospace firms, and on the retention of highly skilled, high-value American jobs;

(4) examine closely the proposal's short- and long-term impact on manufacturing employment in the United States aerospace sector, including at the second and third tier supplier levels;

(5) examine closely United States policy toward the support and promotion of the export of United States aerospace products and options that would allow McDonnell Douglas to compete in foreign markets against subsidized producers such as Airbus;

(6) examine closely the options available to the Federal Government for ending foreign unfair trading practices in high-technology products, particularly aerospace products;

(7) investigate, with McDonnell Douglas, its supplier base, and other representatives of United States industry and labor, available Federal options in areas, including technology policy, manufacturing policy, trade

policy, and foreign investment policy, that would preserve high-technology research, development and manufacturing jobs in the United States, as well as preserving American equity ownership of McDonnell Douglas' commercial aircraft division while maintaining the company as a viable commercial entity; and

(8) submit a report containing his findings within 60 days of the adoption of this resolution to the President of the Senate.

• Mr. BINGAMAN. Mr. President, I rise today to introduce a Senate Resolution concerning the proposed sale of forty percent of McDonnell Douglas's commercial aviation division to the Taiwan Aerospace Corp. I am joined in offering this resolution by Senators EXON, GORE, GLENN, LIEBERMAN, BRYAN, ADAMS, HARKIN, KERREY, FORD, DASCHLE, LEAHY, DODD, and WELLSTONE.

This resolution calls upon the President to review the proposed sale and report on its implications for America's competitive position in the aerospace sector. It is not a resolution to block the deal. It is a resolution that calls upon the President to seek to define an alternative more favorable to this Nation's long-term prospects that the current deal, which may ultimately result in 49.9 percent of the equity in McDonnell Douglas' commercial aircraft division being in foreign hands.

Mr. President, over the last two decades, the U.S. share of world export markets has remained flat or declined in virtually every key area of manufacturing. We make less and less of the manufactured products sold in our own domestic market. The examples are too numerous to cite: cars, steel, VCR's, TV's, semiconductor chips, machine tools, industrial robots, telecommunications equipment, and yes, commercial aircraft, to name but a few. The average American need only look around to see how few of the manufactured products he or she purchases are still made in this country. And our losses are not just in established industries, but in key emerging products like optoelectronics, fuel cells, and superconducting materials.

In fact, it is hard to find a single area in which the relative American position was strengthened during the 1980's. This includes the aerospace sector, although it continues to be our leading export industry, surpassing all others in the contribution it makes to our trade balance. More than ever before our aerospace firms are challenged from abroad. And much of this challenge is the result of the combination of the industrial and trade policies of our trading partners with the indifference of our Government over the past decade to the health of U.S. firms affected by those policies.

The development of advanced technology industries has been vigorously supported by the governments of most other industrialized nations. The European Community, Japan, and the other nations of the Pacific Rim, our chief economic rivals, have pursued numerous government-led and/or government-funded efforts to upgrade capabilities in a wide range of high technology industries.

The aerospace industry in particular has received vigorous support from foreign governments. Aerospace is regarded as a strategic industry by most industrialized nations. This fact is even acknowledged in the preamble to the General Agreement on Tariffs and Trade, which recognizes that the commercial aircraft sector is viewed as an important component of economic and industrial policy. The industry is subsidized abroad to the degree that it is often difficult, if not impossible, to separate government from industry.

It is true, as other nations point out, that McDonnell Douglas, like Boeing, has derived some benefits for its commercial aircraft program from its contracts with the Department of Defense for research, development, and procurement of military transports, including the current C–17 program and the earlier KC–10 program. The technological synergies between civilian and military technology are such that many technological innovations first funded by the Department of Defense have been spun off into the commercial sector. But these benefits have been indirect, and they are likely to decrease in the future as defense budgets decline.

The defense budget downturn comes at a time when the EC, Japan, and rapidly developing Pacific Rim industrialized countries such as Korea and Taiwan are actively pursuing the development of strategic high-technology industries, including commercial aerospace. At the same time, high-technology developments with implications for defense are increasingly being made in the commercial sector rather than the military sector. The defense market will increasingly become a niche market for firms whose main business will be the far larger commercial marketplace. In those circumstances, a decline in the competitive position of United States high-technology industry may well result in a decline in the ability of our defense sector to maintain the technological superiority of our weapon systems.

U.S. efforts to support the domestic commercial aircraft manufacturing industry directly have been infrequent and ad hoc, and not part of a coherent strategy to support the sector. That in my view needs to change. Our Government cannot leave the playing field entirely to other governments. We need to relearn lessons from our past when laissez-faire ideology did not dominate our policymaking. In that regard it is interesting to note that the Johnson administration provided a $75 million loan guarantee in 1967 to ease the merger of Douglas Aircraft Co. and McDonnell Aircraft Co. and save the company's commercial aircraft business.

Foreign governments consider the commercial aircraft industry a critical sector which should be supported. The United States has considered it critical enough to support in the past. And current U.S. law restricts foreign equity investment in U.S. airliners on national security grounds. If foreign influence on United States airliners represents an unacceptable national security risk, should we not at least think through the implications of having 49.9 percent of McDonnell Douglas under foreign control? What if a few years from now, McDonnell Douglas needs a new infusion of capital and its foreign collaborators are again happy to oblige? Is majority foreign-ownership acceptable?

The Government of Taiwan, like many other nations which pursue coordinated industrial policies, has targeted various industrial sectors for support. State-owned enterprises spearheaded Taiwan's move into industries such as steel, aluminum, and petrochemicals, and through the 1970's the share of Taiwan's industrial production of these enterprises averaged over 22 percent. By 1988, despite rapid growth in its GNP and a burgeoning trade surplus with the United States, state-owned companies continued to account for 18 percent of Taiwan's industrial production.

The Taiwan Aerospace Co. [TAC] is one such enterprise, set up recently by the Government of Taiwan and various Taiwanese firms, many with close ties to the government, in furtherance of its 6-year economic plan to develop and promote high-technology industry. If McDonnell Douglas's deal with TAC is finalized, Taiwan would instantly acquire world-class status in the strategic commercial aircraft industry through the purchase of 40 percent of the world's third largest commercial aircraft firm for an investment of a mere $2 billion, which is a small fraction of the investment already made by U.S. taxpayers and McDonnell Douglas's shareholders.

If this deal were to go through as planned, it would be difficult to argue that foreign government support of strategic industries is a poor policy choice for those governments. The world will see that the investment of only $2 billion is sometimes enough to propel a country into world-class status in an industry which generates tens of billions of dollars in sales annually. The reluctance of this and the previous administration to even consider the possibility that some industries must be supported directly in the face of other governments' policies will have made this possible.

The past two administrations' policies toward trade have clearly helped propel McDonnell Douglas into the arms of Taiwan Aerospace Corp. We

have allowed Taiwan to pursue mercantile trade policies and run a cumulative trade surplus with the United States of over $100 billion over the last 10 years. This huge cash horde is now available to purchase key U.S. high-technology companies. We are apparently about to start selling not just New York and Los Angeles office buildings to pay for a decade of failure in our trade policy, but our key industrial firms as well.

Administration policy has also allowed Airbus Industrie, a company that receives enormous direct subsidies from European governments for aircraft manufacture in Europe, to compete unfairly with U.S. aerospace companies and to surpass McDonnell Douglas and become the second-largest aircraft producer in the world in the 21 years since it was established. A recent Office of Technology Assessment report titled "Competing Economies: America, Europe, and the Pacific Rim" points out that Airbus has received funding equal to 75 percent of the development costs of every Airbus model that has been developed. Chapter 8 of the OTA report examines government support of the large commercial aircraft industries of Japan, Europe, and the United States, and I ask that the chapter be included in the RECORD at the end of my statement.

You cannot read that chapter and conclude anything but that other nations do not accept the pure laissez-faire doctrine the administration espouses and largely chooses to live by. They pursue targeted industrial policies and mercantile trade policies in a coordinated fashion. We leave our firms to compete with national governments. That ultimately will mean our industrial structure in a variety of industries, from commercial airliners to space launch vehicles to advanced electronics, will be determined by the industrial and trade policies of other nations. I find that unacceptable. Future generations of Americans will find that unforgivable.

McDonnell Douglas has suffered gravely as a result of this unfair competition, and U.S. policy over the past decade has been totally ineffective in preventing damage to the company by Airbus. And the administration's unwillingness to address this issue has now led McDonnell Douglas to propose this sale of its equity.

If this sale were to occur, up to 60 percent of the manufacturing work on the MD-12, McDonnell Douglas's next generation commercial aircraft, will be done in Taiwan. As United States world market share for high-technology products declines, this will have the effect of accelerating the transfer of high-technology manufacturing jobs to other countries over the long term. It will be especially damaging to McDonnell Douglas's subtier suppliers in this country. And it won't be long before research and engineering design will follow manufacturing.

Mr. President, the Exon-Florio law gives the President the power to suspend or prohibit a transaction if such transaction would result in a foreign interest exercising control over a U.S. company in a manner that might impair the national security of the United States. The Committee on Foreign Investment in the United States [CFIUS], chaired by the Department of the Treasury, is the body that studies transactions and determines whether or not they might impair our national security. I believe that CFIUS should study this transaction.

I do not know whether this sale would impact national security in the narrow sense of that term, which CFIUS has thus far chosen to employ. But I would point out the other nations, such as Japan, with similar national security restraints on foreign equity ownership in key sectors do not interpret the term narrowly. Nor should we. Our national security is fundamentally tied to the strength of our manufacturing sector. We cannot allow that sector to be hollowed out indefinitely.

This administration's policy has been captured in a remark once made by an unknown administration official: "Semiconductor chips, potato chips, what's the difference?" Well, I think most Americans think there is a difference. Our vision of our Nation's future involves good jobs for our children developing and producing the most advanced products for world markets. Administration policy today and for the past decade has simply not embraced or served that vision.

However, I want to again reiterate that a CFIUS decision to simply suspend or block this transaction is not my goal. In this case, if the sale were blocked and no effort was made to address the company's legitimate need for capital or the unfair competitive pressures that have driven it to seek out a foreign government as an investor, McDonnell Douglas would almost certainly be forced out of the commercial aircraft business in the long run. This is not an acceptable alternative.

Other nations have strategic technology, manufacturing, and trade policies that promote the research, development, production, and domestic equity ownership of strategic technologies and industries such as aerospace. If the United States is to maintain its position in high-technology industries over the long term, we need to develop policies in these areas, or run the risk of having our industrial structure determined by the industrial policies of other nations.

Mr. President, this resolution calls upon the President to review the proposed deal. It asks him to consult with whichever departments and agencies he deems appropriate to examine closely the proposal's long-term impact on the health and competitiveness of the United States aerospace industry, including the supplier base. The impact on the supplier base is particularly important. If 60 percent of the manufacturing of the most technologically sophisticated commercial aircraft McDonnell Douglas has developed is done abroad, it is likely that the high-technology supplier base will also move abroad. The loss of that supplier base would make future U.S.-based manufacture of advanced aircraft less likely and hold implications for the United States maintaining its position as the world leader in aerospace.

This resolution calls upon the President to examine closely the relationship between the civilian and defense sectors of the aerospace industry, with special attention to the impact of declining defense budgets on the industrial base of the United States, the economic health of dual military-civilian aerospace firms, and on the retention of highly skilled, high-value-added American jobs.

Given the synergies between commercial and military technology not just in aerospace but in most of the critical areas identified by the Department of Defense in its first three Critcial Technology Plans, the loss of U.S. high-technology companies will have national security implications, particularly growing dependence on foreign sources for critical components and diminishing ability to reconstitute the defense base in case of need. In the absence of Federal policies that support commercial high-technology industry, directly or indirectly, to the extent that military research, development, and procurement has since World War II, the impact on those companies of lower defense budgets is likely to accelerate the loss of United States capabilities in the face of targeted civilan industry assistance programs by foreign governments.

The loss of highly skilled workers in high-technology manufacturing sectors should be of particular concern because of the difficulty in reconstituting and retraining a skilled workforce once it has been disbanded. Thus the resolution calls upon the President to examine closely the proposal's short- and long-term impact on manufacturing employment in the aerospace sector, including at the second and third tier supplier levels. The resolution also calls upon the President to examine closely U.S. policy toward the support and promotion of the export of U.S. aerospace products, and options that would allow McDonnell Douglas to compete in foreign markets against subsidized producers such as Airbus. With its government backing, Airbus has been able to offer financing packages for purchase of its aircraft that McDonnell Douglas and other commercial aircraft manufacturers cannot

match. Given the policies of other advanced industrialized nations, I believe that the Federal Government should be more active in promoting the export of high-technology manufactured goods made in the United States. The proposed sale should be taken as an opportunity to begin addressing these issues through an examination of trade policy as it applies to the aerospace sector.

The United States should also be more active in trying to end foreign unfair trading practices in high-technology products, particularly direct subsidies such as those received by Airbus. By one means or another, we need to reestablish fair trade in foreign government-targeted industrial sectors. We cannot have our industrial structure determined by the industrial policies of other nations. We can not continue to concede sector after sector of high technology industry to other nations.

Finally, the resolution calls upon the President to investigate, with McDonnell Douglas, its supplier base, and representatives of U.S. industry and labor, federal initiatives that might provide McDonnell Douglas with options that go beyond seeking the assistance of a foreign government. Efforts need to be made in areas such as development of a coherent technology policy, development of a manufacturing policy that assists firms in upgrading their manufacturing capabilities, development of a strategic trade policy that promotes the export of high value-added U.S. goods, and development of a foreign investment policy that makes sense in light of vigorous foreign efforts to target strategic industries.

The goal of these efforts should be the preservation of high-technology research, development, and manufacturing jobs here in America. Using McDonnell Douglas as a case study, we should explore the various options in these areas and try to develop a plan of action that would preserve American equity ownership of McDonnell Douglas's commercial aircraft division while maintaining the company as a viable commercial entity.

Mr. President, this resolution is not intended to tie McDonnell Douglas's hands. It is not intended to bash Taiwan. It is intended to begin a long-overdue debate in America on how we are going to treat the U.S. high-technology industrial sectors that are targeted by coordinated, foreign government-led development efforts. This proposal provides an opportunity to examine the impact of foreign government-subsidized development of strategic industries and begin to develop policies of our own that will support American industry in the world market.

Mr. President, if we choose to stand idly by while the industrial policies of Pacific Rim nations and the European Community dictate our industrial structure in the aerospace sector, one of the few high-technology manufacturing sectors where the United States holds a clear edge, when will we take action?

There are alternatives. For example, the Aerospace Industries Association recently released a report titled "The U.S. Aerospace Industry in the 1990's: A Global Perspective," that lays out numerous recommendations for industry and government that would aid the aerospace sector. Rather than listing my own proposals, I would ask my colleagues to consider the proposals developed by industry, developed in part to prevent the need for the sale which McDonnell Douglas is now proposing. I ask that the summary and highlights of the report be included in the RECORD at the end of my statement.

Mr. President, the McDonnell Douglas transaction should be a wakeup call for this Nation. It is testimony to the failure of a decade of pure laissez-faire ideology guiding our economic policymaking. We can no longer afford to deal with the rest of the world as we wish they were. We need to deal with them as they are. Many of the steps we need to take to begin to deal with this self-inflicted problem are clear. The question is whether this administration is prepared to change course and take those steps.

GOVERNMENT SUPPORT OF THE LARGE COMMERCIAL AIRCRAFT INDUSTRIES OF JAPAN, EUROPE, AND THE UNITED STATES

(Chart and figures referred to are not reproducible in the RECORD.)

The commercial aircraft industry is often characterized by superlatives. It has the largest trade surplus of any U.S. Industry. There are fewer large firms dominating the world market than in perhaps any other industry. It is marked by larger economies of scale than most other industries. In every country that has a domestic commercial aircraft assembler, the hand of government is prominent in the industry's behavior and performance. Because of the industry's distinctive characteristics, it pays to be cautious in drawing broader lessons about the efficacy of government involvement in the industry's competitiveness.

Even with an appropriate dose of caution, however, some conclusions about the nature of government/business relationships in the commercial aircraft industry sound familiar. The United States has influenced the commercial aircraft industry primarily through spinoffs from other programs, rather than directly or with the intent of improving competitiveness. Four European nations (France, Germany, Great Britain, and Spain) have played a much more decisive role in boosting the competitiveness of their aircraft consortium. Airbus Industrie. The amount and kind of support extended to Airbus from these governments has been far more effective in improving its competitiveness than the military spinoffs and basic research programs of NASA in the United States. While Japanese industrial policy has failed to produce a domestic assembler of large commercial aircraft, Japan, like Europe, has expended a great deal of money and effort aimed directly at improving competitiveness in the aircraft industry. Japanese firms have become world-class subsystems makers. In short, both Japan and Europe have directly aimed public policies and supports at competitiveness, and have gotten results. In comparison, American companies have gotten much less consistent or effective boosts from policies that were directed toward other goals.

Several advanced countries and even some developing nations have decided that the capacity to build commercial aircraft is important to their national self-interest. The preamble to the General Agreement on Tariffs and Trade (GATT) Agreements on Trade in Civil Aircraft acknowledges this, stating that countries have made that pact recognizing that the aircraft sector is viewed as a particular important component of economic and industrial policy. The principal reasons are the industry's links to national security, the generation of technologies that may spill over the other industries, and contributions of aircraft exports to a positive balance of payments, the creation of well paying jobs, and national pride.

Government supports of the commercial aircraft industry have taken various forms: synergies between military and commercial work, funding of civil R&D, direct financial supports for specific commercial projects, encouragement of the growth of domestic demand and efforts to steer it toward domestic suppliers, export assistance, and efforts to organize industry so it is well suited to international competition. The most important effects in the United States have come from the National Aeronautics and Space Administration (NASA) and Department of Defense (DoD) programs. While promoting competitiveness has been a goal of NASA's aeronautics program, other benefits include the side effects of actions taken for reasons unrelated to competitiveness. As a result, the benefits have consistently been smaller than if promotion of international competitiveness had been a major policy objective. In particular, the indirect benefits U.S. Companies received from DoD programs were substantial in the past, but have declined as military and civil technologies have diverged and the air transport industry has matured. In contrast, the direct financial supports used heavily in Europe and Japan have been provided specifically for the purpose of improving competitiveness. While they have been costly, they have also been effective and appear likely to continue.

Table 8-1 assesses the relative importance of each of the major types of support to the success of commercial aircraft manufacturers in Europe, Japan, and the United States.

TABLE 8-1—BENEFITS TO COMMERCIAL AIRCRAFT AND COMPONENT MANUFACTURERS OF VARIOUS TYPES OF GOVERNMENT ACTIONS[1]

	U.S.	Japan	Europe
Direct financial aid	Small (↓)	Large (=)	Very large (=)
Military R&D plus procurements	Medium (↓)	Small (↑)	Medium (↓)
Civil R&D	Medium (=)	Small (=)	Small (=)
Control of domestic demand	None (=)	Small (=)	Medium (↓)

TABLE 8–1—BENEFITS TO COMMERCIAL AIRCRAFT AND COMPONENT MANUFACTURERS OF VARIOUS TYPES OF GOVERNMENT ACTIONS [1]—Continued

	U.S.	Japan	Europe
Export assistance	Small (=)	None (=)	Small (=)
Organizing the industry	None (=)	Small (=)	Medium (=)

Legend: (↑) increasing in importance; (=) remaining at about the same level of importance; (↓) decreasing in importance.

[1] This table compares total benefits, not efficiency. The fact that two categories get the same rating does not mean that the costs of providing those supports are necessarily equal. Also, some types of government actions affect some parts of the industry more than others—e.g., military/civil synergies are greater for engine makers than airframers. This table represents a rough average for the whole industry.

Source: Office of Technology Assessment, 1991.

RISK AND THE ROLE OF GOVERNMENTS

The principal way these supports benefit manufacturers is by reducing risk. Risk in the commercial aircraft business is higher than in most others. Both technological and market uncertainties are great, and the costs of launching a new model are enormous. This combination of uncertainties and high costs adds up to big risks. Bringing out a new airplane can mean betting the company—and more than one company has lost the bet. Government support can reduce these risks to a point where the relation between risks and expected rewards is favorable and a company can proceed to launch a new model or adopt a new technology.

The use of state-of-the-art systems in each new generation of aircraft confronts manufacturers with significant technological risks. A project may be years and billions of dollars into its development before a technical obstacle is discovered that delays or stops the effort. Rolls Royce's effort to make all-comprosite fan blades for the Lockheed L–1011 engine failed, causing delay in the plane's introduction and ultimately the bankruptcy of both companies. Boeing's 747 got heavier and heavier throughout the development process, requiring more and more powerful engines and driving up costs. Pan Am, the 747's launch customer, Pratt & Whitney, the engine makers, and Boeing were all nearly bankrupted by the effort. Even when technological uncertainty does not threaten the launch of a model, it affects the manufacturer's decision about whether to adopt advanced subsystems and components. The opportunity to develop and prove advanced technology at the expense of the government, in either military or civil R&D projects, can help give companies enough confidence in the cost and performance of the new systems to justify incorporating them into products.

More than technological failure, failure in the market has been the source of disasters in the aircraft business. As a rule, an aircraft manufacturer needs to sell at least 500 units of a model for it to break even. Of the 26 basic airplane types introduced worldwide since the beginning of the jet age, only 6 have sold as many as 500 (another 4 are likely to do so before their production runs end). Seven sold less than 120 copies. Only four or five have been profitable. A report by First Boston Corp. concludes that in 1984, the jet transport aircraft programs then launched had accumulated total losses of $40 billion on total sales of $180 billion (in 1984 dollars). "The essential message [of these figures] is that economic failure is the norm in the civil aircraft business."

Considering this record, no one in this business commits to building a new design before assembling a number of launch customers. These early orders not only assure the manufacturer that it will sell at least that many units, they are needed to convince the manufacturer's financial backers that the model has sufficient appeal to airlines to justify committing funds. Government influence over airlines' choice of which aircraft to buy when a launch is pending can directly affect the manufacturer's decision, as can large government orders of military aircraft that are similar or identical to commercial models. Governments naturally favor domestic suppliers for their military needs, but in the commercial business, airlines' purchase decisions frequently turn on narrow differences in performance and price among competing airlines. A nudge from the airline's government—e.g., to choose a domestic company or one that buys some parts or subsystems from domestic companies—can be decisive.

In addition to technological and market uncertainties, financial risks are also high. Aircraft development costs have risen dramatically since the early days of air transport, as table 8–2 shows.

The $1.2 billion development costs of the 747, spent between December 1965 and January 1969, were over 3 times the $372 million capitalization of the Boeing company. The $1.1 billion cost of developing the DC–10 was over 3 times greater than the $364 million capitalization of the Douglas company. The combined launch costs of Boeing's 757 and 767 in the late 1970s again exceeded the net worth of the company. Coupled with these tall investment requirements are long lead times before the project reaches positive cash flow, and an even longer wait before the break-even point. Typically, it takes 4 to 5 years to develop, test, and certify a new aircraft, 2 years longer for the engines, and as much as 10 years from then to recover the initial investment—if that point is ever reached. Figure 8–1 shows the cash flow of a typical aircraft program.

Unless they have government support, manufacturers finance these costs from four sources:

1. retained earnings,
2. issues of debt and equity,
3. progress payments from customers, and
4. cost-sharing with subcontractors and partners.

These sources may not be sufficient to enable a manufacturer to launch a new model, and in some instances, only if governments are willing to directly assume much of the financial risk can the project proceed. Governments can offer loan guarantees or credits with payback contingent on success; or they may pay outright some costs of developing new projects, either by providing funds at preferential rates or by contracting for development work.

Although government assistance to the large commercial aircraft industry is undeniably important overall, the effects of individual government supports vary greatly. Government support for R&D may not advance a company's technological development. On the one hand, it may stimulate a company to increase its own funding for R&D, or it may supplement the firm's own R&D program. Alternatively, it may supplant R&D the company would have done anyway. Financial assistance with the launch of new designs may enable firms to proceed with models that otherwise would never have made it past paper studies, but it may also remove market disciplines and encourage a firm to proceed without first establishing that sufficient demand exists, leading to costly market failures. Government-provided financing to ease companies' cash flows during production may enable firms to increase production rates and improve market share, but it may diminish pressures for the firm to institute needed cost-controlling measures. The effectiveness of government support depends not only on the degree to which it is offered but also on the type given and the way in which it is delivered.

The following sections describe government policies related to the aircraft industries of the United States, Japan, and Europe, focusing on the motives, content, and results of government interactions with the industry.

TABLE 8–2.—AIRCRAFT DEVELOPMENT COSTS

[Dollar amounts in millions]

Aircraft	Entered service	Development cost in dollars	Development cost in 1991 dollars	Development cost per seat in 1991 dollars
DC–3	1936	$0.3	$3	$0.1
DC–6	1947	14	90	1.7
DC–8	1959	112	600	3.75
747	1970	1,200	3,300	7.3
777	[1] 1995	[1] 5,000	[1] 4,300	[1] 14.0

[1] Estimate.

Source: U.S. Department of Defense, National Aeronautics and Space Administration, and Department of Transportation, R&D Contributions to Aviation Progress (RADCAP) (Springfield, VA: National Technical Information Service, August, 1972), vol. II, app. 9, p. 21. 1991 values are computed using aerospace industry price deflators for 1965–1989 and GNP deflators and estimates for other years.

UNITED STATES

Motives

The U.S. Government today avoids helping any particular industry compete in world markets. However, the government does have policies related to national defense and trade, and takes actions that affect transportation and technology. The U.S. commercial aircraft industry has benefited from measures taken in these areas.

The greatest benefits for U.S. commercial aircraft manufacturers have been side effects of the government's commitment to building and maintaining a strong defense industrial and technology base. The use of advanced technology in national defense has generated both financial and technological benefits for companies that produce commercial as well as military aircraft. Several factors make the commercial aircraft industry of special interest to defense policymakers. Technological advances made for commercial aircraft show up in military hardware and concurrent production of commercial aircraft reduces military aircraft costs. The supplier base and work force skills needed for rapid military buildups are maintained by civil aircraft production, and the design teams needed for military projects are kept together by commercial work during periods of weak military demand. These benefits are likely to become even more important in the future as defense spending is scaled back and military hardware comes to rely more heavily on dual-use technologies.

Support for civil aeronautical R&D is strong in the United States, compared with

that for most other areas of the civilian economy. The traditional rationale for government support of NASA technology programs is that the resulting R&D compensates for the tendency of private firms to do less than the socially optimal levels of R&D because they are unable to capture fully the returns of their investments. This is the standard economic justification for civil technology policies in general. Although NASA's official mission does not go farther towards helping U.S. aircraft manufacturers compete, this alone does provide some competitiveness benefits to U.S. firms.

The belief that air travel is important for U.S. transportation needs has led to measures such as airline regulation, subsidies for air mail, Federal and local subsidies for airports, safety monitoring, and the management of the air traffic environment. Though most of these measures were aimed primarily at air transportation, they fostered the early growth of a strong domestic market for commercial aircraft, which in turn benefited U.S. producers.

As for trade policy, U.S. commitment to free trade served the country's aircraft manufacturers well for many years after World War II. During the war, the United States had become the world's greatest producer of aircraft and it emerged at war's end with the industry intact; this helped establish the industry's dominance. With the strong domestic market and continuing military-civil connections giving U.S. producers significant advantages, a liberal trade environment favored the American industry. The government also used its influence to discourage foreign support for competitors (though with limited success), maintained a tariff of 5 percent or more on aircraft imports until 1980, and provided export assistance to U.S. producers to compensate for perceived unfair practices. In the 1980s, while U.S. trade deficits reached record levels, commercial aircraft exports rose. Indeed, aircraft is the United States' largest exporting industry. The U.S. trade surplus in transport aircraft (not counting spare parts) from 1985 to 1989 (the latest year for which firm figures are available) was $35 billion. Although sales of commercial transport aircraft represented less than 0.3 percent of U.S. gross national product (GNP) in 1989, they accounted for nearly 3.4 percent of the dollar value of U.S. merchandise exports.

Among this list of U.S. Government actions and policies, only NASA's support for civil aeronautical R&D constitutes a deliberate effort to help the competitiveness of commercial aircraft builders. Benefits the industry has received in other areas, especially from the synergies between military and civil aircraft work, have been the results of government actions taken with goals other than competitiveness in mind.

Military-Commercial Synergies

The U.S. Government policy that has most affected the competitiveness of the commercial aircraft industry is procurement of military aircraft and funding of the related R&D. Most important among the effects of military work are technological synergies. In a few cases, whole systems developed for the military have been spun off to commercial applications, reducing development costs and risks to the commercial users. In others, large military orders for products or technologies designed for commercial uses (or those closely related) have boosted production runs, and therefore lowered costs by allowing companies to achieve economies of scale, learn the production process, and share overhead costs. Military development programs have assumed the risks of proving advanced technologies, giving commercial users the confidence to adopt them. Often, the benefits accrue not so much to aircraft assemblers, but at the subsystem level, in materials, or in manufacturing process technology. Though synergies appear to be declining, the boost the industry was given in the past when military and civil technology were more similar accounts for a portion of the success of the industry today.

Examples of these synergies are numerous. Boeing's civil 707 and the military KC-135 tanker were both developed from a common prototype and shared 20 percent of the tooling, reducing costs to both commercial and government customers. The prototype itself drew heavily on advances made in the B-47 and B-52 bomber programs, including the flexible swept wing and the podded engine. The core of General Electric's largest commercial engine was originally developed for the C-5 military transport, and the core of the company's medium-sized commercial engine came from the B-1 bomber. At the GE Aircraft Engines plant in Evendale, Ohio, commercial and military engines move through many of the same production stations. Both sides of the business share a common management structure, common ordering and inventory, common manufacturing processes, and common R&D facilities. Only finance and marketing are separated. McDonnell Douglas sold 60 of its commercial DC-10s to the Air Force for use as air refueling tankers, thus increasing the total profits of the program and helping to keep production going until the company was ready to commit to the derivative MD-11. The development of lightweight composite materials is being led by the military; commercial users have been unwilling to adopt the materials until they have acquired sufficient service experience that their safety is assured. Military users are providing that experience. Though much of the development cost of the ring laser gyroscope for internal reference systems was borne by companies, military funding at key moments in the development process, together with the promise of combined military and civil market, spurred the private investment. Pratt & Whitney's F-117 engine for the Air Force C-17 cargo plane was adapted from the commercial P&W 2037 engine and bought "off the shelf" by the military, thereby increasing production runs, spreading development and overhead costs, and decreasing costs to both military and commercial users.

Military projects help train aeronautical engineers. The original 747 design team consisted of engineers who had been trained and familiarized with the tasks involved in designing wide-bodies during the C-5A military transport competition. One McDonnell Douglas official suggested that even if the C-17 program were canceled, it would still have had the beneficial effect of training 2,000 engineers the company could then employ on commercial work.

Until the last decade, military work was profitable. This, combined with the often alternating cycles of the commercial and military sides of the business, generated some financial benefits for companies involved in both commercial and military work. For example, according to a leading aircraft industry analyst, Boeing's commercial activities lost money during the first 20 years of jet production; the company was carried during that period by steady profits in its military business, especially the B-52 and Minuteman missile. In 1967, despite an order backlog of $2.3 billion in commercial aircraft, the commercial Douglas Co. was forced to merge with the primarily military McDonnell Aircraft Corp. The cash infusion from McDonnell not only saved Douglas from bankruptcy but enabled the company to bring out the DC-10 (introduced in 1971).

However, the defense connection has not been an unqualified boon. Defense and commercial technologies have been gradually diverging since the beginning of the jet age, so opportunities for the commercial side to benefit from military developments are shrinking. Commercial requirements are driving high reliability, low fuel consumption, and low noise technologies, while defense needs are pushing low radar detection, high speeds, and high maneuverability. Some synergies remain, but they are smaller than they once were.

Other aspects of the defense business are negative as well. Military projects can divert limited resources (e.g., highly specialized aeronautical engineers) away from commercial projects. Export controls limit international markets, military requirements may entrench processes and mentalities ill-suited to commercial competition, and efforts to standardize military hardware with allies may have transferred commercially relevant technology to competitors. Classification of defense systems often makes advances in military technology unavailable to commercial divisions even within the same company, and much of the DoD aircraft development and procurement budget is spent with firms that have no significant commercial activity. In the late 1980s and early 1990s, defense aircraft work in the United States has become less profitable than it once was, creating a burden on profitable commercial operations.

DoD's procurement regulations often create de facto requirements for firms to separate their military and commercial development and production, reducing the potential benefits of simultaneous involvement in both sides of the business. The costs generated by DoD's close oversight or detailed specification of hardware and production processes cause some companies to separate military and commercial production that they might have combined if DoD provided for more latitude. Even when companies still find it beneficial to combine military and commercial production, the benefits are less than if DoD procurement regulations and contract specifications allowed more flexibility. Burdensome military requirements are unlikely to leave commercial producers less competitive than if the companies had no military business at all, but they do interfere with the ability of firms to take maximum advantage of available synergies.

The defense business has generated benefits for and imposed extra costs on firms also involved in commercial work. These benefits have been far less than they could have been if promoting commercial competitiveness were a major policy goal.

Government Funding for Civil Aeronautical R&D

In addition to the often indirect and generally unintended benefits to commercial manufacturers of military aircraft, the U.S. Government has directly funded R&D for civil applications through the aeronautics program at NASA and its predecessor, the National Advisory Committee on Aeronautics (NACA). Figure 8-2 shows the funding history for NASA's aeronautics program. Their research projects have produced many advances that improved the performance and safety of aircraft. However, the gains for the competitiveness of U.S. aircraft manufacturers have been less clear.

One undisputed benefit has been the research and test facilities NASA provides. Since companies are relieved of the need to maintain redundant facilities of their own, the NASA facilities reduce costs for individual firms and improve the efficiency of the industry as a whole. Most used by companies are the wind tunnels. According to NASA officials, every commercial aircraft built in the United States has been tested in NASA wind tunnels. Computers, simulators, aircraft for flight testing, and other specialized equipment are also used by industry, sometimes quite heavily. Aircraft companies account for 15 to 20 percent of the use of the Numerical Aerodynamic Simulation computers, the world's most advanced facility for computational fluid dynamics (CFD). In 1984, the replacement value of all of NASA's aeronautics facilities was estimated at $10 billion.

NASA's aeronautics R&D program also benefits U.S. aircraft producers, though it does not always bestow a competitive advantage. The program helps U.S. aircraft manufacturers develop and adopt new technologies by conducting research inhouse and then transferring the results to companies and by contracting with companies to perform specific research tasks, usually in cooperation with inhouse NASA research. Further, NASA researchers act as a free consulting service for industry engineers having technical problems. The availability of technologies developed and tested at NASA's expense and risk helps aircraft manufacturers incorporate new capabilities into their products at diminished cost or risk, just as military developments do.

Sometimes, these technological advances result in gains in competitiveness for the firms that use them. Examples include NASA's work in CFD, which helped Boeing find positions to locate the nacelles on the wings of the 737, 757, and 767 to minimize drag. NASA's energy efficiency projects of the late 1970s and 1980s helped U.S. engine makers decrease fuel consumption of their engines, increasing their appeal to airlines looking for ways to cut operating costs. NASA's noise reduction projects helped U.S. engine makers build quieter engines, which resulted in significant competitive advantages when Congress passed noise limitations in 1968 and tightened them in 1974.

Howver, NASA's technology advances can provide U.S. firms with a competitive advantage only if they are able to apply the technology before their foreign competitors. The record has been mixed. Cases in which foreign competitors have applied NASA research first are numerous. Winglets made their first commercial appearance on Airbus planes. The supercritical wing are first employed on the Airbus A320. In Japan, the Shin-Meiwa Co., which builds some composite parts for Boeing, claims to have learned much of its carbon fiber technology from NASA publications. NASA advances in engine technology will be applied by Société Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA), the French aircraft engine company, in its high-pressure compressor for the GE-90. Advances made in short take-off and landing (STOL) technology have been used more by the Canadian company DeHavilland (to the degree that they have been used at all) in its Dash-7 aircraft than by U.S. firms. Safety-related research, such as that on the prevention of icing, transfers quickly—as indeed it should.

NASA publishes nearly all of its research in open literature. Even when U.S. companies do get access to NASA technology first, they may transfer this technology overseas in technology licensing arrangements and through joint ventures. Foreign governments' support of their own aircraft industries in ways that reduce the risks of adopting new technologies is a major reason for foreign firms taking advantage of NASA-generated advances sooner than U.S. firms do.

U.S. firms do have some advantages in getting to NASA R&D first. Most importantly, they often participate in the research projects, gaining valuable "hands-on" experience. NASA also tries to limit the distribution of the most valuable results, though with limited success.

It is likely that the competitiveness benefits to U.S. firms equal only a portion of the cost of NASA's aeronautical R&D program. While the facilities and some portion of NASA's aeronautics R&D budget may be viewed as a support to the industry, to view the whole budget as such is an overestimate of those effects.

Direct Financial Assistance

Though synergies between military and civil work and NASA's aeronautics R&D program are the main sources of U.S. Government benefits to commercial producers, other government actions have also helped. On three occasions, the U.S. Government has provided direct financial supports to the industry. In the late 1960s, poor sales and costs overruns of the L-1011 drove Lockheed to the brink of bankruptcy. In 1971, the Nixon administration approved a loan guarantee of $250 million, which saved the company but failed to prevent it from exiting the commercial business within a decade. In any case, the government's main purpose was to save a defense contractor, not a commercial aircraft producer. Commercial interests were more directly involved in the case of the Douglas Aircraft Co. When the company approached bankruptcy in 1967, the government eased its merger with the McDonnell Aircraft Co. by providing a loan guarantee of $75 million, helping to save its commercial aircraft business. Here, the government's interest was more in the realm of the domestic economy—jobs and community economic base—than in international competitiveness. In neither situation was the guarantee called upon. In the third case, the U.S. Government spent roughly $1 billion between 1961 and 1971 on the development of a supersonic transport (SST) to rival the Concorde. The program was canceled long before an aircraft flew but did generate some technology that appeared in later subsonic aircraft.

The Lockheed and Douglas loan guarantees and the SST program are the most significant direct financial assistance the U.S. commercial aircraft industry has received from the U.S. Government, yet they pale in comparison to the funding available in other countries. Further, these interventions were infrequent and ad hoc, not part of a coherent strategy to support the commercial aircraft manufacturing industry.

Promotion of a Domestic Market

The government has helped U.S. aircraft manufacturers indirectly through its efforts to promote the growth of domestic air travel. The size and strength of the American market is a major reason for the success of U.S. commercial aircraft manufacturers. The earliest commercial use of air transport was in carrying the mail. Deliberate government subsidies enabled carriers to use larger, faster planes better suited to carrying passengers as well. In 1938, the Civil Aviation Administration (CAA) was set up within the Department of Commerce to provide "direct subsidies to promote passenger travel, economic regulation of the airlines, air traffic control, and safety." In 1948, the CAA was divided into the Civil Aeronautics Board (CAB), with responsibility to regulate routes and fares, and the Federal Aviation Administration (FAA) to oversee safety and the air-traffic environment. Safety standards, efficient management of the airspace, and technical support for the construction of airports provided by the FAA all helped to make air travel a safe and desirable means of transport. Regulation, which ended in 1978, enabled airlines to pass on the costs of more expensive, more advanced aircraft to the traveling public, so airlines were quick to replace old aircraft and to introduce technological innovations. Though these benefits have largely disappeared in the last decade, historically they were very important to the industry.

Export Assistance

Finally, the U.S. Government has helped aircraft manufacturers export by providing credit on favorable terms through the Export Import bank (Eximbank). Over the decade from 1967 to 1977, the Eximbank provided $5.77 billion in loans covering the export sales of 1,185 commercial jets worth $12.8 billion. In the early 1970s, when the aircraft market was so weak that U.S. aircraft manufacturers faced serious threats to their survival, the Eximbank became so heavily involved in financing aircraft exports that it acquired the nickname "Boeing's bank." However, two developments have greatly undermined the importance of export financing. First, an agreement among the major aircraft exporters called the Large Aircraft Sector Understanding (LASU), concluded under the auspices of the Organization for Economic Cooperation and Development (OECD), established a minimum rate governments could offer. Second, in the mid-1980s, the financial markets realized that aircraft retain their value well and can be held as collateral against the loans used to buy them. Bank rates for aircraft purchase loans consequently dropped very close to rates available with government guarantees, greatly diminishing the role of export financing. Boeing officials state the Eximbank now finances only five to seven sales of Boeing planes annually, or about 2 percent of the company's sales.

JAPAN

Motives

In contrast to the United States, the explicit goal of the Japanese Government in its support for commercial aircraft manufacturers was and still is promoting the industry's development. Japanese Government support for this industry is properly seen as another step up the technological ladder in a long succession of targeted industries.

After the U.S. occupation of Japan ended, most of the companies that had built military aircraft during WWII returned to the business. Their first significant work came from the overhaul of U.S. military aircraft used in the Korean War, followed by licensed production of U.S. military designs. In the 1960s, a project to build a twin-engine turboprop gave companies their first experience designing commercial transports and their first taste of the business. Following the costly failure of this domestic venture, airframe work shifted to subcontracting for Boeing and engine work focused on the multinational V2500. Military work dominates the industry today, though the proportion of commercial work is increasing rapidly. The

total civil production remains less than 5 percent of that of the United States.

The legal foundation for Japanese Government support of the industry was laid with the passage of the Aircraft Industry Manufacturing Law in July, 1952, barely 2 months after the end of the occupation made aviation activities possible.The First Aircraft Industry Promotion Law of 1954 led to heavy subsidization of the industry in the 1960s. Aircraft were first designated a "targeted industry" by Japan's Ministry of International Trade and Industry (MITI) in its "vision" for the 1970s, and then again in the document for the 1980s. (The 1990s vision did not name any specific industries.)

As in the United States, military work has helped Japanese companies' efforts to become major commercial suppliers, though relatively small government orders, use of licensed designs (rather than domestically developed ones), and restrictions on exports of military goods have limited the spillover benefits. Although Japanese planners may use military aircraft production to help develop their commercial aircraft industry, the overall benefits from the military connection is less than in the United States.

Promoting economic growth has been and remains the prime motivation for Japanese Government support of industry, and the nation's GNP is now the fastest growing among advanced nations. Partly as a result, Japanese firms now face an acute labor shortage. The need for growth to increase employment is not great. Instead, Japanese planners see the commercial aircraft industry as an opportunity to learn advanced new technologies that may spill over into other sectors, moving firms into more knowledge intensive and higher added-value work. Planners see aircraft production as an area in which recently industrialized countries are unlikely to threaten more technologically advanced nations as they have in industries like steel and ship building.

Japanese companies produced 159 billion yen worth ($1.2 billion at 135 yen to the dollar) of commercial aircraft-related goods and services in 1989. Though government supports have greatly helped Japanese companies achieve such successes as they have, these supports have not been sufficient to fully overcome the obstacles the industry faced in the post-WWII period.

Direct Financial Supports

Early Japanese Government efforts to promote the development of a domestic commercial aircraft industry involved heavy government funding in the hope of rapidly catching up with the West. However, after the failure of its first effort and the high costs it entailed, the government switched to a more gradual approach. In the projects of the 1960s, most of the risk was borne by the government. Now much more of the risk is borne by companies, though the government funds involved are still substantial. The Japanese Government appears to have accepted that catch-up will be a decades-long process.

Government support remains very important to the Japanese industry. Japan's postwar hiatus in aircraft manufacture, its history of licensed production of military aircraft, and limited defense budgets have left Japanese aircraft companies in a weak position from which to compete in international markets. Because commercial aircraft manufacturers in Europe, the United States, and other countries have received many benefits from their governments, the prices of aircraft made in those countries do not reflect their full cost. Without government support, Japanese aircraft manufacturers would have to be far more efficient producers and have better products to offer than their foreign competitors in order to make a profit. They have not yet achieved that. Each of the major Japanese aircraft companies has suffered several costly failures in commercial aircraft ventures, and they are reluctant to repeat the experience. Japan's major aircraft manufacturers are all large, highly diversified companies, and senior management is reluctant to divert too much of their technical talent to the aircraft business.

The Japanese Government has offered aircraft firms direct financial supports in various forms. Though funds involved have been far less than those provided in Europe, they have been large in relation to the size of the industry in Japan. Initially, Japan's Ministry of International Trade and Industry (MITI) used equity participation and guarantees against losses incurred during the production phase of a project. For the YS–11 airplane, a 64-passenger, twin-engine turbo-prop of the 1960s, MITI provided 54 percent of the initial capitalization and guaranteed the participating firms against production phase losses. By the time production was canceled in 1973, only 182 YS–11s had been sold, two-thirds of those to domestic customers, and the project had accrued debts of 28 billion yen ($207 million), four times its initial capitalization of 7.8 billion yen. Most of these debts were never repaid and were quietly forgiven by the government when the management organization was dissolved in 1986.

Later, MITI used *hojokin*—loans offered directly from the Ministry, to be repaid only if the project is successful. The *hojokin* were offered only for expenses incurred during the product development phase, not during production. In 1977, Japan's three largest aircraft manufacturers formed a consortium to make 15 percent of Boeing's 767 (first delivered in 1982). The Japanese partners' total costs came to 29 billion yen during the official development phase, 1978 through 1983, MITI-directed funding covered 14.7 billion yen . In addition, companies spent on their own an estimated 20 billion yen on production facilities and tooling, for a total investment of about 49 billion yen before revenues started flowing. The Japanese companies lost money on the venture for several years because of the fall of the dollar and because production was low. However, the terms of the development loans were favorable to the companies; MITI slowed the loans' early repayment because the program was so costly to the Japanese producers.

In 1986, MITI introduced a new system whereby loans for up to 50 percent of the product development costs of aircraft projects are made available by the government-owned Japan Development Bank (JDB). MITI pays the interest on these JDB loans with further loans from a new government-funded organization called the International Aircraft Development Fund (IADF). Companies begin repaying the IADF loans only when the project reaches the break-even point, so the JDB and IADF loans combined provide firms with nearly interest-free financing. Though companies are officially required to fully repay the loans' principal, if projects funded through this system ran into severe difficulty it is likely MITI would ease repayment requirements. The result is a system of launch aid similar to that used in Europe. Japanese companies' 20-percent participation in Boeing's 777, launched in late 1990, will probably cost $1.2 to $1.3 billion. Of this, $700 million is development expense, half of which is eligible for MITI support (the remaining costs are for facilities, tooling, and operating expenses, which MITI does not cover). JDB has committed to supply 17.4 billion yen ($129 million) for the 777 for 1991, and MITI has requested 798 million yen ($6 million) in IADF funds that "will be applied as a subsidy for 50 percent of the especially high-risk development cost and for the interest on the JDB loan."

While the Japanese Government is gradually reducing its share of the costs and risks of commercial aircraft projects, direct financial supports continue to benefit Japanese firms. MITI supports enable companies to make much larger investments in commercial aircraft projects than they would otherwise, thereby speeding the development of the industry.

Military-Commercial Synergies

Japanese aircraft companies have achieved synergies between their military and commercial businesses in many of the same ways U.S. firms have. The total benefits, however, are much lower than in the United States because Japanese procurement budgets are far smaller and the R&D budgets smaller still. Japan's defense budget has hovered around 1 percent of the country's GNP for four decades. In 1988, Japan spent Y3.7 trillion ($27.4 billion) on its military. Military aircraft procurements have ranged between 7 and 12 percent of the total defense budget (Y381 billion in 1988) for the last two decades. In comparison, the U.S. defense budget for 1988 was $290.4 billion, $28.2 billion of which was for aircraft procurement. The contrast is even greater for R&D. In fiscal year 1991, U.S. Department of Defense R&D was $37.8 billion and about 15 percent of the $285.6 billion defense budget, while Japan's military R&D spending was only Y114 billion ($844 million) and 3 percent of the defense budget (the highest percentage it has ever been).

Synergies between military and civil work are reduced by Japan's propensity to license U.S. designs, rather than developing them domestically. This has denied Japanese firms the opportunity to develop valuable design and development skills. In fiscal year 1991, Japan paid the United States $816 million in royalties for these licenses, roughly the equivalent of the entire Japanese military R&D budget.

On the positive side is the flexibility the Japanese Defense Agency allows its contractors, enabling Japanese aircraft manufacturers to realize some synergies much more easily than U.S. producers. For example, the JDA allows contractors to retain any intellectual property rights generated in development projects, enabling firms to use research results in commercial products at their discretion. Further, the JDA deliberately seeks out technologies with dual-use potential, increasing chances for synergies.

Other Mechanisms

Japan has a civil aeronautical R&D program similar to NASA's, which generates some competitive benefits for Japanese firms. The mission and activities of the National Aerospace Laboratories (NAL) are much like NASA's; however funding is less than one-tenth as much. In translating its technical advances into competitive benefits for Japanese firms, NAL suffers from some of the same difficulties NASA faces. The technology development programs run by MITI's Agency of Industrial Science and Technology have been more important than NAL's efforts. The FJR–710 engine program, which was almost entirely funded by MITI through its Agency of Industrial Science and Technology (AIST) for a total of 19.8 billion yen ($147 million) between 1971 and 1981, formed

the basis for Japan's current 23-percent share of the V2500 engine program. Officials at Ishikawajima Harima Heavy Industries state that without strong government support, they would never have attempted such a technologically risky venture. Currently, AIST is funding a research project in hypersonic propulsion systems, aimed at putting Japanese manufacturers in a position to participate in building a high-speed commercial transport that may be built early in the next century.

The Japanese Government has aided its aircraft manufacturers in two other significant ways. First, by creating a preference among domestic airlines for aircraft that have large portions built in Japan, the Japanese Government encourages foreign manufacturers to increase the amount of work they subcontract in Japan. A combination of close relationships between government officials and senior airline executives and roughly $1 billion in preferential interest rate loans that MITI can offer for aircraft imports gives the government great influence. This is not to say that the government makes overt demands of foreign manufacturers. Rather, foreign companies are aware of these interactions and take into account that substantial subcontracting in Japan may help them sell to Japanese airlines.

Second, the Japanese Government has helped Japanese firms to pool their resources in consortia, decreasing the risk any one firm faces and increasing their bargaining power with potential partners. The main purpose of the First Aircraft Industry Promotion Law of 1954 was to create cartels within the industry. That law and its successors not only offer inducements for cooperation among firms; they require Japanese companies to obtain formal MITI approval before entering the aircraft business. Consortia in the aircraft industry are remarkable because unlike those in other Japanese industries, which handle R&D only up to the precompetitive stage, these extend into the production stage. All of Japan's major international projects—the 767, the V2500, and the 777—have been handled through such consortia.

EUROPE

Motives

In contrast to the predominantly indirect benefits U.S. commercial aircraft manufacturers have received from the U.S. Government, European firms have benefited from government policies aimed directly at promoting their competitiveness. Several motives lie behind this direct support. European planners value aircraft manufacture explicitly for the employment it creates. An Airbus official explained that the main reason the collaboration works is that by creating jobs in an export industry, Airbus enables the member countries to capture jobs from other parts of the world (Figure 8-3 shows the historical and expected growth in Airbus' share of the world market. For a brief description of the history and current structure of Airbus, see box 8-A.) The member governments are less concerned about global economic efficiency and rules of comparative advantage than with meeting immediate domestic needs. With government commitment to full employment, policymakers view the thousands of jobs Airbus creates in England, France, Germany, and other European countries as well worth the costs of the supports provided.

Another reason European government support the industry is concern that without support for their domestic manufacturers, European airlines will be forced to rely solely on two U.S. suppliers. By supporting a challenger, European governments force U.S. manufacturers to keep their prices low. As a result, some portion of every dollar European governments spending supporting Airbus is returned to their economies in lower airplane costs. Baldwin and Krugman examined the competition between the Airbus A300 and the rival Boeing 767 and concluded that European consumers do benefit, but by less than what they estimate European taxpayers paid for those benefits. "Overall it seems that the A300 project constituted a beggar-thy-neighbor and beggar-thyself policy for Europe."

National prestige plays a big role. Though the influence of pride is difficult to trace, aircraft projects have broad popular support, making them an easy cause for politicians to endorse. Europeans are proud of a long history of achievement in aeronautics, including the first supersonic transport, the first jet transport, the first jet engine, and even claims of the first powered flight. Airbus Industrie (AI) executives describe an "Airbus reflex" in the French Government. Airbus does not even have to go to government offices to solicit help; the venture is so highly regarded that the relevant ministries come to Airbus on their own and ask, "How can we help?"

Just as in the United States, national defense policies aimed at maintaining autonomous and technologically advanced military production capabilities have greatly increased the ability of firms to design, develop, and build large commercial transports. In addition, regulation and state ownership of airlines, put in place to meet air transport policy goals, provide European aircraft manufacturers with reliable domestic customers. Support for aircraft manufacture is justified on trade grounds as substituting domestic goods for imports and boosting exports. Planners perceive the products as driving technological advance and moving jobs to higher added-value and more knowledge-intensive areas.

Direct Financial Support

Direct financial supports have been the principal mechanisms used by European governments to assist their commercial aircraft manufacturers. This support has taken the form of government contracts for the development of commercial models (in effect, grants), loans and loan guarantees on favorable terms covering both development and production costs, guarantees against losses caused by exchange rate changes, equity infusions, tax breaks, debt forgiveness, and bail outs. Without these supports, it is likely that no European firms would be in the large commercial aircraft manufacturing business.

Beyond simply enabling companies to operate at a loss, government financing has several benefits over commercially available financing. Governments, unlike commercial lenders, will finance specific projects. This enables manufacturers to move quickly to fill market openings with new models even when the cash flow from previous models is insufficient to convince banks to lend. This may give the manufacturers a head start on their competitors, and because of the steep learning curve of this industry, a head start is an important advantage. Ideally, by getting into the new market first, the firm will be able to deter the entry of any competitor and so be able to establish a monopoly position. Also, since government funding is usually provided during the development phase and paid back as a levy on sales, the government assumes much of the risk if sales are poor. This encourages companies to shift as many costs as possible to the development phase. For example, adopting advanced manufacturing methods and higher levels of automation in the production process may increase development costs but decrease production costs. Similarly, use of more advanced product technologies may increase development costs but reduce operating costs in airlines. Since the government bears the risk for the development expenses, companies are encouraged to make the most advanced aircraft in the most advanced way possible.

Before Airbus, British, French, and German jet transport manufacturers had launched 8 different models of jet transport of which only 2 sold more than 200 (total sales of 239 and 279), 2 sold between 100 and 200 (total sales of 112 and 117), and the other 4 were catastrophic failures (total sales of 14, 11, 54, and 10). Judging by the experiences of Douglas (driven to bankruptcy even while its planes were selling well), Lockheed (driven to bankruptcy by the L-1011, which ultimately sold 249 units), and Convair (driven from the commercial aircraft business by the 880/990, which sold 102 units), any one of these European ventures should have forced its manufacturers into bankruptcy, or at least from the commercial aircraft business. However, not one of the firms responsible for any of these aircraft has left the field, though some have been consolidated.

The ability of these firms to launch further aircraft models after their failures with previous designs is directly attributable to government intervention. From 1945 to 1974, the British Government spent £1,504 million at 1974 prices ($9.3 billion inflated to 1991 values) in launch aid for civil projects, including the Concorde, and were repaid less than £150 million ($929 million inflated to 1991 values) of that. The total cost of jet transport programs to the British Government rises to several times that amount if the cost of bailouts is included. From 1962 to 1977, the French Government spent an average of $829 million (at 1991 values) per year on civil projects, during that period repayments averaged only about $23 million per year. Costs to the German Government were lower, as they had no part in the Concorde project, but Germany had other costly failures. Not only has government funding made European prime assemblers more competitive in international markets, at the supplier level it has made companies more desirable partners for U.S. firms looking to share the burdens of launching expensive, risky projects. Government support of the European partners made European participation in ventures like the CFM-56 and V2500 much more appealing for U.S. firms.

Because of Airbus, direct financial supports have come more into the international limelight, including a formal GATT complaint from the United States in early 1991. Most of the support the British, French, and German (and Spanish) Governments have provided to their aircraft manufacturers has been in the form of launch aid, although the British Government has been more hesitant in this regard than the French and German Governments. As of the end of 1989, the governments of France, England, and Germany had disbursed a total of $5.4 billion to the Airbus member companies in launch aid. Of this, roughly $500 million had been repaid. Repayment of the remainder has been either forgiven or deferred, or was never intended. An additional $2.3 billion had been pledged for the A330/A340, and the German Government had committed a further $3 billion as part of the Daimler-MBB merger. This gov-

ernment financing represents almost 75 percent of the development funds required for the Airbus models developed to date. As table 8–3 shows, as of the end of 1990, the $5.6 billion would have been $10.7 billion if the governments had charged firms the cost of the funds at rates the government themselves have to pay for borrowed money, and $18.0 billion if the firms had had to pay a corporate prime rate.

In addition to launch aid, the German Government (through not the French or British Governments) has provided its commercial aircraft manufacturers with loans to cover losses incurred during the production phase of Airbus projects. In 1988, the German Government paid off the outstanding production-phase debt its aircraft manufacturer had accumulated in the A300/310 projects so that no more interest charges would accumulate. Accumulated capital and interest had reached $1.05 billion. Further, the German Government agreed in 1988 to guarantee against losses caused by the exchange rate falling below 1.8 DM to the dollar. Analysts estimate the government's maximum liability for the guarantees through 1996 is $1.3 billion and for the period from 1997 to 2000 is $863 million. With exchange rates at levels (as low as the 1.5 DM to the dollar since the guarantee began, around 1.7 in mid-1991), the German Government is likely to have to pay nearly the full amount of the guarantee. Finally, at various times all of the Airbus members were government owned; Aerospatiale and Construziones Aeronautics S.A. (CASA) still are. Some of the equity bought by the governments constitutes a further subsidy.

TABLE 8–3.—LAUNCH AID FOR AIRBUS MEMBERS [1]

[In billions of dollars]

	A300 and A310			A320			A330 and A340		
	France	United Kingdom	FRG	France	United Kingdom	FRG	France	United Kingdom	FRG
Commitments	1.2	0.1	3.0	0.7	0.4	0.9	0.8	0.7	1.6
Disbursements	1.1	.1	1.5	.7	.4	1.0	.3	.3	.3
Value at government [2]	3.3	.3	3.1	1.2	.6	1.1	.3	.4	.3
Value at corporation [3]	7.5	.3	5.7	1.8	.7	1.2	.4	.4	.3

	Program totals [4]			Country totals			All airbus
	A300 and 310	A320	A330 and 340	France	United Kingdom	FRG	
Commitments	4.3	2.0	3.2	2.7	1.2	5.5	9.5
Disbursements	2.7	2.1	.8	2.1	.8	2.8	5.6
Value at government	6.7	2.6	1.1	4.8	1.3	4.7	10.7
Value at corporation	13.3	3.7	1.0	9.6	1.3	7.1	18.0

[1] These figures represent all launch aid and include funds allotted to non-Airbus aircraft projects such as the French ATR 42 and 72. Officials in France, Germany, and England state that the numbers are accurate. Neither firms nor governments in Europe disclose public supports at a level more detailed than those used here, so it is impossible to tell by how much the table overestimates the Airbus aid. Since Airbus is by far the largest aircraft venture currently receiving public financing in Europe, it is likely these figures overestimate the total Airbus launch aid by only a little.

[2] Value of the disbursed funds as of Dec. 31, 1988, including interest accrued assuming government rates (10-year T-bills). The effects of staggered disbursements and loan repayments during the course of the programs have been factored in, and end-of-1988 currency exchange rates used.

[3] Value of the disbursed funds as of Dec. 31, 1988, including interest accrued assuming corporate prime rates. The effects of staggered disbursements and loan repayments during the course of the programs have been factored in, and end-of-1988 currency exchange rates used.

[4] The development costs of Airbus' most recent launch, a stretched version of the A320 designated the A321, are being financed without government assistance. The A321 was financed on commercial terms with a line of credit from the Euro Investment Bank. The financing was not project based but rather based on AI's credit standing as backed by the liability of the members under the GIE structure. The A321 thus represents not only the first time a new or derivative Airbus model was launched without government aid, it is also the first time that AI and not the members arranged the financing.

Source: U.S. Department of Commerce, unpublished data collected from publicly available data.

Government Influence Over Airline Procurement Decisions

European governments have also created benefits for their commercial aircraft producers by influencing the procurement decisions of domestic airlines. Government ownership of airlines, close relationships between high-level officials and airline executives, and regulatory clout combine to give European governments sufficient influence to swing airlines' choice of manufacturers. (Table 8–4 shows government ownership of major European airlines.)

Examples of government intervention in procurement decisions are numerous. The British Government directed British European Airways to buy the British-made BAC 1–11 and British Overseas Airways to buy the VC–10 in the 1960s and 1970s. All of British Airways' current fleet uses Rolls Royce engines. The French Government pressured French airlines to buy the French-made Caravelle, and Air Inter, France's domestic airline, was the only airline ever to buy the short-lived Mercure. The French Government tried to force Air France to buy DC–9s instead of Boeing's 737s in order to help negotiations between McDonnell Douglas and Dassault over the proposed Mercure 200. The French Government succeeded in forcing the airline to buy GE engines instead of Pratt & Whitney engines for the A310 because of GE's close ties to the French engine-maker SNECMA. Overall, the preference of European airlines for Airbus planes is pronounced, as figure 8–4 shows. In the categories where U.S.-made and Airbus aircraft compete directly, both Air France and Lufthansa have only Airbus planes in their inventories. In fact, the willingness of national airlines to buy Airbus planes was an essential part of the original agreement by which Airbus was established.

The significance of government-steered procurements has come less from the total volume of these orders than from their timing. French, British, and German airlines have provided the key launch orders, without which few of Europe's commercial aircraft programs would ever have proceeded. Without these orders, no Airbus models would likely have been launched.

The preference the Airbus members have shown for sourcing domestically has also been effective at promoting the development of a European supplier industry and at convincing U.S. manufacturers to transfer workshare and technology to European suppliers in return for access to Airbus contracts. During the selection of engines for the A300, Pratt & Whitney offered European firms subcontracts, but GE offered SNECMA and MTU a full partnership, giving them 16 and 10 percent respectively of the workshare of GE's CF–6–50 engine, and a say in the program's management. This offer was sufficient to convince the French and German Governments to specify the GE engine for the launch of the A300. Again, in the A310 engine competition, the GE partnership with SNECMA convinced the French Government to override Air France's preference for Pratt & Whitney engines. This selection led to GE's and SNECMA's 50/50 venture to build the CFM–56 engine, which is now used on the A320. Needless to say, Air France has specified the CFM–56 for all of its A320s.

TABLE 8–4.—GOVERNMENT OWNERSHIP OF MAJOR EUROPEAN AIRLINES

Airline	Country	Government ownership
British Airways	Great Britain	0 percent (100 percent until 1987).
Air France	France	Almost 100 percent (previously private UTA bought in 1990).
Lufthansa	Germany	52 percent (72 percent in 1987).
Iberia	Spain	Almost 100 percent.
Sabena	Belgium	Almost 100 percent (trying to privatize parts).
KLM	Netherlands	34 percent (declining from over 70 percent in early 80s).
Alitalia	Italy	100 percent.
Swiss Air	Switzerland	NA.
SAS	Scandinavian	100 percent (Sweden, Norway, and Denmark).

NA=not applicable.

Source: County NatWest Bank.

Government Promotion of Cooperation and Consolidation

European governments have also tried to improve the competitiveness of their aircraft manufacturers by promoting domestic consolidation and intra-European cooperation. European planners believe that to compete internationally in this industry, bigger companies are better. Domestic competition is seen as inefficient and has been sacrificed willingly to form larger firms better able to compete with American rivals. In England, France, and Germany, the dozens of aircraft companies that emerged from WWII were gradually consolidated into one commercial airframer and one commercial engine maker in each country. Consolidation at the supplier level followed. Competition within Europe has been discouraged in favor of cooperation, leading to a string of multinational ventures.

The rise of intra-European cooperation is an extension of the desire to achieve economics of scale that motivated consolidation

within countries. The Concorde was the first major collaborative civil project, followed by the ill-fated VFW-614 project between MBB and Fokker. Civilian collaboration really took off, however, with Airbus. Collaboration in military aircraft ventures is even more common than in civil projects. The Transall and the Toranado have been the biggest to date. Currently over 70 percent of Deutsche Aerospace's turnover is derived from collaborative projects, a proportion that is likely to rise to 80 percent by the end of the decade. Though it is impossible to know exactly what the competitive benefits of all this consolidation and cooperation have been, European policy makers seem well satisfied by the results.

Military-Commercial Synergies

In addition to all the benefits described above, European manufacturers have profited from synergies between their military and commercial businesses, from funding of civil aeronautical R&D, and from export assistance much as U.S. companies have.

Examples of military/civil synergies in Europe are numerous. Rolls Royce's early engines, the Avon, the Olympus, and the Spey, all began as military engines. Among Rolls' current commercial engines, none has a direct lineage in a military predecessor, but strong military R&D programs and sales, especially to the Middle East, contributed to Rolls Royce's recent recovery in the commercial engine business. SNECMA has benefited from combined civil and military sales of the CFM-56 just as GE has. GEC of the United Kingdom is developing a heads-up-display (HUD) combined with an infrared sensor to create a so-called "synthetic vision system" for use on commercial aircraft. The needed technologies came out of military developments for night flying. The Transall military transport collaboration between France and Germany ran from the late 1950s until the early 1970s and provided both specific technical synergies and broader business synergies with the commercial sides of the companies involved.

Some differences between the European and U.S. defense businesses affect the ability of commercial aircraft manufacturers to realize benefits from their military work. On the negative side, European governments have spent less on military aircraft than the U.S. Government, and military R&D has been a lower percentage of procurement, creating fewer opportunities for spillovers to the commercial side of the business. Duplication of R&D among various countries, each wanting to maintain autonomous defense production capabilities, has led to inefficient use of total European military R&D funds, resulting in fewer opportunities for commercial spin-offs than if the countries' R&D programs had been coordinated. European governments have spent less on the development of bombers, tankers, and military transports, which generate the most benefits for commercial aircraft.

On the positive side, European military exports are a greater percentage of total military production, partly compensating for lower domestic sales. Further, a higher proportion of the funds spent on military aircraft in Europe go to the same companies that build commercial planes than in the United States, which has many dedicated military contractors. As table 8-5 shows, total military production of all the Airbus members (excluding the rest of Daimler-Benz) is comparable to that of Boeing and McDonnell Douglas, and the reliance of these firms on military sales is higher than Boeing's, though not quite as high as McDonnell Douglas'.

European governments have mostly paid to develop military aircraft domestically rather than licensing from the United States. This practice has generated more commercially useful design and development capabilities than licensed production. The generally close relationships among European governments and their aircraft manufacturers create an atmosphere of trust in which companies are given substantial flexibility in the organization of their military work, leaving them more free than U.S. companies to achieve possible commercial-military synergies. Consolidation has left most countries with only one manufacturer in each product category, which increases the bargaining power companies have in concluding contracts with their governments. This may enable firms to achieve higher profits on military work, and those funds may then be used to finance commercial programs. Finally, most of the European companies interviewed for this study appear to do as well or better than U.S. firms at combining military and civil overhead functions, reducing costs.

TABLE 8-5.—REVENUES FROM MILITARY AIRCRAFT AND RELATED SALES, 1989

Company	Military sales [1]	Percent of total
MBB	783	47.0
Aerospatiale [2]	1,335	33.5
British Aerospace	3,470	53.6
All Airbus	5,588	46.1
Boeing	4,361	23.4
McDonnell Douglas	5,919	55.5

[1] In dollars.
[2] Includes some nonmilitary government sales.
Source: Company annual reports.

Government Funding for Civil Aeronautical R&D

Civil aeronautical R&D in Europe is similar to that in the United States. The Deutsche Forschungsund Versuchsanstalt für Luft- und Raumfahrt (previously DFVLR, now DLR) in Germany, Britain's Royal Aircraft Establishment (RAE) and the Office National d'Etude et de Recherches Aerospatiale (ONERA) in France all perform functions similar to NASA's aeronautics program. They supply some of Europe's largest, most expensive research and test facilities and conduct research in areas in which firms would otherwise underinvest. These activities generate some competitive benefits for European firms, but the benefits are limited by the same difficulties NASA faces. Also, their combined aeronautics budget is smaller than NASA's, and redundancy among the three organizations reduces their effectiveness. The prospects for increased cooperation are good. While the benefits to European manufacturers of government-funded technology programs are unlikely to equal those for U.S. manufacturers, at least they are likely to increase for the level they are at now.

Export Assistance

Finally, European governments have helped their aircraft manufacturers export. In Europe, as in the United States, export financing has become much less important in the last decade than it once was. However, before the Large Aircraft Sector Understanding (LASU) agreement and the improvement of commercially available export financing, European governments helped aggressively. Until the late 1970s, Airbus sold so few planes that each sale was critically important. One order could represent a year's production. These circumstances drove Airbus to offer extreme deals to win orders. Even now, U.S. companies claim Airbus can offer better deals than they can because of the government support the members receive. European governments are also involved in providing offsets as sales incentives, whereas the U.S. Government refuses to become involved in such practices. Desirable landing rights for purchasing countries' airlines and development assistance to poorer countries are the most commonly cited examples.

Overall, Airbus deserves credit for the technical excellence of its aircraft and its improvements in production efficiency and product support. However, the importance of direct financial supports, other direct supports, and indirect benefits such as civil/military synergies are so great that it is fair to say that Europe has bought itself an aircraft industry.

CONCLUSIONS

The principal lesson of this study is that, for governments that believe some industries are more important to national welfare than others, many tools are available to speed the development of those industries. some of the means of promoting development described here are expensive, and the task of weighing the cost of acquiring the desired industry against the benefits derived must be done carefully. In many cases, government supports have undesired side effects that undermine the intended positive effects. However, other cost little and all that is required of a government is the will to employ them. Sometimes, actions the government would take anyway naturally help the competitiveness of a desired industry, and all that is needed is that the government not prevent the benefits from accruing. Without doubt, effectively supporting an industry is difficult. However, as the world's aircraft industries show, it is possible.

THE U.S. AEROSPACE INDUSTRY IN THE 1990'S—A GLOBAL PERSPECTIVE

The United States is the world leader in aerospace design and manufacturing but other countries are strong competitors. In a new report, "The U.S. Aerospace Industry in the 1990s: A Global Perspective" the Aerospace Industries Association takes a hard look at where it stands and how it can maintain or increase its market position.

The aerospace industry of the 1990s is global, dynamic, and complex—driven by fast-paced technological change and heavily influenced by national government support. The aerospace market is also characterized by numerous international partnerships of every sort. In this environment, the traditional "modus operandi" of many U.S. firms and the U.S. Government may be inappropriate for continuing success.

THE U.S. AEROSPACE INDUSTRY IN 1991

Since AIA published its 1988 report on The U.S. Aerospace Industry and the Trend Toward Internationalization, the U.S. industry has increased its international activities. As a result, both exports and imports continue to rise, but export growth has been considerable enough to ensure a continuing string of record trade surpluses. Aerospace has the largest positive trade balance of any U.S. manufacturing sector. Still, the U.S. world market share in aerospace is declining. Despite growing demand for aerospace products, there are an increasing number of market competitors.

In a changing world, where market access is often on a quid pro quo basis, U.S. companies cannot depend only on direct sales abroad of U.S. products manufactured in the United States. Other avenues of trade must be pursued. Consequently, the number of

U.S./foreign partnerships is rising and U.S. companies are exploring new roles in these relationships.

U.S. aerospace manufacturers are producing for two very different markets, although strong foreign competition and international cooperation—to one degree or another—are characteristic of both.

Defense Aerospace Market

With the end of the Cold War, and despite lingering concern over a Soviet threat, the United States and its allies are more concentrated on regional threats to global peace. A lesson of the Persian Gulf War is that a strong defense is still necessary; at the same time, that lesson will not prevent the decline of the defense budgets of the United States and its allies. Instead, there will be increased emphasis on tactical systems, and on force mobility and deployment.

The U.S. defense industry is entering this new era from a weakened financial position resulting from government policies that limited profits and reduced the cash flow needed to meet increased operating capital requirements. Defense exports can offset some of the lost sales as the U.S. Government cuts defense spending. However, any number of sales are politically problematic for the United States, and with enormous excess defense production capacity in the world, American companies can easily be supplanted as suppliers. The loss of key defense markets could mean loss of national influence in certain regions of the world.

The issue of economic competitiveness has grown in importance relative to purely defense-related concerns in the United States. Worries about the industrial/technology base have heightened discussion over foreign sourcing for defense system components, foreign investment in the United States, offset sales arrangements, and technology export through international defense cooperation. While many would have the United States pull back from cooperative relationships, other countries, particularly in Europe, are forging closer ties; this could limit U.S. participation in those markets. European countries are also strong competitors for defense sales around the globe.

Civil Aerospace Market

The market for civil areospace products is more promising than the defense market. Commercial production is the growing share of total U.S. industry output and commercial products have long dominated U.S. areospace exports. With world airline capacity expected to double by 2005, prospects for the commercial transport sector are particularly bright.

Problems confronting U.S. producers include economic recession and airport congestion, which could limit expected expansion of this market. Another concern is the need to harmonize airworthiness requirements to prevent additional costs to U.S. manufacturers, and to preclude these requirements becoming technical barriers to trade between nations, Probably the most serious threat to all U.S. civil aircraft and space vehicle manufacturers is foreign government support of their aerospace companies.

The U.S. civil helicopter industry is not faring as well as the commercial transport sector. Strong foreign competition, often subsidized, has made substantial market inroads. Rotorcraft manufacturers have suffered from recession in the oil industry. Today, they are pinning hopes on the need to replace aging fleets, a rebound in energy markets and the economy, and new technology models under development. Long-term, expansion of this market depends on development of an infrastructure to support regularly scheduled rotorcraft operations.

American general aviation manufacturers have experienced serious decline in the piston-powered aircraft market, due to excessive product liability claims and the resulting high cost of insurance. Higher value commuter and business turboprops and business jets are selling well and exports are rising. New technology aircraft and sizable military contracts should lead to stronger sales.

The space vehicles and launch services sector is expanding steadily. Military requirements for space systems will continue to grow. The commercial space market will develop more slowly and require substantial government support and encouragement.

Two regional markets are particularly important to the U.S. aerospace industry in the 1990s—Western Europe and the Asia-Pacific Rim.

Western European Aerospace Market

The market landscape is being altered for U.S. manufacturers by the emergence of a unified Western European economy, parallel efforts to integrate the European defense market (which already has significant cross-border relationships), the unification of East and West Germany, and the opening of other Eastern European countries. The U.S. relationship with Europe through NATO has been a cornerstone of the American defense market. Events in Eastern Europe and the Soviet Union may mean that the NATO alliance will take on a more political than military cast—with considerable effect on European defense purchases and U.S./European manufacturing arrangements.

Western countries will continue to need defense equipment such as deep strike, theater ballistic missile defense, air defense, chemical/biological warfare protection, command and control, surveillance and verification, early warning and reconnaissance, and long-range targeting systems. These needs should provide opportunities for joint U.S.-European cooperation. However, joint programs have not occurred on any significant scale. Instead, European countries are cooperating among themselves—as are American companies—to a greater degree.

Cross-border relationships have been central to European strategic planning for years, and they have been a key element in keeping the European aerospace sector viable. Meanwhile, U.S. defense manufacturers were able to be successful by concentrating on the large U.S. domestic market, and competing against each other.

Exports have been extremely important to European aerospace manufacturers for years, and—as the U.S. defense market shrinks—their importance to U.S. companies is growing. Both U.S. and European aerospace companies lean heavily on direct exports and on licensing to achieve foreign sales objectives. In addition, European manufacturers are pursuing international joint ventures and mergers at a pace unparalleled in the industry. While most of these efforts are aimed at consolidating their regional position, European manufacturers are also making inroads in the U.S. and Asian markets. The emergence of these larger corporate entities and interfirm alliances is spearheading a global change in the industry.

Factors that figure prominently in the European embrace of a transnational strategy, and the development of larger companies, include: the rising price of advanced technology, the increasing risk of undertaking aerospace programs, regional overcapacity, and the need to balance the United States' competitive advantages in terms of greater sales base and strong R&D funding.

European governments have fostered international aerospace alliances by:

Allowing companies to participate in transnational partnerships—particularly those involving defense contracts and nationalized firms. European governments have not overburdened partnerships with oversight and technology-transfer restrictions.

Continuing to fund joint venture projects which, in many cases, would have been impossible without government assistance.

Supporting European economic unification, joint aeronautical R&D, and the efforts of the Independent European Program Group, which has called for cooperative R&D and greater regional competition to strengthen Europe's defense industrial base.

Nine of the 12 European Community members can produce some form of air craft and several have the capability to design and assemble state-of-the-art products. Depending on the extent of their current capabilities, these countries use international collaboration to supplement their domestic programs, build their credentials in the world aerospace market or, in the case of new market entrants—Greece, Portugal and Turkey—to build their industrial base.

Japan and the Asia-Pacific Rim Aerospace Market

Twenty-three countries comprise the Asia-Pacific Rim region and the robust economic growth of this region will continue to create demand for aerospace products. Commercial air traffic is in a growth mode. Defense spending is also on the increase, with annual regional increases of 6 percent. The region is an important market for U.S. aerospace manufacturers and commercial sales, particularly, have shown growth. European manufacturers have also gained a share of this market—once totally dominated by U.S. industry. European firms are currently engineering a more aggressive marketing campaign in the region.

Many nations in the Asia-Pacific Rim are launching their own aerospace programs. Japan has ambitions to be a major player in the world aerospace market. While its efforts have not always met with success, Japan continues to move forward and is currently involved in several important aerospace projects. China is another active regional aerospace market participant, although with more limited capabilities. Taiwan and South Korea both have programs underway, which they hope will provide the start necessary to build at least some aerospace capacity within their countries. While these nations will not be able to challenge U.S. "big-ticket" programs such as the manufacture of commercial transports, they will increase competition in other segments of the market—e.g., in the production of components and parts. Because a large national commitment will be needed for success, government support of aerospace programs in the Asia-Pacific Rim will be substantial and long-term.

Japan is the economic power in the region and its actions may be a guide to its neighbors. In the defense sector, the Japanese aerospace industry has used its strong position as a buyer to obtain technology and manufacturing skills from foreign companies, particularly those in the United States. The Japanese domestic market alone is not of sufficient size to allow Japan to sustain a large commercial aircraft manufacturing effort. Instead, the Japanese have concentrated on niche markets, such as parts and subassembly production, and have targeted export demand.

The Japanese government has been strongly behind the development of its aerospace industry. It has identified projects, solicited foreign collaboration, set up and coordinated domestic consortia, and arranged financing and R&D funding. Japan considers cooperation between government and industry in developing market capabilities not only desirable, but necessary. The government sees aerospace as a strategic industry, and the key to advancing high-technology development generally.

Japan is pursuing an airspace development strategy centered on:

Continuing R&D aimed at enabling Japanese manufacturers to shoulder a larger role in development and production of future or next-generation technology (e.g., high speed civil transport). Japan will seek an equal partner role in such an effort.

Attempting to launch a regional aircraft program with foreign partners.

Improving design and production processes by remaining a high-quality reliable supplier of aircraft parts and sections, particularly fuselage subassemblies and wing parts.

Becoming a world leader in aerospace systems and components production. Japanese industry is looking for joint development opportunities in this area.

Developing high technology space systems, including unmanned launch vehicles and manned space stations.

At the subcontractor level, Japanese firms compete against each other and foreign companies for business. For large projects, which require high levels R&D funding, national competition is limited; major Japanese aerospace firms form domestic consortia and negotiate workshares. Consortia enable Japan to present a stronger position on the international market.

Changing U.S. Role in International Space Activities

For years, the United States dominated free world space efforts, cooperating with other nations to establish world-wide satellite communication capabilities, but continuing to develop guidance systems, electronics, computer software, new materials, propulsion equipment, and so forth, in the United States—and almost solely for government needs. Today many nations have space capabilities and any nation with the ability to pay for a launch can have access to space. At least seven nations offer launch facilities and vehicles. Space is on the way to becoming a business, not simply a function of national prestige or dominance driven by political and military considerations.

Worldwide, it is estimated, nearly $80 billion a year is being spent on space-related activities. Of that $80 billion, the United States accounts for about 42 percent, the Soviet Union 45 percent, and the rest of the world 13 percent. Of that 13 percent, Europe predominates followed by China and Japan. Many newcomers to space have piggybacked on American technology.

In a world of tighter space transportation and R&D budgets, the United States must make decisions about its investment. Billions of dollars have been spent to support a serious space program. However, large near-term outlays for long-range, visionary programs may be in doubt in light of program setbacks and budget deficits. The United States will maintain a broad capability in space—in part, for national security reasons. But it must better position itself to capture the benefits of space in the commercial sector.

Over the next few years, it will be important to maintain confidence in the U.S. space program, and to sustain an appropriate level of funding. In addition, space programs need stronger coordination and focus within the government. With a spotty history of success in international cooperative programs, the nation also needs to recognize that international partnerships will be necessary for many new space endeavors—and operate accordingly. Finally, there are some tough trade issues to be faced including how to ensure that U.S. private companies can compete against the space products and services of nonmarket economies.

Aerospace Technology—Trends and Strategies

Technology development and technology export are priority concerns for the aerospace industry. Technology is a key issue in either creating or impending international partnerships. The high cost and risk of new technology, access to technology advantages of partners, and market entry are reasons favoring cooperation. But technology leaders such as the United States also face the possible loss of a key element of business advantage. It is important to ask: What must be held back to protect future competitive advantage? What can be shared to achieve today's sales, today's market access, today's mutual benefit?

Nations are collaborating more to develop and apply new aerospace technology, and the capabilities of U.S. competitors are growing. An additional complication is that some technology being applied in aerospace is "dual-use," with both military and civil applications. This has led to a situation where some U.S. products are—or may be—restricted from export, while similar products of competitors are not.

The issue of technology transfer was at the heart of the controversy over the FSX fighter project with Japan. The issue has also caused problems between Europe and the United States. If the United States is not willing, or U.S. companies not allowed, to pursue cooperative efforts—sometimes from initial R&D on—companies from other nations will not hesitate to fill the void. The agreement between Germany's Daimler-Benz and Mitsubishi of Japan to discuss a range of collaborative efforts is a striking example.

What can be lost in discussions about cooperation between the United States and other countries is the fact that technology flows both ways. Other countries have made advances from which the United States can benefit. Agreements can be structured to protect critical, proprietary information while taking advantage of the market potential cooperative arrangements provide.

The United States has no strategy to foster technology development and satisfactorily address technology-sharing questions. Its approach is an *ad hoc* blend of government and private industry initiatives, offensive and defensive. Defensive initiatives include Buy American legislation, offset restrictions, anti-foreign direct investment measures, and export controls. Unfortunately, export controls are not coordinated, delays in issuing export licenses can be extreme and American manufacturers are often prevented from making, or must report at length, special arrangements needed to secure foreign sales.

Strategies that place the United States on the offensive include research and development incentives, teaming domestically for research and development, and targeted spending on critical technologies. The Aerospace Industries Association has launched a Key Technologies initiative to keep the United States aerospace industry in the forefront. AIA identified important enabling technologies, and is developing technology roadmaps and development plans, and working cooperatively with the government and universities to focus funding and research.

Government policy makers and industry continue to debate what a national technology strategy should be, and the issue is often contentious. Technology strategy is frequently cast, and negatively, in terms of "industrial policy"—the choosing of winners and losers. The question is: what middle ground can be found between a government-directed and supported approach to business and leaving things as they are? Meanwhile, U.S. companies compete in a marketplace where other nations' resolve to subsidize and otherwise assist their industries in influencing the outcome of sales.

CONCLUSIONS

The World Aerospace Market

The aerospace market is a global market that will strongly challenge U.S. aerospace firms in the 1990s.

The aerospace market is characterized by numerous international business partnerships—from joint ventures through subcontracting relationships. In this environment, the traditional *modus operandi* of many U.S. firms and the U.S. Government may be inappropriate for achieving success.

The U.S. aerospace industry will continue as the world leader in aerospace for the foreseeable future—given the right balance of policy and programs. It will not maintain as dominant a position as in the past in all segments of the market.

The prescription for market success calls for maintaining the industry's scientific and technical strengths and enhancing them with greater manufacturing capability. Success depends upon the industry's ability to export, its access to affordable investment capital—and to well-educated workers.

New market opportunities are available for U.S. aerospace firms.

With sales and exports at record levels, the U.S. aerospace industry is in a strong position to capitalize on the market opportunities of the next decade. The world's defense market will continue to be an important source of sales. However, the commercial sector is now the area of market growth.

U.S. aerospace producers face greater competition.

Every national market will be more competitive. Manufacturers from the Soviet Union and Eastern Europe will be moving into Western markets for the first time. Aerospace firms in Western Europe will be stronger and more capable than ever. Countries in the Asia-Pacific Rim are intent on developing their own aerospace industries.

Trends In International Aerospace Cooperation

Foreign firms will continue to seek out U.S. companies for collaborative efforts, particularly on commercial projects.

Aerospace companies are cooperating internationally in order to compete. The size of the U.S. military and commercial markets makes U.S. companies attractive partners. At the same time, foreign companies—particularly European firms—are competing with the United States for key roles in international partnerships.0

Defense cooperation between the United States and other nations will not live up to recent expectations.

The decline in defense funding and the changing threat will reduce defense cooperation between the United States and other countries from expectations of several years ago. Paradoxically, these same trends and events will highlight the usefulness of cooperation as a means of spreading costs, sharing risk, and increasing market access.

In Western Europe and Japan, cooperation is viewed as a fundamental part of the defense industrial strategy. In general, in the United States, cooperation is not seen as essential to building an effective defense.

Cooperation among U.S. Defense Contractors is increasing.

American companies are beginning to work together, as are the Europeans, to rationalize their defense technology resources.

International collaboration will often take different forms than in the past.

The competitive pressure on the United States for more genuine collaboration is resulting in new types of partnership and new, sometime subordinate, roles for U.S. manufacturers. But critical U.S. technologies will be more closely guarded by both companies and the government for competitive reasons.

The Space Market

The United States will continue to be a leader in space but will face increasing competition in commercial markets.

U.S. space leadership will continue thanks to the large investment in space-related research and the significant space infrastructure the United States has created. However, the trend is towards sharing of a larger space market and away from the dominance of the United States and the Soviet Union.

In the years just ahead, it will be difficult for NASA to do ambitious "big ticket" projects.

Political consensus is necessary to fund ambitious large-scale space projects and, at a time of budget restraints, that will be difficult for the United States to achieve. A new attitude of long-term commitment by the government is necessary in order to accomplish the goals of large-scale program. It will be necessary to establish discrete short-term goals, concentrated on enabling technologies.

U.S. commercial space business prospects could be enhanced by more centralized decision-making.

Programs that could lead to competitive products and services suffer from a lack of focused, business-oriented management. The diffusion of responsibility and lack of focus make funding decisions difficult for Congress.

U.S. government help will be needed to get the commercial space sector established.

The U.S. Government should support space-oriented commercial business—as other governments are doing.

International space consortia are proceeding without U.S. participation.

The United States will be excluded from some international arrangements because of its reputation as an unreliable partner and its restrictive technology transfer policies.

Technology Trends and Strategies

The United States needs a national technology strategy and commitment to a strong industrial/technology base.

The United States does not yet have a coherent strategy to support industry on high technology issues. A strong case is building for a strategy of nurturing generic, enabling technolgies—technologies that encompass both civil and military applications and are vital to worldwide competitiveness.

The United States needs to step up its investment in manufacturing capability.

While maintaining the vitality of science and technology, the United States cannot afford to underinvest in manufacturing technology. The true cutting edge in world competition is how fast, how well and how cost-effectively products are manufactured.

The prospects of the U.S. aerospace industry will be affected by tighter R&D budgets and the debate over how technology dollars should be spent.

Technology demonstration will become more important than ever in order to shorten the time from concept to application and to learn how various advanced technologies work together.

Validation of generic technology—to reduce the risk of application for manufacturers—is as important in the civil as in the military sector. Over the long term, lack of validation funding will inhibit technological preeminence in civil aeronautics.

More development and coproduction among American companies will strengthen the competitive position of the United States.

Coproduction ventures among U.S. firms will help companies build upon joint research, and create profits they can reinvest in the technology base.

Trying to stop the international flow of advanced technology through excessive restrictions on products or on cooperative programs is nonproductive.

Company proprietary know-how and technologies critical for national security must be protected. Beyond that, restrictions on technology are less productive than working to continually advance the state-of-the-art, improve manufacturing technology, and speed up the cycle of concept to application.

An educated, motivated work force is one of the most important components of competitive success for aerospace.

The aerospace industry will be challenged to meet its future work force needs. Other countries are doing a better job of preparing workers who can meet the requirements of high technology industries.

RECOMMENDATIONS

Create Better, Lower-cost Products Faster Than Competitors

Industry

Give technology planning and development as much priority in business planning as profits.

Expand the use of concurrent engineering whereby engineering designers and manufacturing planners work hand in hand from the first stages of product development.

Pursue the aerospace industry's Key Technologies for the Year 2000 program.

Comment to a strong, continuing investment in manufacturing capability.

Emphasize use of Total Quality programs to motivate employees and improve the productivity of the aerospace work force.

Put more effort into building better working teams, both in domestic partnerships and with foreign companies.

Government

Support industry-led Key Technologies program and work with industry to develop consensus technology development plans.

Provide sustained, strong, balanced funding of the technology base and technology demonstration/validation.

Provide incentives for private R&D investment.

Enact legislation supporting formation of U.S. production-based consortia.

Support major space initiatives such as Space Station Freedom, the Missions to and from Planet Earth, and the Space Exploration Initiative within the context of a strong overall U.S. space program and the incremental development of technology.

Pursue bilateral or multilateral cooperative efforts in space.

Support a competitive commercial space industry in the United States through a strong public-private partnership.

Increase IMIP funding within the DoD budget, set unified policy for management of programs across services, and streamline IMIP contract implementation.

Support development of the National Defense Manufacturing Technology Plan.

Foster use of management concepts for continuous productivity improvement.

Establish An Investment Climate That Supports A Strong Industrial/Technology Base

Industry

Build partnerships with U.S. suppliers and promote productivity through assistance with employee training, R&D, manufacturing investment.

Develop international partnerships that provide a strong flowback of financial and technology resources.

Government

Pursue fiscal and spending policies that will make capital available and affordable for business investment.

Place greater effort into improving the dialogue between government and industry, and involving industry in the development of program requirements.

Encourage industry's investment in technology and innovation by allowing full recovery of the costs of IR&D/B&P.

Increase progress payments to defense contractors.

Reorient the defense budget cycle to allow more multi-year procurements.

Rescind the current DoD policy on recoupment of RDT&E costs and apply recoupment surcharges only to major defense equipment sold to foreign countries.

Educate, Attract, and Develop a High-Caliber Work Force

Industry

Continue and strengthen support of the public education system, particularly science, math and language programs from K–12 through university level.

Expand enhanced in-house education programs for those with specialized and critical skills, and to increase productivity and competitiveness of the work force as a whole.

Expand in-house remedial education for workers, stressing fundamentals such as English, communications, and computations.

Expand recruitment and training of women and minorities.

Continue to pursue and develop ties with the university community in support of research objectives and development of an educated work force.

Continue to provide Key Technologies information to universities to help guide curriculum changes.

Government

Provide strong support nationwide for the study of science, math and languages.

Provide financial incentives to develop university-industry partnerships.

Academia

Work with industry to develop and integrate curricula that respond to the needs of knowledge-intensive production.

Work with industry and government to develop sound Key Technology development plans, coordinate with them on university-based research efforts and relate curriculum where possible to important generic technologies.

Remove Barriers To Trade

Government

Work toward a free and open climate for international trade and investment including greater harmonization of country practices on R&D and production subsidies, and

elimination of non-tariff barriers and technical barriers such as some standards, testing and certification requirements.

Take aggressive action against violators of international trade agreements.

Continue to support the Uruguay Round of the GATT and work to strengthen the multilateral trading system.

Effectively regulate the entry of space launch systems developed in nonmarket economies into the limited commercial market.

Establish Pro-trade policies

Government

Seek active FAA role in promotion of U.S. aviation interests world-wide, including strong efforts to maintain the integrity of U.S. federal airworthiness regulations (FARs).

Work toward speedy harmonization of product liability laws in the international arena, and reform present U.S. product liability laws and penalties.

Affirm an Administration policy on defense exports and international cooperative programs.

Work toward a multilateral framework on offset understandings and take no unilateral action to limit offset.

Ensure adequate financing for all exports.

Implement Technology Export Policies That Make National Security And Market Sense

Industry

Foster discussion of industrial/technology base issues from a global perspective.

Focus internal activities on key company strength—critical product and process technology—while cooperating internationally to enhance U.S. market opportunities.

Structure cooperative agreements for strategic acquisition—as well as sharing—of technology.

Government

More clearly define products and technologies to be controlled rather than imposing broad, generalized prohibitions.

Provide a single DoD policy guidance on defense exports, technology transfer, the industrial base, and arms cooperation.

Clarify jurisdiction between Departments of State and Commerce with respect to "dual-use" commodities, with final appeal to the President.

Conform U.S. Munitions List to COCOM International List to put U.S. suppliers on equal footing with foreign competitors.

More narrowly define "defense articles and services."

Streamline export controls administration.

Pursue technology developed abroad through government to government efforts.●

SENATE RESOLUTION 235—RELATIVE TO THE BLOODSHED IN CROATIA

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 235

Whereas the history and culture of the Croatian people dates back well over 1000 years;

Whereas Croatian and Serbian borders have shifted over the centuries, with each ethnic group having more or less territory at different times in history;

Whereas some of the finest remaining treasures of the Ancient Greek and Roman civilizations, like the Roman amphitheater in Pula, the Emperor Diocletian's Palace in Split, and the archeological riches of Vucedol near Vukovar, are in Croatia;

Whereas many magnificent churches, cathedrals, palaces, castles, museums and libraries were built in Croatia from ancient times to the present day;

Whereas the Yugoslav army has been targeting many of these cultural landmarks for destruction in attacks from land, air, and sea;

Whereas the Yugoslav army and Serbian insurgents have been destroying hospitals, and ambulances and relief workers are being fired upon;

Whereas the historic city of Dubrovnik holding no military significance, has been subjected to malnutrition, thirst and disease due to an extended siege without supplies, water or electricity;

Whereas the city of Vukovar has been leveled and its population killed, injured, or displaced;

Whereas the Yugoslav army is targeting Osjek and other Croatian cities for similar destruction;

Whereas Serbians and Croatians have each alleged that members of the other group are perpetrators of atrocities, summary executions, and terrorism against civilians as well as soldiers: Now, therefore, be it

Resolved, That it is the sense of the Senate that bloodshed must be stopped and that:

(1) the United Nations should intervene and send peacekeeping forces to Yugoslavia,

(2) Yugoslav army forces and Serbian insurgents should pull back to internationally recognized pre-war borders,

(3) destruction of cultural artifacts and buildings must cease,

(4) destruction of churches, synagogues, and other places of worship, as well as hospitals, must cease,

(5) attacks on internationally recognized relief workers and their organizations must cease,

(6) warring factions must stop summary executions, torture, abuse, and terrorism,

(7) an independent authority should investigate allegations of atrocities by warring factions.

(8) warring factions must respect the rights of all ethnic groups and halt the killing of innocent people.

SENATE RESOLUTION 236—RELATIVE TO GAYS AND LESBIANS IN THE ARMED SERVICES

Mr. ADAMS (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. INOUYE, and Mr. WIRTH) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 236

Whereas the capacity of the Armed Forces of the United States to carry out the mission of such forces is hindered when competent and qualified individuals are denied the opportunity to serve in such forces;

Whereas an estimated 1,000 men and women are discharged from the Armed Forces each year simply because of their sexual orientation;

Whereas such discharges cost American taxpayers millions of dollars each year;

Whereas studies authorized by the Department of Defense have shown that there is no correlation between sexual orientation and the successful performance of service in the Armed Forces;

Whereas Secretary of Defense Richard Cheney has acknowledged that men and women who would be prohibited from service in the Armed Forces by reason of their sexual orientation under Department of Defense Directive 1332.14, section H.1, are currently permitted to serve in sensitive civilian positions in the Department of Defense;

Whereas men and women who would have been banned from service in the Armed Forces under the directive have served in the Armed Forces in war and in peace throughout the history of the United States;

Whereas such men and women have received military honors and decorations for their valor and service to the United States;

Whereas men and women who could be banned from service in the Armed Forces under the directive presently serve in the Armed Forces and carried out combat missions in the Persian Gulf War as part of such service;

Whereas in an appearance before Congress, Secretary of Defense Richard Cheney testified that the directive contains a policy that he believes the Department of Defense has "inherited" and that the rationale for the directive, that it protects against security risks, is "a bit of an old chestnut"; and

Whereas, regardless of their sexual orientation, all Americans who qualify for service in the Armed Forces deserve an opportunity to serve in the Armed Forces in defense of the United States; Now, therefore, be it

Resolved, That the Senate urges the President to rescind Department of Defense Directive 1332.14, section H.1, so that all Americans, regardless of sexual orientation, who currently serve the United States through service in the Armed Forces and all Americans who wish to serve the United States by such service, will not be prevented from, or punished for, doing so.

● Mr. ADAMS. Mr. President, I am pleased to be joined today by Senators CRANSTON, AKAKA, INOUYE, and WIRTH in introducing a resolution urging repeal of the military's policy banning gay men and lesbians from service. The resolution calls on the President to rescind Department of Defense Directive 1332.14, section H.1, which bans gay, lesbian and bisexual Americans from military service.

This policy is based on stereotypes and prejudice. It is bigoted. It wastes millions of American taxpayers' dollars.

The Pentagon defends itself with the same tired arguments used to deny African-Americans the right to serve their country. The same arguments were raised against women joining the service. The United States has the most modern military in the world. And an antique personnel policy. It is time to discard the policy.

I have a special interest in overturning the ban on gays in the military. It is likely to cause Washington State—and our Nation—to lose a truly outstanding officer, Col. Margarethe Cammermeyer.

Colonel Cammermeyer has served our Nation and all Americans with great distinction for 26 years. She was awarded the Bronze Star for service in Vietnam. She has received the highest professional awards from the Surgeon General. Since 1986, she has served as the State Chief Nurse of the Washing-

ton State National Guard. She was on her way to becoming Chief Nurse of the U.S. National Guard when she responded honestly to a question about her sexual orientation. This prompted the 6th Army to begin discharge proceedings against her.

In response to my request that the Army terminate such proceedings, the Department of the Army wrote, in part:

We agree that the service record of colonel Cammermeyer is impressive. She has had a distinguished military career on active duty in the Army and Army National Guard.

Not surprisingly, the Washington National Guard supports retaining Colonel Cammermeyer. Her supervisor, State Surgeon Col. George Koss, has requested that she be retained.

What did Colonel Cammermeyer do wrong? Nothing. After 26 years of exceptional service to our country, the move to discharge her is based solely on her sexual orientation. This is disgraceful.

But it is not unusual. Since 1982, more than 13,200 gays and lesbians have been forced out of the military. Every year the military boots more than 1,000 talented individuals from service because they may be a gay or lesbian. It has nothing to do with conduct. One was a naval cadet near the top of his class at Annapolis. Many have won the highest military honors. This discriminatory policy deprives our country of talented and truly dedicated individuals.

The Pentagon's own studies offer nothing to substantiate this policy. Department of Defense evaluations have revealed no correlation between successful military service and sexual orientation. One Pentagon study, prepared several years ago by the Defense Personnel Security Research and Education Center [PERSEREC], shows gays and lesbians often perform better than other soldiers. A more recent PERSEREC study dispels the myth that gays pose a higher security risk than their heterosexual counterparts.

A 1989 Gallup poll indicated that 60 percent of the American public support the inclusion of gays in the military. A September 1, 1991 New York Times editorial found: "The ban deprives the armed forces of talent and discharges damage thousands of careers and lives. All for a policy with not a shred of hard evidence to support it."

When asked earlier this year about the DoD policy, Secretary of Defense Cheney conceded it is one he inherited. He acknowledged it is two-faced: it does not apply to civilians holding even the most sensitive positions in the Department. Secretary Cheney admitted it is a "bit of an old chestnut."

The fact is: gays and lesbians have served in the military throughout history. Some estimate that as many as 50,000 served in the Persian Gulf war. The Pentagon has allowed gay men and lesbians to risk their lives during times of war, when it needs them. What makes the same individuals unfit to serve in peacetime?

In 1941, a Navy memorandum asserted that blacks and whites living together could lead to "disruptive and undermining conditions." President Truman put an end to that policy of segregation by Executive Order in 1948. President Bush could do the same thing today.

My resolution urges the President Bush to rescind the directive so that all Americans, regardless of sexual orientation, may serve their country. No one should be prevented from serving or punished for serving solely on the basis of sexual orientation.

My resolution is a matter of justice. It is a matter of fundamental human decency. It is also good policy.●

SENATE RESOLUTION 237—RELATIVE TO DEFORESTATION IN THE PHILIPPINES

Mr. GORE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 237

Whereas, illegal logging is a chronic problem worldwide and particularly in the Philippines, a nation that retains less than 3 percent of its original primary forest cover,

Whereas illegal logging is a practice occurring also in other areas exporting tropical timber, including Burma, Thailand, Papua New Guinea,

Whereas illegal logging deprives native and local communities of legitimate control and benefits from forest resources, and the corruption and violence inherent in illegal trading in timber undermines the healthy development of democracy,

Whereas devastating floods that killed over 6,000 people this November in the Philippines were exacerbated by the removal of forest cover, reportedly caused by illegal logging.

Whereas the problem of illegal logging in the Philippines is exacerbated by the involvement of corrupt military and paramilitary personnel who reportedly have harassed and killed environmentalists, indigenous leaders, and priests working to preserve forests, as is suspected in the cases of Henry Dumoldol, Fr. Nerilito Satur, and Fr. Kark Schmitz, S.P.,

Whereas the International Tropical Timber Organization is an international commodity trading organization established to monitor and regulate the trade in tropical timber, issue recommendations for the policies of members countries, including for the purpose of maintaining the ecological balance in the region concerned; and,

Whereas the ITTO has not sufficiently addressed the issue of illegal logging nor made efforts to ensure that the international trade in tropical timber does not support the socially and environmentally devastating effects of illegal logging, now, therefore be it

Resolved, that the government of the United States, in its participation in the International Tropical Timber Organization, requests the International Tropic Timber Organization fully to recognize the problem of illegal logging in many timber exporting countries, and asks the International Tropical Timber Organization to prioritize efforts to develop a system to prevent the illegal cutting and trade in tropical timber through monitoring, certification, and control of timber traded;

That it should be the policy of the government of the United States to ensure that military and other assistance to the Philippines does not support illegal logging activities undertaken by officials of the Philippine military,

That it is the sense of the Senate that the government of Japan should undertake an investigation through ITTO to determine the amount of illegal tropical timber imported into Japan by individuals and corporations involved in the Philippines tropical timber trade.

● Mr. GORE. Mr. President: Every day, 140,000 acres of tropical rainforest are torn down. By the end of this year, at least 50 million more acres of tropical forest will be gone forever.

The price of our rampant destruction of the forests is high. Though constitutioning only a small fraction of the earth's entire landmass, tropical forests are home to over half of all animal and plant species. In indiscriminantly cutting and burning the trees, we are severing the very threads of life, and jeopardizing the ability of all life forms to evolve and flourish.

Our planet's delicate climatic balance is also jeopardized by our destruction of the forests. With the loss of trees, we lose one of nature's most effective mechanisms for cleansing the atmosphere of carbon dioxide and other trace gases. In addition, trees play a vital role in continuing the cycle of water from the air to the earth; the loss of trees, particularly in tropical regions, often leads to desertification and severe soil erosion. Studies have shown that, within 3 to 4 years, many deforested regions are wastelands—unable to support life.

Advances in science are making us aware of these and other environmental catastrophes that result from rampant burning and cutting of the forest. What we are still largely blind to, however, is the devastating impact these practices are also having on the communities and villages of the forest.

Today I rise to introduce a resolution that calls attention to the shocking situation of one country, the Philippines, where human rights abuses of the worst kind are part and parcel of a seemingly tireless campaign waged by logging companies—and by corrupt government and military officials—to strip the country bare of its once rich forest resources.

As reported by the Philippine Center for Investigative Journalism, "Through the years, logging companies have made big money from the island's forests but have left the people * * * little except a legacy of death and destruction." Whole villages have been left in ruin as the chainsaws and bulldozers rip through the countryside. Though promised new land, medical

and financial help, communities have instead been left in utter devastation.

And the loss to the villagers is not only financial. For thousands of people, the consequence has been death. Denuded of trees, the islands—and hillside communities—are extremely vulnerable to floods. In November alone, some 6,000 people perished as the torrential downpours swept tons of mud from the hills. Reports abound of families literally buried alive as the landslides enveloped their homes.

Some have tried to raise their voices against these abuses. Many of these courageous individuals, however, have lost their lives as a consequence. Those profiting from these disastrous practices have little tolerance for those who would jeopardize their profiteering schemes, and they have been willing to go to any length to put an end to potential interference with their plunder of the forests and enslavement of forest communities.

Newspaper accounts of the devastation indicate that mayors and other political operatives are at the heart of the corruption. And the military, too, is playing a big role. The Chronicle, for example, reports that "Military officials in this province (Nueva Ecija) have reportedly taken turns in stealing and selling illegally-cut lumber and banned narra species."

In 1934, more than 57 percent—some 17 million hectares—of the Philippines were covered by rich forest. Today, only 6 million hectares of forest remain, and only a small part of the remainder is virgin forest. If nothing is done to stop the present feverish rate of deforestation, all of the country's virgin forests will be gone in just 9 years.

Mr. President, deforestation in the Philippines has brought untold devastation to the country and untold misery to her citizens. Action must be taken now to stop the abuses. In this resolution, I call on the International Tropical Timber Organization—the international body charged with regulating and monitoring tropical forestry practices—to prioritize efforts to bring an end to illegal logging. The resolution also declares it to be the policy of the United States to ensure that military and other financial assistance we provide to the Philippine Government is not used in support of the rampant deforestation and calls on the Government of Japan to ensure that logs illegally taken from Philippine forests are not imported there.

Mr. President, I urge my colleagues to join me in support of this measure and in sending a loud message to those who would destroy human lives and the forests and the many species that depend on the forests, that there corrupt practices will not long be tolerated.●

AMENDMENTS SUBMITTED

MEDICAID MORATORIUM AMENDMENTS

DURENBERGER (AND RUDMAN) AMENDMENT NO. 1446

Mr. DURENBERGER (for himself and Mr. RUDMAN) proposed an amendment to the reported amendment to the bill (H.R. 3595) to delay until September 30, 1991, the issuance of any regulations by the Secretary of Health and Human Services changing the treatment of voluntary contributions and provider-specific taxes by States as a source of a States expenditures for which Federal financial participation is available under the Medicaid Program and to maintain the treatment of intergovernmental transfers as such a source, as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991".

SEC. 2. PROHIBITION ON USE OF VOLUNTARY CONTRIBUTIONS, AND LIMITATION ON THE USE OF PROVIDER-SPECIFIC TAXES TO OBTAIN FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

"(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

"(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

"(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

"(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

"(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

"(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(iii) In this subparagraph and subparagraph (E), the term 'impermissible tax' means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

"(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

"(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

"(F) In this paragraph in the case of a State—

"(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

"(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

"(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

"(2)(A) In this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (7)(B)),

"(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

"(B) For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3)(A) In this subsection, the term 'health care related tax' means a tax (as defined in paragraph (7)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) In this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that violates the standards in subparagraph (E)(ii) (I) and (II) or paragraph (4).

"(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment may be made under a State plan under this title or title XVIII, or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title.

"(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraphs (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

"(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of subclause (II).

"(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

"(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

"(B)(i) In subparagraph (A), the term 'State base percentage' means, with respect to a State, an amount (expressed as a percentage) equal to—

"(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

"(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

"(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

"(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

"(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

"(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

"(6) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State-owned teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that

would not otherwise be recognized as the non-Federal share under this section.

"(7) For purposes of this subsection:

"(A) Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(E) The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(t) of such Act (42 U.S.C. 1396a(t)) is amended—

(A) by striking "Except as provided in section 1903(i), nothing" and inserting "Nothing", and

(B) by striking "taxes (whether or not of general applicability)" and inserting "taxes of general applicability".

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking paragraph (10) inserted by section 4701(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect January 1, 1992.

(2) Except as specifically provided in section 1903(w) of the Social Security Act and notwithstanding any other provision of such Act, the Secretary of Health and Human Services shall not, with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F) of such Act, disallow any claim submitted by a State for, or otherwise withhold Federal financial participation with respect to, amounts expended for medical assistance under title XIX of the Social Security Act by reason of the fact that the source of the funds used to constitute the non-Federal share of such expenditures is a tax imposed on, or a donation received from, a health care provider, or on the ground that the amount of any donation or tax proceeds must be credited against the amount of the expenditure.

SEC. 3. RESTRICTIONS ON AGGREGATE PAYMENTS FOR DISPROPORTIONATE SHARE HOSPITALS.

(a) REPEAL OF PROHIBITION OF UPPER PAYMENT LIMIT FOR DISPROPORTIONATE SHARE HOSPITALS.—Section 1902(h) of the Social Security Act (42 U.S.C. 1396a(h)) is amended by striking "to limit" the first place it appears and all that follows through "special needs or".

(b) LIMITATION ON AGGREGATE PAYMENT ADJUSTMENTS.—

(1) IN GENERAL.—Section 1923 of such Act (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

"(1) IN GENERAL.—

"(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

"(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

"(I) the payment adjustments are made in accordance with the State plan in effect or submitted to the Secretary by September 30, 1991, or in accordance with the State plan in effect or submitted to the Secretary by November 26, 1991 or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date, or

"(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

"(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (hereinafter referred to as 'DSH') allotment for the year (as specified in paragraph (2)).

"(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

"(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary shall, consistent with section 1903(d), estimate and publish—

"(i) the national DSH payment limit for the fiscal year, and

"(ii) the State DSH allotment for each State for the year.

"(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

"(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

"(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

"(B) EXCEPTIONS.—

"(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph (4)(A)), the State DSH allotment shall equal the State base allotment.

"(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

"(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

"(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

"(i) the total of the State base allotments for high DSH States;

"(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

"(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

"(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

"(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

"(i) the product of the amount determined under subparagraph (A) and the ratio of—

"(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

"(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

"(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

"(4) DEFINITIONS.—In this subsection:

"(A) HIGH DSH STATE.—The term 'high DSH State' means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year.

"(B) STATE.—The term 'State' means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

"(C) STATE BASE ALLOTMENT.—The term 'State base allotment' means, with respect to a State, the greater of—

"(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

"(ii) $1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments based on the State plan described in subparagraph (A)(i)(I), or in accordance with a payment methodology which was established and in effect as of such date, or in accordance with legislation or regulations enacted or adopted as of such date.

"(D) STATE GROWTH AMOUNT.—The term 'State growth amount' means, with respect to a State for a fiscal year, the lesser of—

"(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

"(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

"(E) STATE GROWTH FACTOR.—The term 'State growth factor' means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.".

(2) CONFORMING AMENDMENTS.—(A) Such section 1923 is further amended—

(i) in subsection (a)(2)(B), by striking "subsection (c)," and inserting "subsections (c) and (f),"; and

(ii) in subsection (c), by striking "In order" and inserting "Subject to subsection (f), in order".

(B) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "and section 1923(f)" after "of this section".

(c) PROHIBITING USE OF DSH PAYMENT ADJUSTMENT TO HOLD HOSPITALS HARMLESS FOR TAXES.—Subsection (c) of such section if further amended by adding at the end the following: "A payment adjustment that varies by type of hospital after the effective date specified in section 1903(w)(1)(F) is not consistent with this subsection if its purpose or effect is to reimburse providers for health care related taxes without regard to their low-income utilization rate or medicaid inpatient utilization rate (as such terms are defined in subsection (b)).".

(d) LIMITS ON AUTHORITY TO RESTRICT DSH DESIGNATIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section, except as provided in the last sentence of subsection (c).".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1992.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following:

"(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

"(i) provider-related donations made to the State or units of local government during such fiscal year, and

"(ii) health care related taxes collected by the State or such units during such fiscal year.

"(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply fiscal years ending after the date of the enactment of this Act.

SEC. 5. INTERIM FINAL REGULATIONS.

The Secretary of Health and Human Services shall issue such regulations (on an interim final or other basis) as may be necessary to implement this Act and the amendments made by this Act. The Secretary of Health and Human Services shall consult with the States before issuing any regulations under this Act.

HEALTH PROFESSIONALS EDUCATION

KENNEDY (AND HATCH) AMENDMENT NO. 1447

Mr. REID (for Mr. KENNEDY, for himself and Mr. HATCH) proposed an amendment to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—PROVISIONS RELATING TO TITLE VII

Sec. 100. Short title.

Subtitle A—General Provisions

Sec. 101. Revision of title heading.
Sec. 102. Definitions.
Sec. 103. National Advisory Council.
Sec. 104. Prohibition of discrimination.
Sec. 105. Health professions data.
Sec. 106. Required assurances.
Sec. 107. Priority in awarding of grants.
Sec. 108. Savings provision with respect to current grants or contracts.
Sec. 109. Evaluation and Report.

Subtitle B-Student Assistance

Sec. 110. Limitations on scope of Federal loan insurance program.
Sec. 111. Loan deferral and loan consolidation.
Sec. 112. Maximum interest rates to be assessed.
Sec. 113. Participation of institutions in loan collection.
Sec. 114. Default penalty fees.
Sec. 115. Elimination of statute of limitations for loan collections.
Sec. 116. Student loan insurance fund.
Sec. 117. Powers and responsibilities.
Sec. 118. Annual report concerning default rates.
Sec. 119. Eligibility of institutions.
Sec. 120. Office for Health Education Assistance Loans.
Sec. 121. Authorization of appropriations for certain loans.

Subtitle C—Direct Student Loan Health Demonstration Program

Sec. 131. Direct student loan health demonstration program.
Sec. 132. Loan repayment program for allied health personnel.
Sec. 133. Scholarships for students of exceptional financial need.
Sec. 134. Repeal of Lister Hill scholarship program.
Sec. 135. Scholarships for students from disadvantaged backgrounds.
Sec. 136. Faculty loan repayment program.

Subtitle D—Grants and Contracts for Programs and Projects

Sec. 141. Departments of family medicine.
Sec. 142. Area health education centers.
Sec. 143. Programs of excellence in health professions education for minorities.
Sec. 144. Training, traineeships, and fellowships in general internal medicine and general pediatrics.
Sec. 145. Dentistry.
Sec. 146. Family medicine residencies.
Sec. 147. Educational assistance to individuals from disadvantaged backgrounds.
Sec. 148. Retention program for certain health professionals.
Sec. 149. Minority faculty development training fellowships.
Sec. 150. Special demonstration projects.
Sec. 151. AIDS education and training.
Sec. 152. Geriatric education centers and geriatric training.

Subtitle E—Personnel in Public Health, Health Administration and Allied Health

Sec. 161. Special projects, schools of public health.
Sec. 162. Graduate programs.
Sec. 163. Public health traineeships.
Sec. 164. Project grants and contracts.
Sec. 165. Advanced training of allied health personnel.
Sec. 166. Division of Allied Health.

Subtitle F—Miscellaneous Programs

Sec. 171. Council on Graduate Medical Education.
Sec. 172. Rural health training program.
Sec. 173. Creation of Advisory Council on Medical Licensure.
Sec. 174. Grants for certain postdoctoral fellowships.

Subtitle G—Repealers and Technical and Conforming Amendments

Sec. 181. Repeal of facilities construction grant program.
Sec. 182. Technical and conforming amendments.

TITLE II—PROVISIONS RELATING TO TITLE VIII

Sec. 201. Short title.
Sec. 202. Special projects grants and contracts.
Sec. 203. Advanced nurse education programs.
Sec. 204. Nurse practitioner and nurse midwife programs.
Sec. 205. Capacity building.
Sec. 206. Nursing education opportunities for individuals from disadvantaged backgrounds.
Sec. 207. Traineeships for advanced education of professional nurses.
Sec. 208. Nurse anesthetists.
Sec. 209. Authorization of appropriations for loan repayments.
Sec. 210. Allotments and payments.
Sec. 211. Distribution.
Sec. 212. Undergraduate education of professional nurses.
Sec. 213. Employer loan repayment program.
Sec. 214. Prohibition on discrimination.
Sec. 215. Evaluations.
Sec. 216. Grants for nurse education in long-term care facilities.

Sec. 217. Primary care training program.
Sec. 218. Assurances regarding transmission of bloodborne diseases.
Sec. 219. Technical amendments.
TITLE III—COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE
Sec. 301. Short title.
Sec. 302. Migrant and community health center initiatives.
Sec. 303. Expansion of immunization programs for young children.
Sec. 304. Project grants for maternal and child preventive health and health care services.
Sec. 305. Birth defects proposal.
TITLE IV—MISCELLANEOUS PROVISIONS
Sec. 401. Preemption exclusion.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—PROVISIONS RELATING TO TITLE VII

SEC. 100. SHORT TITLE.

This title may be cited as the "Health Professions Training Improvement and Reauthorization Act of 1991"

Subtitle A—General Provisions

SEC. 101. REVISION OF TITLE HEADING.

The heading for title VII (42 U.S.C. 292 et seq.) is amended by striking out "HEALTH RESEARCH AND TEACHING FACILITIES AND".

SEC. 102. DEFINITIONS.

Section 701 (42 U.S.C. 292a) is amended—

(1) by striking out paragraphs (1), (3), (7) and (9);

(2) by redesignating paragraphs (2), (4), (5), (6), (8) and (10) through (13) as paragraphs (1) through (9), respectively;

(3) in paragraph (2) (as so redesignated)—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B) The term 'graduate program in clinical social work' means an accredited graduate program in a public or nonprofit private institution in a State that provides training in a concentration in health or mental health care leading to a graduate degree in social work.

"(C) The term 'graduate program in marriage and family therapy' means an accredited graduate program in a public or nonprofit private institution in a State which provides training in a concentration leading to a graduate degree in marriage and family therapy.";

(4) in paragraph (3) (as so redesignated), by striking out "or a graduate program in clinical psychology" and inserting in lieu thereof "a graduate program in clinical psychology, and a graduate program in clinical social work that offers a training concentration in health or mental health care, and a graduate program that provides training in a concentration leading to a graduate degree in marriage and family therapy"; and

(5) in paragraph (9) (as so redesignated) by adding at the end thereof the following new sentence:

"Such term shall not include any registered nurse or physician assistant."

SEC. 103. NATIONAL ADVISORY COUNCIL.

Section 702 (42 U.S.C. 292b) is amended—

(1) in subsection (a)—

(A) by striking out "twenty-one" in the matter preceding paragraph (1) and inserting in lieu thereof "22";

(B) by striking out "thirteen" in paragraph (1) and inserting in lieu thereof "fourteen"; and

(C) by striking out "and graduate programs in clinical psychology" in paragraph (1)(A) and inserting in lieu thereof ", graduate programs in clinical psychology and clinical social work"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) There is established a subcommittee of the National Advisory Council on Health Professions Education to be known as the Subcommittee on Allied Health (hereafter in this section referred to as the 'Subcommittee') which shall meet at least twice annually until such time as the final report is submitted under paragraph (4). The Subcommittee shall—

"(A) provide advice and make recommendations to the National Advisory Council, the Secretary, and to the Committee on Labor and Human Resources and Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, with respect to—

"(i) the supply and distribution of allied health personnel throughout the United States;

"(ii) current and future shortages or excesses of allied health personnel, particularly in medically underserved and rural communities;

"(iii) priority research needs within the allied health professions;

"(iv) appropriate Federal policies relating to the matters described in clauses (i) through (iii), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health professions;

"(v) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matter referred to in clause (i), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

"(vi) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate such deficiencies; and

"(vii) problems, and recommendations for the resolution of such problems, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry;

"(B) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Subcommittee;

"(C)(i) conduct a study concerning the shortage of clinical laboratory technologists for the purpose of—

"(I) determining the extent of such shortage;

"(II) determining the causes of such shortage; and

"(III) developing recommendations concerning the manner in which such shortage can be alleviated; and

"(ii) in conducting the study required under clause (i)—

"(I) consider any special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities; and

"(II) conduct an assessment of alternative routes for certification of the competence of individuals to serve as such technologists, and consider the role of entities that provide such certifications; and

"(D) not later than October 1, 1993, prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the results of the study conducted under subparagraph (D).

"(2) In addition to select members of the National Advisory Council, the Subcommittee shall be composed of—

"(A) the Assistant Secretary for Health;

"(B) the Administrator of the Health Care Financing Administration;

"(C) the Assistant Secretary for Defense for Health Affairs;

"(D) the Chief Medical Director of the Department of Veterans Affairs;

"(E) the Commissioner of the Bureau of Labor Statistics of the Department of Labor;

"(F) a representative of the National Center for Education Statistics of the Department of Education;

"(G) a representative of the Bureau of Health Professions, Health Resources and Services Administration to be appointed by the Secretary;

"(H) five individuals appointed by the Secretary to represent allied health professionals, of which—

"(i) two such individuals shall be representatives of allied health professionals who provide occupational, speech, respiratory or physical therapy services;

"(ii) two such individuals shall be health professionals who provide primary care services in underserved areas or to underserved populations; and

"(iii) one such individual shall be a health professional who provides primary care services to the elderly;

"(I) five individuals appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions;

"(J) a professional knowledgeable about health occupations and professions and data policy to be appointed by the Secretary; and

"(K) a representative of the general public to be appointed by the Secretary.

"(3) Not later than April 1, 1992, the Secretary shall appoint the members of the Subcommittee in accordance with paragraph (2).

"(4) Not later than 6 months after the date on which the initial meeting of the Subcommittee is held, the Subcommittee shall prepare and submit to the individual and entities described in paragraph (1)(A) a progress report concerning the activities of the Subcommittee. Not later than April 1, 1994, the Subcommittee shall prepare and submit to such individuals and entities a final report.

"(5) The Secretary shall ensure that necessary resources are made available to implement the provisions of this subsection.

"(6) The Subcommittee shall terminate upon the submission of the final report required under paragraph (4).".

SEC. 104. PROHIBITION OF DISCRIMINATION.

Section 704 (42 U.S.C. 292d) is amended—

(1) in the section heading by striking out "ON BASIS OF SEX";

(2) by striking out "sex" each place that such occurs and inserting in lieu thereof

"race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation"; and

(3) by striking out "or graduate program in clinical psychology" and inserting in lieu thereof "graduate program in clinical psychology or graduate program in clinical social work".

SEC. 105. HEALTH PROFESSIONS DATA.

(a) IN GENERAL.—Section 708 (42 U.S.C. 292h) is amended—

(1) in subsection (a)—

(A) by inserting after "clinical psychologists," the following: "physician assistants, clinical social workers practicing in health or mental health care"; and

(B) by adding at the end thereof the following new sentence: "Data shall also be collected with respect to health professional shortage areas as designated under section 332, and other medically underserved communities (as defined in section 711(c)(2)) and underserved populations."; and

(2) in subsection (d)—

(A) by inserting "health professional shortage areas, rural areas, and medically underserved areas and populations," after "profession," in paragraph (1); and

(B) by inserting ", service in health professional shortage areas and to medically underserved communities (as defined in section 711(c)(2) and populations," after "geographic location" in paragraph (2).

(b) TRANSFER OF PROVISIONS WITH RESPECT TO STATISTICS AND REPORT.—

(1) IN GENERAL.—Section 794 (42 U.S.C. 295h-2)—

(A) is transferred to part A of title VII;

(B) is redesignated as section 708A; and

(C) is inserted after section 708 of such part A.

(2) REVISION.—Section 708A (as transferred and added by paragraph (1), is amended—

(A) in the section heading by striking out "ANNUAL" and inserting in lieu thereof "BIENNIAL"; and

(B) in subsection (c)—

(i) by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources" in the matter preceding paragraph (1); and

(ii) by striking out "under this subpart" and inserting in lieu thereof "under subpart I of part G" in paragraph (2).

SEC. 106. REQUIRED ASSURANCES.

Section 709(c) (42 U.S.C. 292i(c)) is amended by adding at the end thereof the following new sentence: "The applicant is further required to provide assurances to the Secretary that all trainees will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases."

SEC. 107. PRIORITY IN AWARDING OF GRANTS.

Part A of title VII (42 U.S.C. 292 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 711. PRIORITIES IN AWARDING OF GRANTS.

"(a) ALLOCATION OF COMPETITIVE GRANT FUNDS.—In awarding competitive grants under this title or title VIII, the Secretary shall, among applicants that meet the eligibility requirements under such titles, give priority to entities submitting applications that—

"(1) can demonstrate that such entities have training programs that demonstrate the presence of, or progress toward the development and integration of effective approaches and educational strategies to promote health and prevent disease and disability, especially in primary care, that will help meet the Healthy People 2000: National Health Promotion and Disease Prevention Objectives established by the Public Health Service; and

"(2)(A) have a high permanent rate for placing graduates in practice settings which serve residents of medically underserved or rural communities; or

"(B) will provide for not less than four of the following—

"(i) the rotation of health professionals and students to clinical settings whose focus is to serve medically underserved communities or rural areas;

"(ii) the appointment of health professionals whose practices serve medically underserved or rural communities to act as preceptors to supervise training in such settings;

"(iii) a plan that insures that all health professionals and students receive information on practice opportunities involving medically underserved or rural communities;

"(iv) service contingent scholarship or loan repayment programs for students and health professionals to encourage practice in or service to medically underserved or rural communities;

"(v) the recruitment and admission of students from medically underserved or rural communities; and

"(vi) other training methodologies that demonstrate a significant commitment to the expansion of the proportion of graduates that elect to practice in or serve the needs of medically underserved or rural communities.

"(b) SERVICE IN MEDICALLY UNDERSERVED OR RURAL COMMUNITIES.—Of the amounts appropriated for fiscal year 1995, and for each subsequent fiscal year, for competitive grants under this title or title VIII, the Secretary shall give preference in awarding grants to schools or programs that are otherwise eligible for grants under such titles, and that can demonstrate that—

"(1) not less than 20 percent of the graduates of such schools or programs during the preceding 2-year period are engaged in full-time practice in a health professions shortage specialty in a medically underserved or rural community; or

"(2) the number of the graduates of such schools or programs that are practicing in a medically underserved or rural community has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

Among the pool of applications that have been approved by the standard peer review process, funding preference shall apply only to those applications that score in the upper 80th percentile of those approved applications.

"(c) DEFINITIONS.—As used in this section:

"(1) GRADUATE.—The term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health professions discipline that such individual has selected.

"(2) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means—

"(A) an area designated under section 332 as a health professional shortage area;

"(B) an area or population designated as a medically underserved area under section 330(b)(3), including areas designated under section 330(b)(6);

"(C) populations served by migrant health centers under section 329, community health centers under section 330, programs providing health services for the homeless under section 340, or Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(D) a community that is certified as underserved by the Secretary for purposes of participation in the rural health clinic program under title XVIII of the Social Security Act; or

"(E) a community that meets the criteria for the designation described in subparagraph (A) or (B) but that has not been so designated.

"(3) RURAL COMMUNITY.—The term 'rural' refers to geographic areas that are located outside of standard metropolitan statistical areas.".

SEC. 108. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Part A of title VII (42 U.S.C. 292 et seq.) (as amended by section 107) is further amended by adding at the end thereof the following new section:

"SEC. 712. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

"Notwithstanding any other provision of law, in the case of any authority for the provision of a grant or contract under this title or title VIII (as such titles existed prior to the date of enactment of the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991) that is terminated by any provision of the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991 (as it amends such titles), the Secretary shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of such Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.".

SEC. 109. EVALUATION AND REPORT.

Part A of title VII (42 U.S.C. 292 et seq.) (as amended by sections 107 and 108) is further amended by adding at the end thereof the following new section:

"SEC. 713. EVALUATION AND REPORT.

"(a) EVALUATION.—The Office of Technology Assessment shall, in accordance with Technology Assessment Act of 1972 (Public Law 92-484), conduct a program evaluation of the programs, projects and activities of the Secretary under this title and title VIII (as amended by the Health Professions Training and Nurse Education Improvement and Reauthorization Act of 1991), to determine their effectiveness in—

"(1) increasing the number of primary care providers (physicians, physician assistants, nurse midwives, nurse practitioners and general dentists), nurses and allied health personnel; and

"(2) improving the geographic distribution of health professionals in medically underserved and rural areas.

"(b) CONTENT.—The evaluation conducted under subsection (a) should determine—

"(1) whether or not funding under this title (as amended by the Act referred to in subsection (a)) has increased the number of primary care practitioners (family medicine, general internal medicine, general pediatrics, general dentistry, and physician assistants) in medically underserved or rural communities;

"(2) whether or not funding under this title (as amended by the Act referred to in sub-

section (a)) has increased the number of allied health professionals in medically underserved or rural communities;

"(3) whether or not funding under title VIII (as amended by the Act referred to in subsection (a)) has increased the number of nurses in medically underserved or rural communities;

"(4) whether or not access to health care services in medically underserved or rural communities has been affected by programs funded under this title or title VIII (as amended by the Act referred to in subsection (a));

"(5) whether or not the various mechanisms (such as scholarships, fellowships, traineeships, loan repayment programs, project grants, and education centers) have been effective in producing health care professionals who work or practice in medically underserved or rural communities and the relative impact or effectiveness of each mechanism;

"(6) the duration of service in medically underserved or rural communities of health professionals whose training was funded by this title and title VIII (as amended by the Act referred to in subsection (a)) or who received financial incentives to practice in these communities;

"(7) the geographic distribution of former trainees under this title and title VIII (as amended by the Act referred to in subsection (a)) working in medically underserved or rural communities; and

"(8) other such factors as may be relevant to the reauthorization of this title and title VIII.

"(c) REPORT.—Not later than March 31, 1996, the Office of Technology Assessment shall prepare and submit to the Labor and Human Resources Committee of the Senate, and the Subcommittee on Labor, Health and Human Services of the Committee on Appropriations of the Senate, and the Committee on Energy and Commerce of the House of Representatives, and the Subcommittee on Labor, Health and Human services of the Committee on Appropriations of the House of Representatives, and the Secretary a report concerning the findings and recommendations of the Office concerning the best strategies for future funding of allocations under this title and title VIII.".

Subtitle B-Student Assistance

SEC. 110. LIMITATIONS ON SCOPE OF FEDERAL LOAN INSURANCE PROGRAM.

Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) in the first sentence by striking out "$500,000,000" and all that follows through the end thereof and inserting the following: "$400,000,000 for fiscal year 1992, $425,000,000 for fiscal year 1993, $475,000,000 for fiscal year 1994, $525,000,000 for fiscal year 1995, and $550,000,000 for fiscal year 1996."; and

(2) in the third sentence by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1999".

SEC. 111. LOAN DEFERRAL AND LOAN CONSOLIDATION.

(a) LOAN DEFERRAL.—Section 731(a)(2)(C) (42 U.S.C. 294d(a)(2)(C)) is amended—

(1) in clause (viii)—

(A) by striking out "clauses (i) through (vii)" and inserting in lieu thereof "clauses (i) through (x)"; and

(B) by striking out "clauses (i) through (viii)" and inserting in lieu thereof "clauses (i) through (xi)";

(2) by redesignating clauses (vii) and (viii) as clauses (x) and (xi), respectively; and

(3) by inserting after clause (vi), the following new clauses: "(vii) not in excess of 3 years, for a borrower who has (I) completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine or general pediatrics, or (II) completed training in general dentistry, public health dentistry, clinical psychology or clinical social work and is currently serving as a primary care provider in a medically underserved or rural community as defined in section 711(c), (viii) not in excess of 1 year, for borrowers in the health professions that do not require residency training, (ix) not in excess of 2 years during which the borrower is providing care in a medically underserved or rural community as defined in section 711(c),".

(b) LOAN CONSOLIDATION.—Subsection (f) of section 732 (42 U.S.C. 294e(f)) is amended to read as follows:

"(f) Nothing in this section shall be construed to preclude the consolidation of all of the borrower's debts into a single instrument on the same terms and conditions as those provided in the Higher Education Act of 1965.".

(c) TECHNICAL AMENDMENTS.—Section 728(c) (42 U.S.C. 294a(c)) is amended—

(1) by striking out paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 112. MAXIMUM INTEREST RATES TO BE ASSESSED.

Section 731 (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(D), by striking out "semiannually" and inserting in lieu thereof "annually"; and

(2) in subsection (b)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "No maximum" and inserting in lieu thereof "The";

(C) by striking out "subsection (a) may exceed the average" and inserting in lieu thereof "subsection (a) may not exceed the average";

(D) by inserting before the period, the following: "with a maximum rate of interest of 12 percent per year"; and

(E) by adding at the end thereof the following:

"(2)(A) A special allowance may be paid to an eligible holder of an eligible loan under this subpart for each of the 3-month periods ending on March 31, June 30, September 30, and December 31 of each year. The amount of a special allowance paid to any holder under this paragraph with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to such principal) on all eligible loans held by such holder during such period.

"(B) Subject to subparagraphs (D) and (F), a special allowance paid under this paragraph to a holder shall be computed—

"(i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period for which the allowance is to be paid;

"(ii) by subtracting the maximum applicable interest rate on the loans that are subject to such allowance from such average,

"(iii) by adding 3 percent to the amount determined under clause (ii); and

"(iv) by dividing the amount determined under clause (iii) by 4.

"(C) The holder of an eligible loan under this subpart shall have a contractual right against the United States, during the life of such loan, to receive the special allowance under this paragraph. The special allowance determined for any 3-month period under this paragraph shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established under regulations promulgated under this paragraph.

"(D)(i) If payment of a special allowance to a holder under this section has not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment from such holder, the amount of such allowance shall be increased by an amount equal to the daily interest accruing on such allowance, as determined under clause (ii).

"(ii) The amount of the daily interest referred to in clause (i) shall be computed at the daily equivalent rate of the sum of the special allowance rate determined under subparagraph (B) and the interest rate applicable to the loan, and shall be paid for the later of—

"(I) the 31st day after the receipt of a request for payment of an allowance under this paragraph by the holder; or

"(II) the 31st day after the final day of the period or periods covered by such request;

and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

"(iii) For purposes of reporting to Congress the amounts of special allowances paid under this paragraph, amounts so paid shall be segregated and reported separately.

"(E) The Secretary shall pay the holder of an eligible loan a special allowance under this paragraph, at such time or times as are specified in regulations promulgated under this paragraph, subject to the condition that such holder shall submit to the Secretary, at such time or times, and in such manner as the Secretary determines appropriate, such information as may be required under such regulations for the purpose of enabling the Secretary to carry out this section and to carry out the purposes of this section.

"(F) The quarterly rate of the special allowance for holders of loans that were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, shall be one half the quarterly rate of the special allowance established under subparagraph (B). Such rate shall also apply to holders of loans that were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, loans made or purchased with funds described in the preceding sentence or from income on the investment of such funds.".

SEC. 113. PARTICIPATION OF INSTITUTIONS IN LOAN COLLECTION.

(a) ELIGIBILITY.—Section 731(a)(2) (42 U.S.C. 294d(a)(2)) is amended—

(1) in subparagraph (G), by striking out "and" at the end thereof;

(2) in subparagraph (H), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) authorizes an institution or postgraduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, by providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans.".

(b) FEDERAL LOAN INSURANCE PROGRAM.—Section 733 (42 U.S.C. 294f) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "The Secretary shall establish by regulation performance standards and fees to be paid by lenders and

loan holders for the servicing of HEAL loans and for the processing of loan default claims filed by insurance beneficiaries under this subsection.";

(2) in subsection (e)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the term 'default rate', in the case of an eligible entity, means the percentage constituted by the ratio of—

"(A) the principal amount of loans insured under this subpart—

"(i) that are made with respect to the entity and that enter repayment status after April 7, 1987; and

"(ii) for which amounts have been paid under subsection (a) to insurance beneficiaries, exclusive of any loans for which amounts have been so paid as a result of bankruptcy under title 11 of the United States Code, or the death or total and permanent disability of the borrowers, and exclusive of any amounts of principal actually repaid by the borrowers subsequent to payment of the claim; to

"(B) the total principal amount of loans insured under this subpart that are made with respect to the entity and enter repayment status after April 7, 1987.";

(3) in the first sentence of subsection (f), by striking out "The Secretary may" and inserting in lieu thereof "The Secretary shall"; and

(4) in subsection (h)(1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period in subparagraph (C), and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) in the judgment of the Secretary, in consultation with the lender or holder, there is not a reasonable likelihood of recovering, within 6 months of the date on which active enforcement of the judgment begins, at least one-half of the outstanding debt owed by the borrower (including collections costs and associated charges) or $10,000, whichever is less.".

SEC. 114. DEFAULT PENALTY FEES.

(a) IN GENERAL.—Part C of title VII is amended by inserting after section 732 (42 U.S.C. 294e) the following new section:

"SEC. 732A. DEFAULT PENALTY FEES.

"(a) AUTHORITY.—With respect to a loan made under this subpart, the Secretary, in accordance with subsection (b), shall assess a risk-based premium on an eligible borrower and, if required, an eligible institution that is based on the default rate of the eligible institution involved.

"(b) ASSESSMENT OF PREMIUM.—Except as provided in subsection (d)(2), the risk-based premium to be assessed under subsection (a) shall be as follows:

"(1) LOW-RISK RATE.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

"(2) MEDIUM RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 15 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

"(B) REDUCTION IN LOAN LEVEL.—The maximum loan amount for which a borrower of the type described in subparagraph (A) shall be eligible to receive shall be reduced by an amount equal to 10 percent of the maximum loan amount that such borrower would otherwise be eligible to receive under this subpart prior to the date of enactment of this section.

"(C) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-term and long-term procedures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

"(3) HIGH RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 15 percent but not to exceed 25 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

"(B) REDUCTION IN LOAN LEVEL.—The maximum loan amount for which a borrower of the type described in subparagraph (A) shall be eligible to receive shall be reduced by an amount equal to 25 percent of the maximum loan amount that such borrower would otherwise be eligible to receive under this subpart prior to the date of enactment of this section.

"(C) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall, in addition to complying with the provisions of paragraph (2)(C), become a co-signer of the loan. The Secretary may require a performance bond on behalf of such an institution.

"(4) INELIGIBILITY.—A borrower shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate of in excess of 25 percent.

"(c) REDUCTION OF AT-RISK PREMIUM.—Lenders may reduce by 50 percent the at-risk premium to eligible borrowers if a credit worthy parent or other responsible party co-signs the loan note.

"(d) ADMINISTRATIVE WAIVERS.—

"(1) HEARING.—The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to assigning an institution to a risk-based category under subsection (b) or making such institution ineligible for participation in the programs under this subpart.

"(2) EXCEPTIONS.—In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of subsection (b) if the Secretary determines that—

"(A) the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient; or

"(B) the institution can justify the default record using other sources of information.

"(3) TRANSITION FOR CERTAIN INSTITUTIONS.—Effective January 1, 1992, Historically Black Colleges and Universities and tribally controlled schools shall be exempt from the ineligible requirements of subsection (b)(4) for the 3-year period beginning on the date of enactment of this section. Such institutions with default rates on loans under such programs greater than 25 percent shall be required to comply with all guidelines applicable to institutions in the high risk default categories.

"(e) PAYOFF TO REDUCE RISK CATEGORY.—An institution may payoff the outstanding principal and interest owed by the students of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.".

(b) TECHNICAL AMENDMENT.—Section 732 (42 U.S.C. 294e) is amended by striking out subsection (c).

SEC. 115. ELIMINATION OF STATUTE OF LIMITATIONS FOR LOAN COLLECTIONS.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 733 (42 U.S.C. 294f) is amended by adding at the end the following new subsection:

"(j)(1) It is the purpose of this subsection to ensure that obligations to repay loans are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

"(2) Notwithstanding any other provision of Federal or State statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by the Secretary, the Attorney General, or other administrative head of another Federal agency, as the case may be, for the repayment of the amount due from a borrower on a loan made under this subpart that has been assigned to the Secretary under this subpart.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to actions pending on or after the date of enactment of this Act.

(b) TECHNICAL AMENDMENT.—Section 733(h)(1)(A)(ii) (42 U.S.C. 294f(h)(1)(A)(ii)) is amended by striking out "fruitless" and inserting in lieu thereof "inappropriate".

SEC. 116. STUDENT LOAN INSURANCE FUND.

Section 734 (42 U.S.C. 294g) is amended—

(1) in the first sentence of subsection (a), by striking out "in connection with the collection or default of loans" and inserting in lieu thereof "in connection with the administration, collection and default of loans"; and

(2) by adding at the end thereof the following new subsection:

"(c) The Secretary may utilize not to exceed $1,000,000 of amounts available under this section for each of the fiscal years 1992 through 1996 to support the activities of the Office for Health Education Assistance Loans.".

SEC. 117. POWERS AND RESPONSIBILITIES.

Section 735(c) (42 U.S.C. 294h(c)) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(2) by inserting immediately before paragraph (2) (as so redesignated) the following new paragraph:

"(1) Borrowers under this subpart who enter and remain in the primary care fields of osteopathic general practice, general internal medicine, general pediatrics and family medicine shall receive preference for par-

ticipation in the National Health Service Corps Loan Repayment Program under section 338B."

(3) in paragraph (2) (as so redesignated), by striking out "not to exceed $10,000 in any 12-month period" and inserting in lieu thereof "not to exceed $35,000 in any 12-month period";

(4) in paragraph (3) (as so redesignated)—

(A) by striking out "paragraphs (3) and (4)" and inserting in lieu thereof "paragraphs (4) and (5)"; and

(B) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (2)";

(4) by striking out paragraph (4) (as so redesignated) and inserting in lieu thereof the following new paragraph:

"(4) The obligation of a borrower to pay damages under this subsection shall be canceled only in the case of the death, bankruptcy or total permanent disability of the borrower. A borrower may not be permitted to discharge in bankruptcy a loan made under this section within 5 years of the first date on which repayment of the damages is required."; and

(5) in paragraph (5) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

SEC. 118. ANNUAL REPORT CONCERNING DEFAULT RATES.

Subpart I of part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 737B. ANNUAL REPORT CONCERNING DEFAULT RATES.

"(a) REPORT.—Not later than September 30, 1992, and annually thereafter, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning the default rates for each—

"(1) institution described in section 737(1) that is participating in the loan programs under this subpart;

"(2) lender participating in the loan program under this subpart; and

"(3) loan holder under this subpart.

"(b) LIST OF DEFAULTERS.—As part of the report submitted under subsection (1), the Secretary shall compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart.

"(c) NOTICES OF DEFAULT.—The Secretary shall annually send notices of default with respect to the borrowers identified on the list under subsection (b), to relevant Federal agencies and to organizations such as State licensing boards, hospitals with which such borrowers may be associated, and specialty organizations.".

SEC. 119. ELIGIBILITY OF INSTITUTIONS.

(a) IN GENERAL.—Section 739(a) (42 U.S.C. 2941) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(5) the assessing of tuition or fees to borrowers in amounts that are the same or less than the amount of tuition and fees assessed to non-borrowers;

"(6) the submission, by the institution and the lender to the Office of Health Education Assistance Loans, of information concerning each loan made under this subpart, including the date when each such loan was originated, the date when each such loan is sold, the identity of the loan holder and information concerning a change in the borrowers status;

"(7) the withholding of services, including academic transcripts, financial aid transcripts, and alumni services, by an institution from a borrower upon the default of such borrower of a loan under this subpart, except in case of a borrower who has filed for bankruptcy; and

"(8) the offering, by the lender to the borrower, of a variety of repayment options, including fixed-rate, graduated repayment with negative amortization permitted, and income dependent payments for a limited period followed by level monthly payments.".

(b) WORKSHOP FOR BORROWERS.—Section 739 (42 U.S.C. 2941) is amended by adding at the end thereof the following new subsection:

"(c) Each participating institution must have, at the beginning of each academic year, a workshop concerning the provisions of this subpart that all student borrowers shall be required to attend.".

SEC. 120. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOANS.

Subpart I of part C of title VII is amended by adding at the end thereof the following new section:

"SEC. 739B. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOANS.

"(a) ESTABLISHMENT.—The Secretary shall establish, within the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loans (hereafter referred to in this section as the 'Office').

"(b) PURPOSE AND FUNCTIONS.—It shall be the purpose of the Office to achieve a reduction in the number and amounts of defaults on loans made or guaranteed under this part. In carrying out such purpose the Office may—

"(1) conduct analytical and evaluative studies concerning loans and loan defaults;

"(2) carry out activities designed to reduce loan defaults;

"(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

"(4) coordinate with other Federal entities that are involved with student loan programs, including—

"(A) with respect to the Department of Education, to develop a single student loan application form, a single student loan deferment form and a single disability form; and

"(B) with respect to the Department of Justice to recover payments from health professionals who have defaulted on loans made or guaranteed under this part;

"(5) provide technical assistance to lenders, servicers and schools concerning deferments and collection activities;

"(6) establish a central student loan database; and

"(7) carry out any other activities that the Secretary determines appropriate.".

SEC. 121. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN LOANS.

(a) CONSTRUCTION.—Subsection (a) of section 742 (42 U.S.C. 294o) is repealed and subsections (b) and (c) of such section are redesignated as subsections (a) and (b), respectively.

(b) AUTHORIZATION.—Section 742(b)(1) (as so redesignated) (42 U.S.C. 294o(c)(1)) is amended by striking out "$15,000,000" and all that follows through the end thereof and inserting the following: "$15,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle C—Direct Student Loan Health Demonstration Program

SEC. 131. DIRECT STUDENT LOAN HEALTH DEMONSTRATION PROGRAM.

(a) Purpose.—It is the purpose of this section to establish a direct student loan demonstration program for health professions students to examine the viability of such a program and determine—

(1) whether such a program will—

(A) reduce default costs to the Federal Government; and

(B) provide loans on more favorable terms to students; and

(2) whether the existing HEAL program under part C of the Public Health Service Act should be replaced by a direct loan program in which health professions schools, rather than lenders, make such loans directly to borrowers.

(b) ESTABLISHMENT OF PROGRAM.—Part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VII—Demonstration Programs

"SEC. 765. ESTABLISHMENT OF DIRECT STUDENT LOAN HEALTH DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a direct student loan health demonstration program under which the Secretary will make assistance available to certain institutions who shall utilize such assistance to make direct loans to health professions students to assist such students in meeting the costs associated with attending such institutions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $50,000,000 for each of the fiscal years 1992 through 1996.

"(c) PARTICIPATING INSTITUTIONS.—

"(1) SELECTION.—The Secretary shall select not to exceed 20 eligible institutions to participate in the program established under this section. In making such selections, the Secretary shall, to the maximum extent practicable, ensure that a wide range of health professions institutions participate in such program, except that the Secretary may refuse to permit the participation of any institution that has a default rate under the program established under subpart I that is in excess of 15 percent.

"(2) ELIGIBLE INSTITUTIONS.—To be eligible for selection under paragraph (1), an institution shall—

"(A) be eligible to participate in the program established under subpart I;

"(B) have annually accepted for enrollment not less than 20 student borrowers under such subpart;

"(C) prepare and submit to the Secretary an application, at such time, in such form, and containing such information as the Secretary may require, including demonstrable evidence that the institution possesses the administrative capacity to implement the direct loan program either in-house or through the employment of an outside entity;

"(D) agree to assume full liability, as assessed by the Secretary, for errors relating to the origination of loans or other administrative responsibilities of institutions under this title;

"(E) agree to provide all information and maintain such records as required by the Secretary in order to assist in the evaluation of the program authorized under this section; and

"(F) otherwise meet the requirements of this section.

"(3) REQUIREMENTS.—An institution participating in the program established under this section shall—

"(A) be responsible for originating loans under the program, conducting interviews with borrowers prior to the origination of such loans, conducting exit interviews with

borrowers (which shall include the provision of all pertinent documentation as required by the Secretary), and assisting collection agencies in locating and collecting repayments from borrowers who become delinquent;

"(B) increase tuition and required fees at a rate that does not exceed 150 percent of the increase in the cost of living in the previous year;

"(C) not later than 15 working days after a borrower is determined to have lost his or her status as a full-time student, proceed with in-house collection activities or forward the loan of the borrower to a collection agency selected by the Secretary.

"(d) BORROWERS.—

"(1) ELIGIBILITY.—A student who has not previously obtained a loan under subpart I shall be eligible to participate in the program established under this section. The provisions of section 731 (except for subsection (a)(1)(B) and (b) of such section) shall apply to borrowers under this subpart.

"(2) INELIGIBILITY FOR HEAL LOANS.—A student that obtains a loan under the program established under this section shall be ineligible to obtain a loan under subpart I until the expiration of the program established under this subpart.

"(3) EVALUATION AGREEMENT.—A borrower under this section shall agree to participate in an evaluation of the program established under this section.

"(4) LIMITATIONS.—The limitations described in section 729 shall apply to loans made under this subpart.

"(e) TERMS OF LOANS.—

"(1) PROMISSORY NOTE.—A borrower under this section shall be required, at the origination of a loan, to sign a promissory note to the Federal Government promising to repay the loan under the terms and conditions disclosed to the borrower at such origination.

"(2) INTEREST RATES.—With respect to a loan made under this section, a borrower shall be assessed an interest rate on such loan that is equal to one percentage point above the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter. Such interest will accrue on such loan and will be compounded annually.

"(3) ORIGINATION FEE.—A borrower under this section shall pay a loan origination fee equal to 3 percent of the principal amount of the loan. The proceeds generated from such loan origination fees shall be remitted by the institution to the Secretary to assist in offsetting the costs of the administration of the program.

"(4) REPAYMENT.—Repayment on a loan made under this section shall be deferred for the period during which the borrower is a full-time student at the institution. Except as provided in paragraph (5), such repayment shall commence 90 days after the date on which the borrower is no longer a full-time student at such institution.

"(5) FORBEARANCE.—

"(A) ON DEMAND.—A borrower may receive forbearance on a loan under this section on the demand of such borrower for a period of—

"(i) not to exceed 5 years if such borrower is in an accredited postgraduate residency program;

"(ii) not to exceed 1 year beginning on the date on which the borrower leaves the institution if such borrower is not completing a residency or practicing in a medically underserved community; or

"(iii) not to exceed 5 years if such borrower is practicing in a medically underserved community.

"(B) PAYMENTS.—During the period of forbearance under this paragraph, a borrower and an institution may agree on a partial payment schedule based on the income and debt burden of the borrower. In such case the interest shall continue to accrue on the loan and shall be added to the principal amount due on such loan annually. Notwithstanding the preceding sentences, a borrower shall not be required to make any payments of principal or interest on the loan during such forbearance period.

"(6) CANCELLATION.—The obligation of a borrower to repay a loan under this section shall be canceled only in the case of the death, bankruptcy or total permanent disability of the borrower, whichever occurs later. In the case of bankruptcy, the provision of section 733(g) shall apply.

"(f) COLLECTION AGENCIES.—

"(1) REQUIREMENT.—In establishing the program under this section, the Secretary shall enter into contracts with not less than two collection agencies for the collection of repayments under loan made to borrowers under this section.

"(2) SELECTION BY SECRETARY.—In entering into contracts under paragraph (1), the Secretary shall select collection agencies—

"(A) with experience in Federal student loan collections, a comprehensive program of repayment options for borrowers, and modest costs; and

"(B) that provide evidence of being able to work cooperatively with participating institutions.

"(3) SELECTION BY INSTITUTION.—A participating institution under this section shall proceed with in-house collection activities or select an agency that is a party to a contract under paragraph (1) for the collection of repayments on loans originated by the institution.

"(4) REIMBURSEMENT.—A collection agency selected by an institution under paragraph (3) shall be reimbursed by the Secretary for collection activities in an amount that is based on the number of students served by such collection agency under this section. Such agencies shall agree to accept loans from any institution participating in the demonstration program under this section.

"(g) SUSPENSION.—The Secretary may suspend the eligibility of any institution to participate in the program under this section if the Secretary determines that the institution is not successfully implementing the program.

"(h) EVALUATION.—Not later than 1, 5, 10, and 15 years after the date of enactment of this section, the Secretary shall conduct an evaluation of the program established under this section to identify any problems in the program that need correction. The evaluation shall, among other things, assess the cost of the program to the Federal Government, the cost of the program to the borrower, the cost of the program to institutions, the default record of institutions in the program compared to institutions in the program under subpart I, administrative problems that arise from the program, and the impact of the program on the borrower's choice of specialization and residency or practice decisions.

"(i) TERMS AND CONDITIONS.—Unless otherwise specified, all loans made under this subpart shall be subject to the same terms and conditions as loans made under subpart I.

"(j) TERMINATION.—The authority to make loans under this section shall terminate 5 years after the date of enactment of this section.".

SEC. 132. LOAN REPAYMENT PROGRAM FOR ALLIED HEALTH PERSONNEL.

Section 751 (42 U.S.C. 294r) is amended—

(1) in subsection (a), by striking out "an Indian Health Service" and all that follows through the end thereof and inserting "a medically underserved or rural community that can demonstrate a shortage of allied health professionals in a recognized discipline."; and

(2) in subsection (d), by striking out "$2,000,000" and all that follows through the end thereof and inserting "$5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 133. SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

(a) IN GENERAL.—Section 758(d) (42 U.S.C. 294z(d)) is amended by striking out "$16,000,000" and all that follows through the end thereof and inserting "$30,000,000 for each of the fiscal years 1992 through 1996.".

(b) TECHNICAL AMENDMENT.—Part C of title VII (42 U.S.C. 294 et seq.) is amended by striking out the subpart heading for subpart IV.

SEC. 134. REPEAL OF LISTER HILL SCHOLARSHIP PROGRAM.

Section 759 of title VII (42 U.S.C. 294aa) is repealed.

SEC. 135. SCHOLARSHIPS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Section 760 (g)(1) (42 U.S.C. 294bb(g)(1)) is amended by striking out "$17,000,000" and all that follows through the end thereof and inserting "$17,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 136. FACULTY LOAN REPAYMENT PROGRAM.

Section 761 (42 U.S.C. 294cc) is amended—

(1) in subsection (b), by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(b) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals from disadvantaged backgrounds who are newly employed as faculty of the eligible school and who have not been members of the faculty of any school at any time during the 18-month period preceding the date of application, and who—";

(2) in subsection (d)—

(A) by striking out "for such year"; and

(B) by striking out "equal to 50 percent" and inserting in lieu thereof "equal to 20 percent"; and

(3) in subsection (h), by striking out "$4,000,000" and all that follows through the end thereof and inserting "$5,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle D—Grants and Contracts for Programs and Projects

SEC. 141. DEPARTMENTS OF FAMILY MEDICINE.

Section 780 (42 U.S.C. 295g) is amended—

(1) in subsection (b)—

(A) by striking out "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1), the following new paragraph:

"(2) in the case of an applicant with an existing department or division of family medicine, assurance satisfactory to the Secretary that such applicant will secure financial support from non-Federal sources in amounts that shall increase annually, and that the applicant has developed a plan for future self-sufficiency; and";

(2) in subsection (c), to read as follows:

"(c) In making grants under subsection (a), the Secretary shall give priority to applications that—

"(1) establish new Departments of Family Medicine; or

"(2) demonstrate the substantial expansion of program activities in existing Departments of Family Medicine."; and

(3) in subsection (d), by striking out "$10,000,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 142. AREA HEALTH EDUCATION CENTERS.

(a) TERMS OF AGREEMENTS.—Section 781(a) (42 U.S.C. 295g-1(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), an agreement entered into under this subsection for establishment of a center shall remain in effect for a period of 6 years from the date on which such agreement was executed. Such agreement shall be extended to the extent necessary to provide Federal funds under such agreement, for a 6-year period, to all centers operated or developed with funds provided under such agreement.

"(B) The agreements referred to in subparagraph (A) may be terminated by the Secretary on a determination by the Secretary that a center, developed and operated with funds received under such agreement, has not performed in a satisfactory manner.".

(b) REQUIREMENTS.—Section 781(c) (2 U.S.C. 295g-1(c)) is amended—

(1) in paragraph (4), by inserting after "school of dentistry" the following: "or program in clinical psychology"; and

(2) by adding at the end thereof the following new sentences: "The Secretary shall give preference in awarding contracts under this section to applicants that will establish new programs. The Secretary shall give priority in awarding contracts under this section to applicants that establish linkages with a school of public health, if such a school exists within the area being served by such center and desires to participate.".

(c) HEALTH EDUCATION TRAINING CENTERS.—Section 781(f) (42 U.S.C. 295g-1(f)) is amended—

(1) in paragraph (1)—

(A) by inserting "and in other high-impact urban or rural areas (as determined by the Secretary)" before the semicolon in subparagraph (A); and

(B) by inserting "and other high risk" after "Hispanic" in subparagraph (B);

(2) in paragraph (3)—

(A) by inserting "or high impact" after "Each border"; and

(B) by inserting "or a high impact urban or rural area (as determined by the Secretary)" before the period at the end thereof;

(3) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(4) by inserting after paragraph (5), the following new paragraph:

"(6) The Secretary shall give priority in the funding of a health education training center under such agreement to applicants that establish linkages with a school of public health, if such a school exists within the area being served by such center and desires to participate.".

(d) STATE MATCHING AREA HEALTH EDUCATION CENTER PROGRAMS.—Section 781 (42 U.S.C. 295g-1) is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f), the following new subsection:

"(g)(1)(A) The Secretary may enter into agreements with eligible schools of medicine and osteopathic medicine for the planning, development and operation of State supported area health education center programs that meet the requirements of subparagraph (B).

"(B) To be eligible to receive an agreement award under this section, the applicant shall ensure that the program supported with amounts received under the agreement will—

"(i) meet the other requirements of subsections (b) and (c);

"(ii) create and maintain preceptorship educational experiences for health science students;

"(iii) develop or affiliate with community-based primary care residency programs;

"(iv) institute or coordinate with continuing education programs for health professionals;

"(v) establish and maintain learning resource and dissemination systems for information identification and retrieval;

"(vi) enter into agreements with community-based organizations for the delivery of services supported under this authority;

"(vii) become involved in the training of nurses, allied and other health professionals and, where consistent with State laws, nurse practitioners and physicians assistants;

"(viii) carry out recruitment programs for health science professions among minority and other elementary or secondary students from areas the program determines to be medically underserved; and

"(ix) carry out not less than three of the activities described in subparagraph (C).

"(C) The activities referred to in subparagraph (B)(ix) shall include—

"(i) coordinating with an Office of Rural Health in the State that is operating in the area served by the center, wherein one exists;

"(ii) administering appropriate National Health Service Corps program activities in the area serviced by the center, except that such center shall provide only support services if the responsibility for such administration has been assigned to any other State agency;

"(iii) working directly with local health departments in the area served by the center;

"(iv) participating in community and migrant health centers and similar provider activities in the area to be served by the centers; or

"(v) cooperating with other federally and State funded health service provider recruitment and retention programs operating in the area to be served by the center.

"(2) Amounts received under an agreement entered into under this subsection shall be sufficient to enable a State supported area health education program to carry out demonstration projects concerning subjects determined appropriate by the Secretary, including, but not limited to—

"(A) the establishment of computer-based information programs or telecommunication networks that will link health science centers and service delivery sites;

"(B) the provision of disease specific educational programs for health providers and students in areas of concern to the United States;

"(C) the development of information dissemination models to make available new information and technologies emerging from biological research centers to the practicing medical community;

"(D) the institution of new minority recruitment and retention programs, targeted to improved service delivery in areas the program determines to be medically underserved;

"(E) the establishment of State health service corps programs to place physicians from health professional shortage areas into similar areas to encourage retention of physicians and to provide flexibility to States in filling positions in health professional shortage areas; and

"(F) the establishment or improvement of education and training programs for State emergency medical systems.

"(3) The Secretary shall not provide in excess of $2,000,000 per annum per State, or per program where that program serves more than one State, or an aggregate amount based on an average award of $250,000 per center to be supported in the States in which the program is operating, whichever is less, to programs under this subsection.

"(4) An agreement entered into under this subsection shall require that the program—

"(A) ensure that at least 75 percent of the amounts received under the agreement be distributed to area health education centers within the area served by the program, through a formal agreement; and

"(B) use amounts provided under such agreement to supplement, not supplant, State funds provided for similar programs prior to the execution of the agreement.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 781 (42 U.S.C. 295g-1) is further amended—

(1) in subsection (f)(8)—

(A) by striking out "(h)(2)" in subparagraph (A) and inserting in lieu thereof "(i)(2)"; and

(B) by inserting "and Native American" after "Hispanic" in subparagraph (B)(i); and

(2) by striking out subsection (i) (as so redesignated by subsection (b)(1)), and inserting in lieu thereof the following new subsection:

"(i)(1)(A) For purposes of carrying out this section other than subsection (f), there are authorized to be appropriated $40,000,000 in each of the fiscal years 1992 through 1996. Any amounts appropriated with respect to fiscal year 1992 or 1993 in excess of $19,200,000 and with respect to fiscal years 1994 through 1996 in excess of $18,700,000 shall be used to carry out the activities authorized under subsection (g). Not more than 10 percent of any amount appropriated in a fiscal year in excess of $21,000,000 shall be used to fund the activities authorized under subsection (g)(2).

"(B) The Secretary may obligate not more than 20 percent of the amount appropriated under this paragraph in each fiscal year, or up to $4,000,000, whichever is less, for special area health education center initiatives under section (a)(2)(A).

"(2) For purposes of carrying out subsection (f), there are authorized to be appropriated—

"(A) $5,000,000 for fiscal year 1992;

"(B) $6,000,000 for fiscal year 1993;

"(C) $7,000,000 for fiscal year 1994;

"(D) $8,000,000 for fiscal year 1995; and

"(E) $9,000,000 for fiscal year 1996.".

(f) MATCHING REQUIREMENT.—Section 781 (42 U.S.C. 295g-1) is further amended by adding at the end thereof the following new subsection:

"(j) An agreement entered into under subsection (g) after the date of enactment of this subsection shall require that the entity awarded such agreement make available (directly through cash donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for every $1 of Federal funds provided under the agreement in such year.".

(g) TECHNICAL AMENDMENTS.—Section 781 such Act (42 U.S.C. 295g-1) is further amended—

(1) by striking out "contract" each place that such appears and inserting in lieu thereof "agreement"; and

(2) by striking out "contracts" each place that such appears and inserting in lieu thereof "agreements".

SEC. 143. PROGRAMS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION FOR MINORITIES.

(a) DEFINITIONS.—Section 782(g)(1)(A) (42 U.S.C. 295g-2(g)(1)(A)) is amended by striking out "a school of dentistry" and all that follows through the end thereof and inserting "a school of osteopathic medicine, a school of dentistry, a school of pharmacy, a school of public health, or a graduate program in clinical psychology.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORITY.—Section 782(a) (42 U.S.C. 295g-2(a)) is amended by inserting ", or enter into contracts with," after "make grants to".

(2) APPROPRIATIONS.—Section 782(h) (42 U.S.C. 295g-2(h)) is amended—

(A) in paragraph (1)—

(i) by striking out "grants" and inserting in lieu thereof "grants or entering into contracts"; and

(ii) by striking out "such sums" and all that follows in paragraph (1) through the end thereof and inserting "$28,000,000 for each fiscal year 1992 through 1996.";

(B) in paragraph (2)—

(i) by striking out "grants" each place that such appears and inserting in lieu thereof "grants or contracts"; and

(ii) by striking out "$2,500,000" in subparagraph (B), and inserting in lieu thereof "$5,000,000"; and

(C) in paragraph (3)—

(i) by striking out "grants" the first place that such appears and inserting in lieu thereof "grants or contracts";

(ii) by striking out "for the grants"; and

(iii) by striking out "to making grants".

SEC. 144. TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

(a) GRANTS.—Paragraphs (1) and (2) of section 784(a) (42 U.S.C. 295g-4(a)) are amended to read as follows:

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of internal medicine or pediatrics for allopathic and osteopathic medical students, interns, residents, or practicing physicians, that emphasizes training for the practice of general internal medicine or general pediatrics;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to allopathic and osteopathic students, interns, residents, practicing physicians, or other medical personnel, who are in need of such assistance, who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine and general pediatrics;".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 784(c) (42 U.S.C. 295g-4(c)) is amended by striking out "$10,000,000" and all that follows through the end thereof and inserting "$35,000,000 for fiscal year 1992, $36,000,000 for fiscal year 1993, $37,000,000 for fiscal year 1994, $38,000,000 for fiscal year 1995, and $39,000,000 for fiscal year 1996.".

SEC. 145. DENTISTRY.

(a) RESIDENCY PROGRAMS.—Section 785 (42 U.S.C. 295g-5) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period in paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training."; and

(2) in subsection (b), by striking out "$4,000,000" and all that follows through the end thereof and inserting "$8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

(b) TRAINING GRANTS.—Part F of title VII is amended by inserting after section 785 (42 U.S.C. 295g-5) the following new section:

"SEC. 785A. TRAINING IN DENTAL PUBLIC HEALTH.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with schools of dentistry, schools of public health, accredited postgraduate dental training institutions, or State or local public health agencies to assist such entities in meeting the costs of projects—

"(1) to plan, develop or participate in new residency programs and expand or improve existing residency programs in dental public health; and

"(2) to provide financial assistance in the form of traineeships to dental residents or practicing dentists who participate in any program of the type described in paragraph (1) and who plan to work in the field of public health.

"(b) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a), an entity of the type described in such subsection shall—

"(1) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require; and

"(2) demonstrate to the Secretary that such entity has available full-time faculty or staff with training and experience in the field of public health, preventive dentistry or community dentistry and other related specialties or disciplines.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 146. FAMILY MEDICINE RESIDENCIES.

Section 786 (42 U.S.C. 295g-6) is amended—

(1) in subsection (b)—

(A) by striking out "priority" and inserting in lieu thereof "preference"; and

(B) by inserting after "family medicine" the following: "and who demonstrate a substantial linkage to one or more medically underserved or rural communities (as defined in section 711(c))";

(2) in subsection (c), by striking out "$37,900,000" and all that follows through the end thereof and inserting "$50,000,000 for fiscal year 1992, $51,000,000 for fiscal year 1993, $52,000,000 for fiscal year 1994, $53,000,000 for fiscal year 1995, and $54,000,000 for fiscal year 1996."; and

(3) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, after October 1, 1993, only those schools or hospitals with departments or divisions or approved residencies providing clinical instruction in family medicine shall be eligible to receive assistance under this section."

SEC. 147. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 787 (42 U.S.C. 295g-7) is amended—

(1) in subsection (a)(1), by inserting "or clinical social work" after "clinical psychology";

(2) in subsection (b)—

(A) by inserting "or clinical social work" after "clinical psychology" in paragraph (1);

(B) by striking out "priority" and inserting in lieu thereof "preference" in the matter preceding subparagraph (A) of paragraph (2);

(C) by striking out "and" at the end of subparagraph (A) of paragraph (2);

(D) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(B) to schools that—

"(i) maintain an enrollment of individuals from disadvantaged backgrounds at a level that exceeds 200 percent of the national average of such individuals enrolled in such schools;

"(ii) secure financial support from non-Federal sources in amounts that increase annually; and

"(iii) involve or consult with appropriate State and local health and educational agencies and entities in the planning and conduct of the project.";

(3) in subsection (c)—

(A) by striking out "$20,000,000" and all that follows through the first period and inserting "$36,000,000 for fiscal year 1992, $37,000,000 for fiscal year 1993, $38,000,000 for fiscal year 1994, $39,000,000 for fiscal year 1995, and $40,000,000 for fiscal year 1996."; and

(B) by striking out the third and fourth sentences; and

(4) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law relating to a limitation on the amount of stipends that may be paid under this section, the Secretary may provide for the payment of stipends under this section in an amount not to exceed $40 per day.".

SEC. 148. RETENTION PROGRAM FOR CERTAIN HEALTH PROFESSIONALS.

Section 787A(d) (42 U.S.C. 295g-7a(d)) is amended by striking out "and 1991" and inserting in lieu thereof "through 1996".

SEC. 149. MINORITY FACULTY DEVELOPMENT TRAINING FELLOWSHIPS.

Part F of title VII is amended by inserting after section 787A (42 U.S.C. 295g-7a) the following new section:

"SEC. 787B. MINORITY FACULTY DEVELOPMENT TRAINING FELLOWSHIPS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities of the type described in section 701, to assist such schools in increasing the number of underrepresented minority faculty members at such schools.

"(b) APPLICATIONS.—To be eligible to receive a grant or contract under this section a school shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that amounts received under such a grant or contract will be used to award a fellowship to a new member of the faculty of such school who meets the requirements of subsections (c) and (d), that shall include a stipend in an amount that does not exceed 50 percent of the regular salary of a similar faculty member position up to a maximum of $30,000.

"(c) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

"(1) identify, recruit and select individuals from underrepresented minorities in health professions who have the potential for teaching, administration, or conducting research at a health professions institution;

"(2) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

"(3) provide mentoring or other services designed to assist such minorities in their preparation for an academic career; and

"(4) provide health services to rural or medically underserved populations.

"(d) REQUIREMENTS.—To be eligible to receive a grant or contract under this section an applicant shall—

"(1) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

"(2) provide an assurance that institutional support will be provided for the individual for a second year at a level that is not less than the total amount of Federal and institutional funds provided in the year in which the grant or contract was awarded;

"(3) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

"(4) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

"(e) DEFINITION.—As used in this section, the term 'minority' means an individual from a racial or ethnic group that is underrepresented in the health professions.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 in each of the fiscal years 1992 through 1996.".

SEC. 150. SPECIAL DEMONSTRATION PROJECTS.

(a) GRANTS FOR STUDIES AND DEMONSTRATIONS.—Subsection (a) of section 788 (42 U.S.C. 295g-8(a)) is amended to read as follows:

"(a) GRANTS FOR STUDIES AND DEMONSTRATIONS.—The Secretary may award grants to and enter into contracts with public or nonprofit private entities to enable such entities to conduct studies and demonstration projects related to—

"(1) the improvement of health professions education, including studies and projects to determine—

"(A) the effectiveness of various methods of training health professionals (including nurses) to practice in primary care specialties or to provide services to underserved populations;

"(B) the merits of major curricular innovations (such as the increased integration of undergraduate and graduate medical education and various approaches to interdisciplinary training programs);

"(C) the effect of Medicare graduate medical education funding and medical research grant funding on medical schools and residency programs, particularly as such funding may affect institutional support for primary care training and student choices regarding medical specialty and location of practice;

"(D) the effectiveness of education targeted toward meeting the needs of particular population groups (such as the elderly, women, children, adolescents, the disabled, individuals residing in rural areas);

"(E) the impact of student indebtedness on specialty choice and practice location; and

"(F) the impact of underrepresented minority and disadvantaged health professions programs in minority and majority schools on recruitment, retention, and practice choices of underrepresented minority and disadvantaged health personnel;

"(2) the assurance of the competency of health personnel, including studies and projects to determine—

"(A) the effect on quality and service of adopting alternative approaches to the licensure and credentialing of health personnel;

"(B) the efficacy of different approaches to providing for continuing competency of such personnel;

"(C) the effectiveness and variation of State licensing authorities in identifying problem providers and undertaking disciplinary actions;

"(D) the usefulness of various types of certification programs in assuring the quality of health personnel; and

"(E) the appropriate differentiation of functions of various types and levels of health professions personnel.".

(b) CHIROPRACTIC TRAINING AND DEMONSTRATION PROJECT.—Subsection (b) of section 788 (42 U.S.C. 295g-8) is amended to read as follows:

"(b) CHIROPRACTIC TRAINING AND DEMONSTRATION PROJECT.

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with, colleges and universities of chiropractic to assist such colleges and universities in—

"(A) meeting the costs of projects designed—

"(i) to plan, develop, establish, expand and operate advanced degree programs or postdoctoral programs in chiropractic for the advanced specialty training of chiropractic health care professionals who plan to teach and conduct research in chiropractic;

"(ii) to support interdisciplinary training programs that promote the effectiveness of chiropractic in prevention, diagnosis and treatment of chronic lower back, musculoskeletal, and spinal problems;

"(iii) to develop innovative models to link chiropractic, chiropractic education and chiropractic research;

"(iv) to identify, recruit and train individuals from disadvantaged backgrounds;

"(v) to improve and strengthen the curriculum of such colleges or universities by including or expanding the knowledge and practice concerning disease prevention and health promotion; or

"(vi) to develop new and innovative methods to train chiropractors to provide services in rural and medically underserved areas; or

"(B) establishing a demonstration project to develop the collaboration of a college or university of chiropractic and a traditional health professions academic institution training program, including medical schools. The demonstration project referred to in subparagraph (B) shall address the manner in which to effectively integrate chiropractic into the traditional health care provider systems and medical education programs, with particular emphasis on the reduction of health care costs for lower and spinal-related back problems.

"(2) METHODS.—A recipient of funds under paragraph (1) may use various methods in carrying out the projects described in subparagraphs (A) and (B) of such paragraph, including—

"(A) the distribution of stipends to students and faculty of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in preparation for graduate and post-doctoral education and training activities; and

"(D) the purchase of equipment and training materials where the need for such equipment due to unique characteristics of the project is demonstrated by the recipient.

"(3) ADMINISTRATION.—An applicant for a grant or contract under this subsection shall not use in excess of five percent of the funds made available to such applicant under this subsection for administrative expenses and not more than five percent of such funds for indirect costs.

"(4) ELIGIBLE APPLICANTS.—To be eligible to receive funds under paragraph (1)(A), an applicant for a grant or contract shall be an accredited college or university of chiropractic. Such eligible applicants shall not include for-profit entities, either directly or through a subcontract or subgrant. Applications for a grant or contract under paragraph (1)(B) shall be jointly submitted by a college or university of chiropractic and by one or more of the following:—

"(A) State or local health departments;

"(B) public and nonprofit colleges, universities, schools of allopathic or osteopathic medicine; or

"(C) public or nonprofit hospitals.

"(5) PEER REVIEW.—

"(A) IN GENERAL.—Each applicant for a grant or contract under this subsection shall be submitted to a peer review group for an evaluation of the merits of the proposals contained in the application.

"(B) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out subparagraph (A). The Secretary shall make appointments of individuals to the peer review group from among appropriately qualified individuals who are not officers or employees of the United States. The peer review group shall consist of not more than six members, at least three of which shall be chiropractors. Of such chiropractor members—

"(i) one shall represent the Consortium for Chiropractic Research;

"(ii) one shall represent a college or university of chiropractic; and

"(iii) one shall be a practicing chiropractor.

"(6) EXPEDITING AWARD OF GRANTS/CONTRACTS.—The Secretary shall expedite the awarding of grants or contracts to eligible applicants under this subsection. To the maximum extent practicable, such grants or contracts shall be awarded by the Secretary not later than 120 days after the date of the receipt of the final recommendation of the peer review group established under paragraph (5) concerning applications submitted under this subsection.

"(7) REPORT.—Not later than April 1, 1995, the Secretary shall prepare and submit to the Committee on Labor and Human Resources and the Subcommittee on Labor, Health, and Human Services, Education and Related Agencies of the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the House of Representatives, a comprehensive report summarizing the applications that were submitted and the grants and contracts that were awarded under this subsection, and the effectiveness of programs established using such grants or contracts.".

(c) PREVENTIVE MEDICINE.—

(1) REPEAL.—Section 793 (42 U.S.C. 295h-1c) is repealed.

(2) TRANSFER OF PROVISIONS WITH TRAINING AND PREVENTIVE MEDICINE.—

(A) IN GENERAL.—Subsection (c) of section 788 (42 U.S.C. 295g-8)—

(i) is transferred to subpart I of part G of title VII;

(ii) is redesignated as section 793(a); and

(iii) is inserted after section 792.

(B) REVISION.—Section 793 (as transferred and added by subparagraph (A), is amended—

(i) by inserting immediately preceding subsection (a) the following:

"SEC. 793. TRAINING IN PREVENTIVE MEDICINE.";

(ii) in the subsection heading of subsection (a) to read as follows:

"(a) TRAINING GRANTS AND CONTRACTS.—"; and

(iii) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 in fiscal year 1992, $7,000,000 in fiscal year 1993, $8,000,000 in fiscal year 1994, $9,000,000 in fiscal year 1995, and $10,000,000 in fiscal year 1996.".

(d) PHYSICIAN ASSISTANTS.—

(1) TRANSFER OF PROVISIONS WITH TRAINING AND PREVENTIVE MEDICINE.—Subsection (d) of section 788 (42 U.S.C. 295g-8)—

(A) is transferred to part F of title VII;

(B) is redesignated as section 786A(a); and

(C) is inserted after section 786.

(2) REVISION.—Section 786A (as transferred and added by paragraph (1), is amended—

(A) by inserting immediately preceding subsection (a) the following:

"SEC. 786A. PHYSICIAN ASSISTANT PROGRAMS.";

(B) in the subsection heading of subsection (a) to read as follows:

"(a) GRANTS AND CONTRACTS.—"; and

(C) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

(e) PODIATRIC MEDICINE.—Section 788 (42 U.S.C. 295g-8) is amended by redesignating subsection (e) as subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f) of section 788 (42 U.S.C. 295g-8(f)) is amended to read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SUBSECTION (a).—There are authorized to be appropriated to carry out subsection (a), $5,000,000 for each of the fiscal years 1992 through 1996.

"(2) SUBSECTION (b)(1).—

"(A) SUBPARAGRAPH (A).—There are authorized to be appropriated to carry out subsection (b)(1)(A), $1,000,000 for each of the fiscal years 1992 through 1996.

"(B) SUBPARAGRAPH (B).—There are authorized to be appropriated to carry out subsection (b)(1)(B), $500,000 for each of the fiscal years 1992 through 1994.

"(4) SUBSECTION (c).—There are authorized to be appropriated to carry out subsection (c), $1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 151. AIDS EDUCATION AND TRAINING.

(a) IN GENERAL.—Section 788A (42 U.S.C. 295g-8b) is amended—

(1) in subsection (a)—

(A) by inserting "and other public or private nonprofit health or educational entities" after "science centers" in the matter preceding paragraph (1); and

(B) by striking out paragraphs (1) through (3) and inserting in lieu thereof the following new paragraphs:

"(1) to train health professions faculty to teach health professions practitioners and students to provide for the health care needs of individuals infected with the human immunodeficiency virus and individuals who are at high risk of contracting such infection;

"(2) with respect to improving skills in the diagnosis, treatment, and prevention of such infection, to educate and train health professions practitioners and students; and

"(3) to develop and disseminate health professions curricula and related resource materials relating to the care and treatment of individuals infected with the human immunodeficiency virus and to the prevention of such infection in individuals who are at high risk of contracting such virus.";

(2) in subsection (b)—

(A) by striking out "treatment for minority individuals with acquired immune deficiency syndrome" in paragraph (1), and inserting in lieu thereof "health care to minority individuals who are infected with the human immunodeficiency virus"; and

(B) by striking out "treatment for individuals with acquired immune deficiency syndrome" in paragraph (2), and inserting in lieu thereof "health care to individuals who are infected with the human immunodeficiency virus and other individuals who are at high risk of contracting such infection"; and

(3) in subsection (e), by striking out "such sums" and all that follows through the end thereof and inserting "$21,000,000 for fiscal year 1992, $23,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, $27,000,000 for fiscal year 1995, and $29,000,000 for fiscal year 1996.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f)(5) of section 788A (42 U.S.C. 295g-8b(f)(5)) is amended by striking out "such sums" and all that follows through the end thereof and inserting "$6,000,000 for fiscal year 1992, $8,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $12,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 152. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

(a) EDUCATION.—Section 789(a)(1) (42 U.S.C. 295g-9(a)(1)) is amended by striking out "and programs referred to in section 701(8)" and inserting in lieu thereof ", programs referred to in section 701(5) and schools referred to in section 853".

(b) TRAINING.—Section 789(b) (42 U.S.C. 295g-9(b)) is amended—

(1) in paragraph (1), by inserting ", geriatric psychiatry," after "geriatric medicine";

(2) in paragraph (2)—

(A) by inserting "or geriatric psychiatry" after "geriatric medicine" in subparagraph (A); and

(B) by inserting "or in a department of geriatric psychiatry" after "department of geriatrics" in subparagraph (C); and

(3) in paragraph (3)(B)—

(A) by striking out "1-year or" in the matter preceding clause (i); and

(B) by striking out clause (ii) and inserting in lieu thereof the following new clause:

"(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 789(c) (42 U.S.C. 295g-9(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $26,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle E—Personnel in Public Health, Health Administration and Allied Health

SEC. 161. SPECIAL PROJECTS, SCHOOLS OF PUBLIC HEALTH.

(a) TRANSFER OF PROVISIONS.—Section 790A (42 U.S.C. 295g-11)—

(1) is transferred to subpart I of part G of title VII;

(2) is redesignated as section 794; and

(3) is inserted after section 793.

(b) REVISION.—Section 794 (as transferred and added by subsection (a), is amended—

(1) in subsection (a)—

(A) by striking out "schools of public health" and all that follows through "evaluating projects" in the matter preceding paragraph (1) and inserting in lieu thereof "accredited schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects to accomplish the Healthy People 2000: National Health Promotion and Disease Prevention Objectives, including projects";

(B) by striking out "and quality in health care." in paragraph (4) and inserting in lieu thereof "to preventive services and quality in health care;"; and

(C) by inserting after paragraph (4), the following:

"which shall provide graduate students with comprehensive knowledge and skills, recruit candidates for graduate education in preparation for public service in specialties that are in short supply, strengthen existing departments of instruction to cope with specific and especially severe health problems, strengthen continuing education and non-degree teaching programs, and establish firm links with governmental and private health agencies and institutions as sites for field practice training."; and

(2) in subsection (d), by striking out "$1,500,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 162. GRADUATE PROGRAMS.

(a) HEALTH ADMINISTRATION PROGRAMS.—Section 791(d) (42 U.S.C. 295h(d)) is amended by striking out "$3,250,000" and all that follows through the end thereof and inserting "$1,700,000 for each of the fiscal years 1992 through 1996.".

(b) HEALTH ADMINISTRATION TRAINEESHIPS.—Section 791A(c) (42 U.S.C. 295h-1a) is amended by striking out "$2,500,000" and all that follows through the end thereof and inserting "$1,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 163. PUBLIC HEALTH TRAINEESHIPS.

(a) GRANTS.—Subsection (a) of section 792 (42 U.S.C. 295h-1b(a)) is amended to read as follows:

"(a)(1) The Secretary may make grants to—

"(A) accredited schools of public health; and

"(B) other public or nonprofit private institutions that provide graduate or specialized training in public health and that are not eligible to receive a grant under section 791A;

to provide traineeships to increase the number of graduate students preparing to serve

the Healthy People 2000: National Health Promotion and Disease Prevention Objectives.

"(2) Traineeships under paragraph (1) shall be awarded primarily to—

"(A) minority and disadvantaged students;

"(B) physicians, scientists and engineers who are determined by the Secretary to be in short supply in the public health field;

"(C) students in other areas of severe personnel shortage such as epidemiology and preventive medicine; and

"(D) students committed to service that involves severe health problems that are targeted in the Healthy People 2000: National Health Promotion and Disease Prevention Objectives, including AIDS prevention and control, maternal and child health, drug abuse, infant mortality, injury prevention and control, environmental protection and chemical hazards, including toxic wastes, chronic disease prevention and control, health problems in minority populations, health problems of the elderly, migrants and immigrants, and specific health promotion programs in underserved areas.".

(b) PREFERENCES.—Subsection (b) of section 792 (42 U.S.C. 295h-1b(b)) is amended by striking out paragraphs (2) through (4) and inserting in lieu thereof the following new paragraph:

"(2) When considering applications submitted for grants under this section, the Secretary shall give preference to—

"(A) projects that provide for increased involvement of State and local governments in the planning and support of training initiatives to help mobilize State and local financial support for needed activities as well as to enhance the responsiveness of educational and training programs to State, local and regional health personnel needs; and

"(B) projects that can demonstrate effectiveness in meeting priority health care needs of underserved populations, especially public health, environmental health and allied health training.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (c) of section 792 (42 U.S.C. 295h-1b(c)) is amended by striking out "$7,500,000" and all that follows through the end thereof and inserting "$10,000,000 for fiscal year 1992, $11,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, $13,000,000 for fiscal year 1995, and $14,000,000 for fiscal year 1996.".

SEC. 164. PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h-5) is amended to read as follows:

"SEC. 796. PROJECT GRANTS AND CONTRACTS.

"(a) PROJECTS RELATED TO ALLIED HEALTH PROFESSIONS WITH PERSONNEL SHORTAGES.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with increasing program enrollments or establishing programs that will increase the number of individuals in those allied health professions with demonstrated personnel shortage (including occupational therapy, physical therapy, respiratory therapy, clinical laboratory personnel and dental hygienists) to provide individuals to serve in a medically underserved or rural communities (as defined in section 711(c)). Programs and activities funded under this section may include—

"(1) the expansion of program enrollments in those professions with the greatest shortages and whose services are most needed by the elderly;

"(2) projects to provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

"(3) the establishment of innovative outreach programs that link academic resources with rural clinical settings to establish community-based allied health training programs;

"(4) the development of interdisciplinary training programs that promote formal education and professional certification of allied health professionals in more than one discipline;

"(5) projects that provide career advancement training for practicing allied health professionals; and

"(6) projects that by expanding or establishing clinical training sites for allied health professionals in medically underserved or rural communities will increase the number of individuals so trained.

"(b) STRENGTHENING ALLIED HEALTH PROFESSIONS.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with the planning, development, establishment and operation of projects relating to—

"(1) the development of a curriculum that will emphasize knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

"(2) the expansion or establishment of interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

"(3) the expansion or establishment of demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research; and

"(4) the improvement and strengthening of the effectiveness of allied health administration, program directors, faculty, and clinical faculty.

"(c) TRAINING CENTERS FOR ALLIED HEALTH PROFESSIONS.—

"(1) GRANTS AND CONTRACTS.—The Secretary may award grants to and enter into contracts with training centers for allied health professions to assist such centers in meeting the costs associated with projects designed to provide financial assistance in the form of traineeships to students—

"(A) pursuing a career in the allied health fields that have demonstrated personnel shortages; and

"(B) who agree upon completion of their training program to practice in a medically underserved or rural community (as defined in section 711(c)).

"(2) USE OF FUNDS.—Amounts provided under grants and contracts awarded under paragraph (1) shall be utilized to assist in the payment of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary.

"(d) APPLICATION.—

"(1) REQUIREMENT.—No grant may be awarded or contract entered into under subsections (a), (b), or (c) unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) PREFERENCE.—In considering an application submitted for a grant under this section, the Secretary shall give preference to applicants that plan to increase their first-year enrollments by not less than 10 percent over the number of such enrollments in 1991.

"(3) AMOUNT.—The amount of any grant awarded under subsections (a), (b), or (c) shall be determined by the Secretary.

"(e) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entities' means entities that are—

"(1) public or private nonprofit schools, universities, or other educational entities that provide for allied health personnel education and training and that meet such standards as the Secretary may by regulation prescribe; or

"(2) public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsections (a), (b), and (c).

"(f) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—For the purpose of carrying out activities under this section, there are authorized to be appropriated $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(2) AVAILABILITY OF AMOUNTS.—Of the amounts appropriated pursuant to paragraph (1) for each fiscal year, the Secretary shall make available not less than 70 percent of such amounts in each such fiscal year to carry out subsection (a), not more than 10 percent of such amounts in each such fiscal year to carry out subsection (b), and not less than 20 percent of such amounts in each such fiscal year to carry out subsection (c).".

SEC. 165. ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h-6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

"(a) GRANTS.—The Secretary may award grants to and enter into contracts with training centers for allied health professions to assist such centers in meeting the costs associated with projects designed to—

"(1) plan, develop, establish or expand postbaccalaureate programs for the advanced training of allied health professionals in demonstrated shortages who commit to teaching in an allied health training program; and

"(2) provide financial assistance, in the form of traineeships or fellowships, to postbaccalaureate students who are participants in any such program and who commit to teaching in an allied health discipline.

"(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to projects that can demonstrate that—

"(1) not less than 50 percent of the graduates of such schools or programs during the preceding 2-year period are engaged as full-time teaching faculty in an allied health shortage specialty; or

"(2) the number of the graduates of such schools or programs that are practicing as full-time teaching faculty in an allied health shortage specialty has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

"(c) LIMITATION.—The Secretary shall limit grants and contracts awarded or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners including clinical laboratory technologists, respiratory therapists, dental hygienists;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; or

"(3) a significant role in the care and rehabilitation of patients who are elderly or dis-

abled including physical therapists and occupational therapists.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out activities under this section, there are authorized to be appropriated $8,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $11,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(e) AVAILABILITY OF FUNDS.—Amounts appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1996.".

SEC. 166. DIVISION OF ALLIED HEALTH.

Section 798 (42 U.S.C. 295h-7) is amended to read as follows:

"SEC. 798. DIVISION OF ALLIED HEALTH.

"(a) ESTABLISHMENT.—The Secretary shall establish, within the Bureau of Health Professions, a division to be known as the Division of Allied Health (hereafter referred to in this section as the 'Division').

"(b) PURPOSE.—It shall be the purpose of the Division to exercise responsibility over allied health programs administered by the Secretary under this title, including oversight over the Subcommittee on Allied Health and other related matters concerning allied health professions.".

Subtitle F—Miscellaneous Programs

SEC. 171. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Section 799 (42 U.S.C. 295i) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (C) through (F) as subparagraphs (F) through (I), respectively;

(B) by inserting after subparagraph (B) the following new subparagraphs:

"(C) the adequacy of current and future supplies of primary care physicians to serve health professional shortage areas and medically underserved areas and populations as designated in section 338B;

"(D) the effect of Medicare graduate medical education funding and medical research grant funding on medical schools and residency programs, particularly as such funding may affect institutional support for primary care training and student choices regarding medical specialty and location practice;

"(E) the inclusion of health promotion and disease and disability prevention as a part of graduate medical education, in order to address those objectives contained in Healthy People 2000: National Health Promotion and Disease Prevention Objectives relevant to the provision of preventive services and education of health professionals;";

(C) in subparagraph (G) (as so redesignated) by striking out ", (B), and (C)" and inserting in lieu thereof "through (F)"; and

(D) in subparagraph (H) (as so redesignated) by striking out ", (B), and (C)" and inserting in lieu thereof "through (F)";

(2) in subsection (b)(4), by inserting before the colon "(including those physicians practicing in a medically underserved or rural community (as defined in section 711(c))"; and

(3) in subsection (k), by striking out "1989, 1990, and 1991" and inserting in lieu thereof "1992 through 1996".

SEC. 172. RURAL HEALTH TRAINING PROGRAM.

(a) PART HEADING.—The heading for part I of title VII (42 U.S.C. 295j et seq.) is amended to read as follows:

"Part I—Rural Health Training Program".

(b) TRAINING PROGRAM.—Section 799A (42 U.S.C. 295j(c)) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 799A. RURAL HEALTH TRAINING PROGRAM.";

(2) in subsection (b)(1)—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period in subparagraph (E) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(F) conduct research concerning the social and psychological processes involved in health-related decisionmaking, the perception of assessments of risk, and health risk reduction relating to individuals in rural areas; and

"(G) design training models for rural areas that focus on illness prevention and health promotion that may include programs in areas such as—

"(i) rehabilitation;

"(ii) health concerns of minorities or economically disadvantaged individuals;

"(iii) environmental health;

"(iv) women's health;

"(v) infant, prenatal, and developmental care;

"(vi) adolescent health;

"(vii) the process of health-care seeking, decisionmaking, and compliance behavior;

"(viii) developmental life span perspective;

"(ix) rural occupational health and safety;

"(x) geriatrics; and

"(xi) other areas determined to be appropriate by the Secretary.";

(3) in subsection (b)(2)—

(A) by adding "or" at the end of subparagraph (B);

(B) by striking out "; or" in subparagraph (C) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (D);

(4) in subsection (b)(3), by adding at the end thereof the following new subparagraph:

"(C) LIMITATION.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.";

(5) in subsection (c)—

(A) by inserting "clinical" before "psychology" and before "social work"; and

(B) by inserting "marriage and family therapy" after "social work";

(6) by striking out subsection (e) and redesignating subsections (f) through (h) as subsections (e) through (g), respectively;

(7) in subsection (f) (as so redesignated) to read as follows:

"(f) DEFINITIONS.—As used in this section:

"(1) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' has the same meaning given such term in section 711(c).

"(2) RURAL.—The term 'rural' refers to geographic areas that are located outside of standard metropolitan statistical areas."; and

(8) in subsection (g) (as so redesignated) to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 in fiscal year 1992, $11,000,000 in fiscal year 1993, $12,000,000 in fiscal year 1994, $13,000,000 in fiscal year 1995, and $14,000,000 in fiscal year 1996.".

SEC. 173. CREATION OF ADVISORY COUNCIL ON MEDICAL LICENSURE.

Title VII (42 U.S.C. 295j et seq.) is amended by adding at the end thereof the following new part:

"Part J—Advisory Council on Medical Licensure

"SEC. 799D. CREATION OF ADVISORY COUNCIL ON MEDICAL LICENSURE.

"(a) ADVISORY COUNCIL.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall establish a Council to be known as the 'Council on Medical Licensure'.

"(2) DUTIES.—

"(A) ADVICE.—The Council shall provide advice to the Secretary regarding the establishment and operation of the system established by the American Medical Association for the purpose of verifying and maintaining information regarding the qualifications of individuals to practice medicine, and advice regarding the establishment and operation of any similar system.

"(B) ACTIVITIES.—In carrying out subparagraph (A), the Council shall—

"(i) monitor and review the operation of the private credentials verification system and develop recommendations regarding methods by which the system can be improved, and make recommendations for the establishment of nondiscriminatory policies and practices for the operation of the system;

"(ii) determine to what extent the system has expedited and otherwise improved the efficiency and equitable operation of the process in the States for licensing individuals to practice medicine who previously have been licensed by another State (commonly known as licensure by endorsement); and

"(iii) review the policies and practices of the States (including any relevant laws) in licensing international medical graduates and in licensing domestic medical graduates, and determine the effects of the policies.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The Council shall be composed of 13 voting members selected in accordance with subparagraphs (B) and (C).

"(B) HRSA.—The Secretary shall designate one official or employee of the Health Resources and Services Administration to serve as a member of the Council. The official or employee so designated shall be a graduate of a medical school located in the United States.

"(C) APPOINTMENTS.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall, subject to subparagraph (D), make appointments to the Council as follows:

"(i) one individual from an organization representing State authorities that license individuals to practice medicine;

"(ii) one individual representing a national organization that represents practicing physicians in the United States;

"(iii) one individual representing an organization in the United States that tests international medical graduates regarding medical knowledge;

"(iv) one individual representing an organization in the United States that tests individuals who are graduates of medical schools located in the United States regarding medical knowledge;

"(v) one physician representing a medical school or medical schools in the United States;

"(vi) one individual who is a representative of the private credentials verification system;

"(vii) one individual who is a graduate of a medical school in the United States, licensed to practice medicine in a State for at least 20 years, and who has applied for and received licensure by endorsement within the past 5 years;

"(viii) one individual who is an international medical graduate and who is representing a coalition representing international medical graduates;

"(ix) one individual who is a native of the United States who is a graduate of a medical school located in a country other than the United States or Canada;

"(x) one international medical graduate who is a native of a country located in southern or eastern Asia (including southern or eastern Asian islands), and who is a graduate of a medical school located in such a country;

"(xi) one international medical graduate who is a native of a European country and who is a graduate of a medical school located in such a country; and

"(xii) one international medical graduate who is a native of a country located in a Latin American or Caribbean country and who is a graduate of a medical school located in such a country.

At least one member appointed by the Secretary under this subparagraph should be practicing in a medically underserved or rural area as defined in section 711(c).

"(D) CONSULTATION.—The Secretary shall make the appointments described in subparagraph (C) only after consultation with relevant organizations and coalitions.

"(4) DURATION.—The Council shall continue in existence until the submission of the report required under paragraph (6), or not later than September 30, 1995, whichever is earlier.

"(5) ANNUAL REPORT.—The Council shall annually submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report describing the findings and recommendations of the Council pursuant to the duties established in paragraph (2). The Secretary shall provide a copy of each such report to the private credentials verification system.

"(6) FINAL REPORT AND RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than September 30, 1995, the Council shall prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a final report that shall include recommendations regarding activities conducted pursuant to paragraph (2), that shall include a determination as to whether the private credentials verification system is operating with a reasonable degree of efficiency and whether the policies and practices of the system are nondiscriminatory.

"(B) RECOMMENDATIONS.—If the Secretary determines that the private credentials verification system fails to meet either of the criteria with respect to the determination described in subparagraph (A), the Secretary, in consultation with the Council and relevant organizations, shall make a recommendation concerning the establishment of an alternative private system and concerning the specifications for such a system as described in paragraph (2)(B).

"(b) STUDY OF STATE LICENSURE PROCESS.—

"(1) IN GENERAL.—With respect to the licensure by the States of individuals to practice medicine, the Secretary, in consultation with the Council, shall annually conduct a study of not less than 10 States for the purpose of determining—

"(A) the average length of time required for the States involved to process the licensure applications of domestic medical graduates and the average length of time required for the States to process the licensure applications of international medical graduates, and the reasons underlying any significant differences in such times; and

"(B) the percentage of licensure applications from domestic medical graduates that are approved and the percentage of licensure applications from graduates of international medical schools that are approved, and the reasons underlying any significant differences in such percentages.

"(2) REPORT.—The Secretary each fiscal year shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the findings made as a result of the study required in paragraph (1) for the fiscal year.

"(c) DEFINITIONS.—For purposes of this section:

"(1) COUNCIL.—The term 'Council' means the Council on Medical Licensure established in subsection (a)(1).

"(2) DOMESTIC MEDICAL GRADUATE.—The term 'domestic medical graduate' means an individual who is a graduate of a medical school located in the United States or Canada.

"(3) INTERNATIONAL MEDICAL GRADUATE.—The term 'international medical graduate' means an individual who is a graduate of a medical school located in a country other than the United States or Canada.

"(4) MEDICAL SCHOOL.—The term 'medical school' means a school of medicine or a school of osteopathic medicine, as such terms are defined in section 701(2).

"(5) NONDISCRIMINATORY.—The term 'nondiscriminatory' with respect to policies and practices means that such policies and practices do not discriminate on the basis of race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation.

"(6) PRIVATE CREDENTIALS VERIFICATION SYSTEM.—The term 'private credentials verification system' means the system described in subsection (a)(2)(A) and established by the American Medical Association.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(8) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(d) NECESSARY RESOURCES.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.".

SEC. 174. GRANTS FOR CERTAIN POSTDOCTORAL FELLOWSHIPS.

Title VII (42 U.S.C. 295j et seq.) (as amended by section 173) is further amended by adding at the end thereof the following new part:

"Part K—Miscellaneous Provisions

"SEC. 799G. GRANTS FOR POSTDOCTORAL FELLOWSHIPS IN CLINICAL PSYCHOLOGY, CLINICAL SOCIAL WORK, AND PSYCHIATRY

"(a) IN GENERAL.—The Secretary shall establish a postdoctoral clinical psychology, clinical social work, and psychiatry program to award grants to or enter into contracts with eligible entities to enable such entities to provide financial assistance (in the form of traineeships and fellowships) to participants who will train and provide mental health services in Federal, State or local prisons or correctional facilities or public mental health facilties.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an institution shall submit an application to the Secretary at such time, in such form and containing such information as the Secretary shall require, including a certification that such institution—

"(1) is an entity, accredited public or nonprofit school, or program in a State that provides training leading to a degree of doctor of psychology, social work, allopathic or osteopathic medicine and will provide mental health services in Federal, State or local prisons or correctional facilities or public mental health facilties;

"(2) will use amounts provided to such institution under this section to provide financial assistance in the form of traineeships or fellowships to qualified individuals who meet the requirements of subsection (c);

"(3) will not use in excess of 10 percent of amounts provided under this section to pay for administrative costs; and

"(4) will provide any other information or assurance as the Secretary determines appropriate.

"(c) INDIVIDUALS.—To be eligible to receive a traineeship or fellowship under this section an individual—

"(1) shall have received a doctoral degree through a graduate program in psychology or social work, a degree in allopathic or osteopathic medicine and is licensed to provide mental health services; and

"(2) will spend not less than 50 percent of the fellowship providing mental health services in a Federal, State or local prison or correctional facility or public mental health facilty.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1996.".

Subtitle G—Repealers and Technical and Conforming Amendments

SEC. 181. REPEAL OF FACILITIES CONSTRUCTION GRANT PROGRAM.

Part B of title VII (42 U.S.C. 293 et seq.) is repealed.

SEC. 182. TECHNICAL AND CONFORMING AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—Title VII is amended—

(1) in section 701(3) (as so redesignated) by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(2) in section 731(a)(1)(A)(iii) (42 U.S.C. 294d(a)(1)(A)(iii)), by striking out "tuition," and inserting in lieu thereof "tuition and ";

(3) in section 740(c)(1)(B) (42 U.S.C. 294m(c)(1)(B)), by striking out "such paragraph" and inserting in lieu thereof "such subparagraph";

(4) in section 741(c) (42 U.S.C. 294n(c)), by striking out "podiatry, optometry," and inserting in lieu thereof "podiatric medicine, optometry, or";

(5) in section 741(f)(1)(B) (42 U.S.C. 294n(f)(1)(B)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(6) in section 760(a)(1)(A) (42 U.S.C. 294bb(a)(1)(A)), by striking out "individuals";

(7) in section 787(b)(1) (42 U.S.C. 295g-7(b)(1)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(8) in section 787A(a) (42 U.S.C. 295g-7a(a)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine";

(9) in the first sentence of section 790(5)(A) (42 U.S.C. 295g-10(5)(A)), by striking out

"evaluation." and inserting in lieu thereof "application."; and

(10) in section 799A(c) (42 U.S.C. 295j(c)), by striking out "podiatry" and inserting in lieu thereof "podiatric medicine".

(b) IMMIGRATION AND NATIONALITY ACT.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(5)(B)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the second sentence and inserting in lieu thereof "medical science examinations";

(2) in subsection (a)(32)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the third sentence and inserting in lieu thereof "medical science examinations"; and

(3) in subsection (j)(1)(B)—

(A) by striking out "passed parts I" and all that follows through "Services)" in the first sentence and inserting in lieu thereof "passed medical science examinations administered by the Educational Commission for Foreign Medical Graduates to graduates of foreign medical schools and approved by the Secretary of Health and Human Services for purposes of the law"; and

(B) by striking out "parts I and II of the National Board of Medical Examiners examination" in the second sentence and inserting in lieu thereof "medical science examinations".

(c) AMENDMENTS RELATING TO DEFINITIONS.—The Act is amended—

(1) in section 2(f) (42 U.S.C. 201(f)), by striking out "701(9),";

(2) in section 737(4) (42 U.S.C. 294j(4)), by striking out "701(10)" and inserting in lieu thereof "701(6)";

(3) in section 747 (42 U.S.C. 294q-3), by striking out "701(5)" and inserting in lieu thereof "701(3)";

(4) in section 781(c)(3) (42 U.S.C. 295g-1(c)(3)), by striking out "(as defined in section 701(7))";

(5) in section 782(c)(2)(A)(i) (42 U.S.C. 295g-2(c)(2)(A)(i)), by striking out "701(4)" and inserting in lieu thereof "701(2)";

(6) in section 786A(a)(1) (42 U.S.C. 295g-8(d)(1)), by striking out "701(8)" and inserting in lieu thereof "701(5)";

(7) in section 789(a)(1) (42 U.S.C. 295g-9(a)(1)), by striking out "701(4) or 701(10) and programs referred to in section 701(8)" and inserting in lieu thereof "701(2) or 701(6)";

(8) in section 1706(d) (42 U.S.C. 300u-5(d)), by striking out "701(4)" and inserting in lieu thereof "701(2)"; and

(9) in section 1910(c)(1) (42 U.S.C. 300w-9(c)(1)), by striking out "701(4)" and inserting in lieu thereof "701(2)".

TITLE II—PROVISIONS RELATING TO TITLE VIII

SEC. 201. SHORT TITLE.

This title may be cited as the "Nurse Education Improvement and Reauthorization Act of 1991".

SEC. 202. SPECIAL PROJECTS GRANTS AND CONTRACTS.

Section 820 (42 U.S.C. 296k) is amended—

(1) in subsection (a)—

(A) by inserting "serving in medically underserved or rural communities as defined in section 711(c)" before the semicolon in paragraph (1);

(B) by striking out ", through geriatric health education centers and other entities," in paragraph (2);

(C) by striking out "through telecommunications via satellite" in paragraph (3)(B); and

(D) by adding "or" at the end of paragraph (4);

(E) by inserting after "settings" in paragraph (5) the following: ", including providing nursing care as a component of nursing training in one or more medically underserved or rural communities (as defined in section 711(c))";

(F) by striking out "; or" at the end of paragraph (5) and inserting in lieu thereof a period; and

(G) by striking out paragraph (6);

(2) by striking out subsection (b);

(3) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(4) in subsection (b)(1) (as so redesignated), by inserting "and innovative nursing practice models in primary care and long-term care settings" after "nursing practice models" in paragraph (1);

(5) in subsection (b)(2) (as so redesignated)—

(A) by striking out "hospital" each place that such appears;

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) to evaluate the effectiveness of providing incentives to practice in rural and underserved areas."; and

(6) in subsection (f) (as so redesignated), to read as follows:

"(f) For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 203. ADVANCED NURSE EDUCATION PROGRAMS.

Section 821(b) (42 U.S.C. 2961(b)) is amended by striking out "$13,000,000" and all that follows through the period and inserting in lieu thereof "$20,000,000 for fiscal year 1992, $21,000,000 for fiscal year 1993, $22,000,000 for fiscal year 1994, $23,000,000 for fiscal year 1995, and $24,000,000 for fiscal year 1996.".

SEC. 204. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

Section 822 (42 U.S.C. 296m) is amended—

(1) in subsection (a)—

(A) by striking out the second sentence of subsection (a)(1); and

(B) by striking out "including primary health care" in paragraph (2)(A) and inserting in lieu thereof "including health care";

(2) in subsection (b)(1)—

(A) by striking out "give special consideration" and inserting in lieu thereof "give preference"; and

(B) by striking out "health professional shortage areas designated under section 332" and inserting in lieu thereof "medically underserved or rural communities as defined in section 711(c)"; and

(3) in subsection (d), by striking out "$12,000,000" and all that follows through the period and inserting in lieu thereof "$25,000,000 for fiscal year 1992, $27,000,000 for fiscal year 1993, $29,000,000 for fiscal year 1994, $30,000,000 for fiscal year 1995, and $31,000,000 for fiscal year 1996.".

SEC. 205. CAPACITY BUILDING.

Subpart I of part A (42 U.S.C. 296k et seq.) is amended by adding at the end thereof the following new section:

"SEC. 823. CAPACITY BUILDING IN NURSING EDUCATION FOR PRACTICE.

"(a) GRANTS AND CONTRACTS.—The Secretary may award grants to and enter into contracts with public and private nonprofit schools of nursing for the purpose of providing support (including traineeships and fellowships) for projects to enable such schools to develop resources or strengthen programs or faculty to address the National Health Objectives for the Year 2000.

"(b) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section a school shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

"(2) CONSIDERATION.—The Secretary shall give special consideration to applications submitted by schools that provide outreach programs that are taught in medically underserved or rural communities (as defined in section 711(c)) in which advanced nursing education is not readily available or that, as a result of such location, may have difficulty recruiting qualified faculty, or schools that can demonstrate that graduates of the nursing program serve rural or underserved populations.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,500,000 for fiscal year 1992, $2,000,000 for fiscal year 1993, $2,500,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $3,500,000 for fiscal year 1996.".

SEC. 206. NURSING EDUCATION OPPORTUNITIES FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 827(c) (42 U.S.C. 296r(c)) is amended by striking out "$3,000,000" and all that follows through the period and inserting in lieu thereof "$5,000,000 for fiscal year 1992, $5,500,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, $6,500,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.".

SEC. 207. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 (42 U.S.C. 297) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "for nurses" and inserting in lieu thereof "for individuals"; and

(B) by striking out "programs in order to educate such nurses to" and inserting in lieu thereof "nursing programs in order to educate such individuals to";

(2) by adding at the end of subsection (a)(1), the following new subparagraph:

"(C) Non-nurses enrolled in masters of nursing programs shall be eligible for traineeship support only after completion of basic nursing preparation as defined by the school of nursing consistent with State nurse practice Acts.";

(3) by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(4) in subsection (c) (as so redesignated) to read as follows:

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $17,000,000 for fiscal year 1992, $19,000,000 for fiscal year 1993, $21,000,000 for fiscal year 1994, $23,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.".

SEC. 208. NURSE ANESTHETISTS.

Section 831(c) (42 U.S.C. 297-1(c)) is amended by striking out "$1,800,000" and all that follows through "1991" and inserting in lieu thereof "$3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, $6,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996".

SEC. 209. AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS.

(a) IN GENERAL.—Section 837A (42 U.S.C. 297c-1) is amended by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,000,000 for fiscal year 1992, $6,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, $8,000,000 for fiscal year 1995, and $9,000,000 for fiscal year 1996.".

(b) REPEALER.—Section 837 (42 U.S.C. 297c) is repealed.

SEC. 210. ALLOTMENTS AND PAYMENTS.

Section 838(a)(3)(A) (42 U.S.C. 297d(a)(3)(A)) is amended in the first sentence by striking out "in such fiscal year and in the fiscal year succeeding the fiscal year" and inserting in lieu thereof "until expended".

SEC. 211. DISTRIBUTION.

Section 839 (42 U.S.C. 297e) is amended—

(1) in subsection (a), by striking out "1991" and inserting in lieu thereof "1996"; and

(2) by striking out "1994" each place that such appears and inserting in lieu thereof "1999".

SEC. 212. UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES.

Section 843 (42 U.S.C. 297j) is amended—

(1) in subsection (c), by striking out "serve as a nurse for a period not less than two years" and inserting in lieu thereof "serve as a nurse for a period equal to the number of years of the scholarship award"; and

(2) in subsection (f), by striking out "$15,000,000" and all that follows through the period and inserting in lieu thereof "$30,000,000 for fiscal year 1992, $31,000,000 for fiscal year 1993, $32,000,000 for fiscal year 1994, $33,000,000 for fiscal year 1995, and $34,000,000 for fiscal year 1996.".

SEC. 213. EMPLOYER LOAN REPAYMENT PROGRAM.

Section 847 (42 U.S.C. 297n) is repealed.

SEC. 214. PROHIBITION ON DISCRIMINATION.

Section 855 (42 U.S.C. 298b-2) is amended—

(1) in the section heading by striking out "ON THE BASIS OF SEX"; and

(2) by striking out "sex" each place that such occurs and inserting in lieu thereof "race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation".

SEC. 215. EVALUATIONS.

Section 859(b) (42 U.S.C. 298b-6(b)) is amended—

(1) by striking out paragraph (1); and

(2) in paragraph (2)—

(A) by striking out "(2)"; and

(B) by striking out "biannually" and inserting in lieu thereof "every 2 years".

SEC. 216. GRANTS FOR NURSE EDUCATION IN LONG-TERM CARE FACILITIES.

Part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart IV—Grants for Nurse Education in Long-Term Care Facilities

"SEC. 848. ESTABLISHMENT OF NURSE EDUCATION GRANT PROGRAM WITH RESPECT TO SERVICE IN LONG-TERM CARE FACILITIES.

"(a) IN GENERAL.—The Secretary may award grants to public and private nonprofit undergraduate schools or programs accredited for the training of professional nurses for the purpose of providing fellowships to licensed vocational or practical nurses, nursing assistants and other paraprofessional nursing personnel to assist such individuals in obtaining professional nursing education to attain the level of registered nurse.

"(b) PREFERENCES.—The Secretary may not award a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the applicant will give preference to—

"(1) disadvantaged and minority individuals who are underrepresented in the nursing profession, as determined in accordance with appropriate criteria established by the Secretary; and

"(2) individuals participating in rapid transition programs targeted towards the achievement of professional nursing degrees.

"(c) CERTAIN REQUIREMENTS WITH RESPECT TO STUDENTS.—The Secretary may not award a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the applicant will provide a fellowship to an individual only if—

"(1) the individual is enrolled or accepted for enrollment as at least a half-time student in a public or nonprofit school of nursing or other training program accredited to provide the requisite education and training for the level of professional certification sought by the individual;

"(2) the individual agrees to expend amounts received under the fellowship solely for the payment of the costs of tuition, books, fees, reasonable living expenses, or necessary transportation related to the training program referred to in paragraph (1);

"(3) the individual agrees that, if the individual is dismissed from the school or program referred to in paragraph (1) for academic reasons, voluntarily terminates such education or training, or violates the contract entered into pursuant to paragraph (4), the individual will be liable to the United States in an amount equal to 100 percent of the amount of the fellowship, plus interest at a rate of 5 percent per annum; and

"(4) the individual enters into a contract with a long-term care facility that is certified under title XVIII or XIX of the Social Security Act to engage in full-time employment at the higher level of professional skill acquired under this section for a period of time equal to not less than the period of time during which the individual receives assistance under this section.

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 217. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 832. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (c)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 218. ASSURANCES REGARDING TRANSMISSION OF BLOODBORNE DISEASES.

Title VIII (42 U.S.C. 296K) is amended by adding at the end thereof the following new section:

"SEC. 860. ASSURANCES REGARDING TRANSMISSION OF BLOODBORNE DISEASES.

"Applicants under this title are required to provide assurances to the Secretary that all trainees will receive instruction in the utilization of universal precautions and infection control procedures for the prevention of transmission of bloodborne diseases.".

SEC. 219. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 836(b)(1) (42 U.S.C. 297b(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 851(a) (42 U.S.C. 298(a)) by striking out "a Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 859(a) (42 U.S.C. 298b-6(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III-COMPREHENSIVE MATERNAL AND EARLY CHILDHOOD HEALTH CARE

SEC. 301. SHORT TITLE.

This title may be cited as the "Comprehensive Maternal and Early Childhood Health Care Act".

SEC. 302. MIGRANT AND COMMUNITY HEALTH CENTER INITIATIVES.

(a) MIGRANT HEALTH CENTERS.—Paragraph (2) of subsection (h) of section 329 (42 U.S.C. 254b(g)) is amended to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist, and expand the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where Migrant Health Centers are currently operating Comprehensive Perinatal Care Programs. The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Migrant Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary for the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and through others) to ensure access and coordination.".

(b) COMMUNITY HEALTH CENTERS.—Subsection (g) of section 330 (42 U.S.C. 254c(g)) is amended:

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(C) Of the amounts appropriated under subparagraph (A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such subparagraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year to make grants under subsections (c) and (d) for the planning and development of health centers to serve medically underserved populations. New community health centers shall be equitably distributed between underserved urban and rural areas with satellite models used where appropriate."; and

(2) in paragraph (2) to read as follows:

"(2)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where community health centers are currently operating Comprehensive Perinatal Care Programs in areas with high infant mortality.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to Community Health Centers to assist such Centers in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services shall include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at the health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C.

1786), by drug treatment service providers and by others) to ensure access and coordination.".

(c) PROGRAMS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.—Subsection (q) of section 340 (42 U.S.C. 256(q)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of subparagraph (B), from the amounts appropriated in each fiscal year under paragraph (1)(A), that are in excess of the amounts necessary to maintain the level of services provided with amounts appropriated under such paragraph in the year preceding the year for which such amounts are appropriated, the Secretary shall utilize, in each of the fiscal years 1992 through 1994, such sums as may be necessary in each such fiscal year for—

"(i) the development and operation of new Comprehensive Perinatal and Early Childhood Health Programs in medically underserved areas where such programs do not exist; and

"(ii) expanding the capacity of services provided for pregnant women and children up to the age of three, in medically underserved areas where grantees under this section are currently operating Comprehensive Perinatal Care Programs.

The Secretary shall utilize such amounts to supplement and not supplant amounts expended on the date of enactment of this paragraph for Comprehensive Perinatal Care Programs under this section.

"(B) The Secretary shall make grants to grantees under this section to assist such grantees in the development and operation of Comprehensive Perinatal and Early Childhood Health Programs. Such Programs shall be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development. Such services should include—

"(i) public information, outreach and case finding services provided through the use of media, community canvassing (using volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(ii) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(I) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(II) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely provision of immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(iii) substance abuse screening, outpatient substance abuse counseling services, and referral to and as necessary the purchase of community-based residential substance abuse treatment services for women with substance abuse problems;

"(iv) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both center-based counseling and through distribution of the Maternal Child Health Handbooks as available;

"(v) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(vi) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children, and families.

"(C) To the maximum extent practicable, comprehensive health and support services under this paragraph should be delivered on site at a health center, (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act (42 U.S.C. 1396a), by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), by drug treatment service providers and by others) to ensure access and coordination.".

SEC. 303. EXPANSION OF IMMUNIZATION PROGRAMS FOR YOUNG CHILDREN.

(a) VACCINE BULK PURCHASE PROGRAM.—Part B of title III is amended by inserting after section 317A the following new section:

"SEC. 317B . VACCINE BULK PURCHASE PROGRAM.

"(a) IN GENERAL.—The Secretary acting through the Director of the Centers for Disease Control and in accordance with the preventative health grant provisions of subsections (a) and (j)(1)(B) of section 317, shall provide to the health department of each State or large city that is operating an immunization project, vaccines for immunization purposes.

"(b) DISTRIBUTION.—Vaccines provided to grantees with existing immunization projects under subsection (a) shall be made available for distribution and immunization services through the public health departments of such States or cities, recipients of grants under section 329, 330, and 340 in the State or city, Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act operating in the State or city, and public health professionals.

"(c) QUANTITY.—In determining the quantity of vaccine that is needed by a grantee under subsection (a), the Administrator of the Health Resources and Services Administration shall make available to the Director of the Centers for Disease Control data from annual reports submitted by recipients of grants under section 329, 330, and 340 and from entities certified as Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act. The Director of such Centers shall direct the health department of the State, county or city to equitably allocate vaccines made available under the bulk purchase program among those recipients described in subsection (b) who are providing immunization services to children, except that the amounts received by each provider on the date of enactment of this section shall not be diminished relative to the population served, and that grantees shall receive not less than the amount such grantees received under their bulk vaccine allotment as of January 1, 1991.

"(d) MAINTENANCE OF SUPPLY.—The provisions of this section shall be effective only to the extent to which the Secretary, acting through the Director of the Centers for Disease Control, provides assurances that the implementation of this section will not result in a reduction in the supply of vaccines available to grantees receiving vaccine allotments under the bulk purchasing programs as of January 1, 1991.".

(b) IMMUNIZATION DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—Subsection (b) of section 2 of the Vaccine and Immunization Amendments of 1990 (Public Law 101-502) is amended to read as follows:

"(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of carrying out demonstration projects—

"(A) to provide, without administrative charge, immunizations for vaccine preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low income individuals, increasing the capacity of public health departments to deliver vaccines and facilitating outreach activities to improve the percentage of fully immunized children;

"(B) to expand the capacity of public health departments, recipients of grants under sections 329, 330, and 340 of the Public Health Service Act, and other health provider entities that are co-located with centers providing services under section 17 of the Child Nutrition Act of 1966 in order to provide immunizations to participants in the program established under such section 17 during regular hours, and to enable State health departments working through State directors of the program established under such section 17 to make available to such centers vaccines and adequate funds to administer immunizations; and

"(C) to maintain private provider participation in the provision of immunization services and to encourage private physicians to provide such services to infants and children enrolled for benefits under title XIX of the Social Security Act.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out paragraph (1), there are authorized to be appropriated $25,000,000 in fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 304. PROJECT GRANTS FOR MATERNAL AND CHILD PREVENTIVE HEALTH AND HEALTH CARE SERVICES.

Section 314 (42 U.S.C. 246) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary is authorized to award grants to eligible entities for the development and operation of Comprehensive Perinatal and Early Childhood Health Programs, to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development.

"(2)(A) To be eligible to receive a grant under this subsection, an entity shall be a public health department or public or private nonprofit health entity that—

"(i) does not receive assistance under section 329 or 330;

"(ii) is located in a medically underserved or health professional shortage area not served by an entity receiving funds under section 329 or 330; and

"(iii) has demonstrated a commitment to serving low income and uninsured individuals and families.

"(B) Notwithstanding subparagraph (A), entities located in areas served by grantees under section 329 or 330 may apply for and receive a grant under this subsection, if such 329 or 330 grantees do not intend to apply for expanded funding for prenatal and early childhood health care services, and if such entities can demonstrate that—

"(i) the women and children to be served, or the services to be provided, using funds provided under the grant are in addition to those populations served and services offered by such existing section 329 or 330 grantees; and

"(ii) the entity will not use funds provided under this subsection to supplant State expenditures.

"(3) Services to be provided with funds under a grant awarded under this subsection shall be delivered in a culturally sensitive manner and made accessible to the population to be served. Such services shall include—

"(A) public information, outreach, or case finding services provided through the use of media, community canvassing (including the use of volunteer and paraprofessional personnel), referrals, or other methods targeted to reach women at high-risk of receiving inadequate health care;

"(B) individualized risk assessment and case management services for pregnant women, infants, and children to ensure early, continuous, and comprehensive health care and support services including—

"(i) health care (including prenatal health care, nutrition counseling, and smoking cessation interventions), and health education concerning the risks of smoking, alcohol, substance abuse, and inadequate nutrition; and

"(ii) perinatal care, primary and preventive health care for infants and children (including screening for vision, hearing, dental conditions, developmental delay, nutritional status, and lead poisoning), timely immunizations, and referral for specialized early periodic screening diagnostic treatment services, services under part H of the Individuals with Disabilities Education Act, and other necessary health and support services;

"(C) collaboration with other community-based health and support service providers, hospitals, clinics, recipients of grants under title V of the Social Security Act, State and local health and social service departments, alcohol and drug treatment programs, State and local special supplemental food programs for women, infants and children under section 17 of the Child Nutrition Act of 1966, Medicaid offices, and other organizations providing services to women, infants, children and families;

"(D) substance abuse screening, outpatient substance abuse counseling services, or referral to substance abuse treatment services for women with substance abuse problems;

"(E) necessary support services, including counseling, child care, transportation, translation services, benefit eligibility determination, and housing assistance, either provided directly or through referral with appropriate follow-up; and

"(F) parenting skill training and child development education (including services stressing the importance of regular health screenings, adequate nutrition, child safety measures and basic growth patterns and expectations) through both counseling provided directly by the grantee, and through distribution of the Maternal Child Health Handbooks as available.

Services described in subparagraphs (D), (E) and (F) shall be provided by grantees under this subsection to the maximum extent practicable.

"(4) To the maximum extent practicable, services provided under this subsection shall be delivered in a single location by the grantee, except that such may include multiple sites if mobile health care provider units are utilized (including services delivered by outposted Medicaid workers in accordance with section 1902 of the Social Security Act, by workers eligible to provide services under section 17 of the Child Nutrition Act of 1966, by drug treatment service providers, and by others) to ensure access and coordination.

"(5) The Secretary may not award a grant under this subsection unless—

"(A) the applicant for the grant has entered into, or will enter into, a participation agreement within 180 days of the date of the grant award with the State agency administering funds under title XIX of the Social Security Act and is qualified to receive such payments for services provided;

"(B) the applicant for the grant has prepared a schedule of fees or payments for the provision of services under paragraph (3) consistent with locally prevailing rates or charges, and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, such discounts to be adjusted on the basis of the patient's ability to pay;

"(C) the applicant for the grant provides assurances that every reasonable effort will be made to secure from patients and third party reimbursement entities, including any State compensation program, health insurance entity, any entity providing health services on a prepaid basis, or any Federal or State health benefits program, full payment for the services provided under paragraph (3). Amounts awarded under this subsection shall be used as the payment source of last resort for services provided.

"(6) In addition to providing the services required under paragraph (3), a grantee may use amounts provided under the grant for minor remodeling and rehabilitation of the facilities needed to support the delivery of such services. No funds may be used for the construction of new buildings or the acquisition of properties.

"(7) A grantee shall not use in excess of 5 percent of the amounts received under a grant awarded under this subsection for administration, accounting, reporting and program oversight functions.

"(8) To be eligible to receive a grant under this subsection, an entity, in addition to meeting the requirements of paragraph (2), shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

"(A) that funds received under a grant awarded under this subsection will be utilized to supplement not supplant State funds made available to the entity for the provision of maternal and child health and social services, with identification of funding received from other sources for such purposes;

"(B) that prenatal and early childhood health care will be provided under a case management model, that continuity of care will be provided for all individuals, and that services to be provided are accessible to the target population to be served;

"(C) that the entity will serve low income women and children in the service delivery area, and have a plan for outreach to those at risk of inadequate health care services;

"(D) that the entity has outlined a needs assessment of the health care delivery system in the service delivery area, to include health status indicators for women of childbearing age and young children, and identification of other health care provider groups in the area;

"(E) that the entity has reviewed the application for a grant under this section with the State agency administering amounts received under title V of the Social Security Act and the local health department, and that such application is consistent with the State plan for the delivery of maternal and child health services; and

"(F) that the entity will submit a report to the Secretary and to the State and relevant local health departments that will include demographic data on the number of individuals served and those services provided with funds provided under this subsection, and a description of the manner in which services provided by the entity are integrated with those services provided by other health care agencies or provider groups in the service delivery area.

"(9) In awarding grants under this subsection, the Secretary should give priority to—

"(A) those applications submitted by entities that are an association of one or more public, and one or more nonprofit private health care and social service providers, except that in areas where such an association would not be possible as a result of the absence of more than one provider entity, no such priority shall be given; and

"(B) those applications providing evidence of local investment (such as State, health care provider, local charity, and volunteer organization contributions) in maternal and child health initiatives, through a 10 percent local contribution to match Federal funds, in cash or in kind, fairly evaluated, not including any portion of any service subsidized by the Federal Government or other copayments under paragraph (5).

Grants under this subsection shall be awarded on an equitable basis among eligible rural and urban applicants.

"(10) Not later than 30 months after the date of enactment of this subsection, the Secretary shall prepare and submit, to the Senate Committee on Labor and Human Resources, the Senate Finance Committee, and the House Committee on Energy and Commerce, an evaluation of the program established under this subsection, that shall include—

"(A) an analysis of the manner in which funds provided under this subsection have been used by grantees, with a review of the services provided;

"(B) the infant mortality rates and immunization rates in the communities served by grantees prior to the receipt of such a grant and at the time such evaluation is prepared, and an assessment of the impact of enhanced services on such rates;

"(C) an analysis of the manner in which entities receiving grants under this subsection have integrated the services provided under such grants with other available health and social service providers in the service delivery area; and

"(D) recommendations concerning any modifications necessary to improve program effectiveness in reaching the stated goals of the program in a cost-effective manner.

"(11) There are authorized to be appropriated for each of the fiscal years 1992 through 1994, such sums as may be necessary to carry out this subsection.".

SEC. 305. BIRTH DEFECTS PROPOSAL.

Part B of title III (42 U.S.C. 243 et seq.) (as amended by section 303) is further amended by inserting after section 317B, the following new section:

"SEC. 317C. COORDINATION OF BIRTH DEFECTS SURVEILLANCE AND EPIDEMIOLOGY RESEARCH PROGRAMS.

"(a) FINDINGS.—Congress finds that—

"(1) birth defects are the leading cause of infant mortality, directly responsible for one out every five infant deaths;

"(2) thousands of the 250,000 infants born with a birth defect annually face a lifetime of chronic disability and illness; and

"(3) there is no national effort to record birth defect data and perform epidemiologic surveillance even though such data would aid research efforts to understand and reduce the incidence of preventable birth defects.

"(b) PLAN FOR IMPLEMENTING A NATIONAL BIRTH DEFECTS MONITORING SYSTEM AND SURVEILLANCE PROGRAM.—

"(1) DEVELOPMENT.—The Secretary, acting through the Centers for Disease Control, shall develop a plan to establish regional birth defects monitoring programs to serve all States for the purpose of collecting and analyzing data on the incidence of birth defects with relevant epidemiologic data. Such plan shall specify how collaborative efforts between the Centers for Disease Control and responsible State agencies will be carried out, and may include the provision of grants or cooperative agreements, and technical assistance.

"(2) CLEARINGHOUSE.—The Centers for Disease Control shall develop a program plan to serve as the national clearinghouse of the collection and storage of data and information generated from birth defects monitoring programs developed under paragraph (1). Functions of the clearinghouse will include facilitating the coordination of birth defects research.

"(3) REPORT.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the plan required under paragraph (1), together with recommendations to facilitate the immediate implementation of such plan, on or before July 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECTIVE DATE.

Notwithstanding any other provision of law, section 403A(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(1)) shall not apply with respect to any requirement of any State or political subdivision regarding maple syrup until December 1, 1993.

JUDICIAL NATURALIZATION AMENDMENTS

KENNEDY (AND SIMPSON) AMENDMENT NO. 1448

Mr. REID (for Mr. KENNEDY, for himself and Mr. SIMPSON) proposed an amendment to the bill (H.R. 3049) to amend the Immigration and Nationality Act to restore certain exclusive authority on courts to administer oaths of allegiance for naturalization, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous and Technical Immigration and Naturalization Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

Sec. 101. Short title of title.
Sec. 102. Court authority to administer oaths of allegiance for naturalization.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

Sec. 201. Short title of title.
Sec. 202. Repeal of numerical limitations on P-1 and P-3 nonimmigrants; GAO report.
Sec. 203. Standards for classification of P-1 and P-3 nonimmigrants.
Sec. 204. Consultation requirement.
Sec. 205. Amendments relating to O nonimmigrants.
Sec. 206. Amendments relating to P nonimmigrants.
Sec. 207. Other amendments.
Sec. 208. Effective date.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

Sec. 301. Short title of title; reference to the Immigration and Nationality Act.
Sec. 302. Corrections relating to Title I of the Immigration Act of 1990.
Sec. 303. Corrections relating to Title II of the Immigration Act of 1990.
Sec. 304. Corrections relating to Title III of the Immigration Act of 1990.
Sec. 305. Corrections relating to Title IV of the Immigration Act of 1990.
Sec. 306. Corrections relating to Title V of the Immigration Act of 1990.
Sec. 307. Corrections relating to Title VI of the Immigration Act of 1990.
Sec. 308. Corrections relating to Title VII of the Immigration Act of 1990.
Sec. 309. Additional miscellaneous corrections.
Sec. 310. Effective dates.

TITLE I—JUDICIAL NATURALIZATION CEREMONIES AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Judicial Naturalization Ceremonies Amendments of 1991".

SEC. 102. COURT AUTHORITY TO ADMINISTER OATHS OF ALLEGIANCE FOR NATURALIZATION.

(a) IN GENERAL.—Subsection (b) of section 310 of the Immigration and Nationality Act (8 U.S.C. 1421), as amended by section 401(a) of the Immigration Act of 1990, is amended to read as follows:

"(b) COURT AUTHORITY TO ADMINISTER OATHS.—

"(1) JURISDICTION—Subject to section 337(c)—

"(A) GENERAL JURISDICTION.—Except as provided in subparagraph (B), each applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the attorney general or by an eligible court described in paragraph (5). Each such eligible court shall have authority to administer such oath of allegiance to persons residing within the jurisdiction of the court.

"(B) EXCLUSIVE AUTHORITY.—An eligible court described in paragraph (5) that wishes to have exclusive authority to administer the oath of allegiance under section 377(a) to persons residing within the jurisdiction of the court during the period described in paragraph (3)(A)(i) shall notify the Attorney General of such wish and, subject to this subsection, shall have such exclusive authority with respect to such persons during such period.

"(2) INFORMATION.—

"(A) GENERAL INFORMATION.—In the case of a court exercising authority under paragraph (1), in accordance with procedures established by the Attorney General—

"(i) the applicant for naturalization shall notify the Attorney General of the intent to be naturalized before the court, and

"(ii) the Attorney General—

"(I) shall forward to the court (not later than 10 days after the date of approval of an application for naturalization in the case of a court which has provided notice under paragraph (1)(B)) such information as may be necessary to administer the oath of allegiance under section 337(a) and

"(II) shall promptly forward to the court a certificate of naturalization (prepared by the Attorney General).

"(B) ASSIGNMENT OF INDIVIDUALS IN THE CASE OF EXCLUSIVE AUTHORITY.—If an eligible court has provided notice under paragraph (1)(B), the Attorney General shall inform each person (residing within the jurisdiction of the court), as the time of the approval of the person's application for naturalization, of—

"(i) the court's exclusive authority to administer the oath of allegiance under section 337(a) to such a person during the period specified in paragraph (3)(A)(i), and

"(ii) the date or dates (if any) under paragrah (3)(B) on which the court has scheduled oath administration ceremonies.

If more than one eligible court in an area has provided notice under paragraph (1)(B), the Attorney General shall permit the person, at the time of the approval, to choose the court to which the information will be forwarded for administration of the oath of allegiance under this section.

"(3) SCOPE OF EXCLUSIVE AUTHORITY.—

"(A) LIMITED PERIOD AND ADVANCE NOTICE REQUIRED.—The exclusive authority of a court to administer the oath of allegiance under paragraph (1)(B) shall apply with respect to a person—

"(i) only during the 45-day period beginning on the date on which the Attorney General certifies to the court that an applicant is eligible for naturalization, and

"(ii) only if the court has notified the Attorney General, prior to the date of certification of eligibility, of the day or days (during such 45-day period) on which the court has scheduled oath administration ceremonies.

(B) AUTHORITY OF ATTORNEY GENERAL.—Subject to subparagraph (C), the Attorney General shall not administer the oath of allegiance to a person under subsection (a) during the period in which exclusive authority to administer the oath of allegiance may be exercised by an eligible court under this subsection with respect to that person.

(C) WAIVER OF EXCLUSIVE AUTHORITY.—Notwithstanding the previous provisions of this paragraph, a court may waive exclusive authority to administer the oath of allegiance under section 337(a) to a person under this subsection if the Attorney General has not provided the court with the certification described in subparagraph (A)(i) within a reasonable time before the date scheduled by the court for oath administration cere-

monies. Upon notification of a court's waiver of jurisdiction, the Attorney General shall promptly notify the applicant.

"(4) ISSUANCE OF CERTIFICATES.—The Attorney General shall provide for the issuance of certificates of naturalization at the time of administration of the oath of allegiance.

"(5) ELIGIBLE COURTS.—For purposes of this section, the term 'eligible court' means—

"(A) a District Court of the United States in any State, or

"(B) any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited.".

(b) CONFORMING AMENDMENTS.—

(1) FUNCTIONS OF CLERKS.—Section 339(a) of such Act (8 U.S.C. 1450(a)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) deliver to each person administered the oath of allegiance by the court pursuant to section 337(a) the certificate of naturalization prepared by the Attorney General pursuant to section 310(b)(2)(A)(ii),",

(B) in paragraph (2), by inserting "a list of applicants actually taking the oath at each scheduled ceremony and" after "Attorney General",

(C) by striking paragraph (3),

(D) in paragraph (4), by striking the period at the end and inserting ", and" and by redesignating such paragraph as paragraph (3),

(E) by inserting after paragraph (3), as so redesignated, the following new paragraph:

"(4) be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General and shall account to the Attorney General for them whenever required to do so.", and

(F) by adding at the end the following:

"No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.".

(2) EXPEDITED ADMINISTRATION OF OATH.—Subsection (c) of section 337 of such Act (8 U.S.C. 1448) is amended to read as follows:

"(c) Notwithstanding section 310(b), an individual may be granted an expedited judicial oath administration ceremony or administrative naturalization by the Attorney General upon demonstrating sufficient cause. In determining whether to grant an expedited judicial oath administration ceremony, a court shall consider special circumstances (such as serious illness of the applicant or a member of the applicant's immediate family, permanent disability sufficiently incapacitating as to prevent the applicant's personal appearance at the scheduled ceremony, developmental disability or advanced age, or exigent circumstances relating to travel or employment). If an expedited judicial oath administration ceremony is impracticable, the court shall refer such individual to the Attorney General who may provide for immediate administrative naturalization.".

(3) FEES.—Section 344 of such Act (8 U.S.C. 1455) is amended by adding at the end the following new subsection:

"(f)(1) The Attorney General shall pay over to courts administering oaths of allegiance to persons under this title a specified percentage of all fees described in subsection (a)(1) collected by the Attorney General with respect to persons administered the oath of allegiance by the respective courts. The Attorney General, annually and in consultation with the courts, shall determine the specified percentage based on the proportion, of the total costs incurred by the Service and courts for essential services directly related to the naturalization process, which are incurred by courts.

"(2) The Attorney General shall provide on an annual basis to the Committees on the Judiciary of the House of Representatives and of the Senate a detailed report on the use of the fees described in paragraph (1) and shall consult with such Committees before increasing such fees.".

(c) EFFECTIVE DATE.—The amendments made by this title shall take effect 30 days after the date of the enactment of this Act.

TITLE II—O AND P NONIMMIGRANT AMENDMENTS

SEC. 201. SHORT TITLE OF TITLE.

This title may be cited as the "O and P Nonimmigrant Amendments of 1991".

SEC. 202. REPEAL OF NUMERICAL LIMITATIONS ON P-1 AND P-3 NONIMMIGRANTS; GAO REPORT.

(a) IN GENERAL.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)), as added by section 205(a) of the Immigration Act of 1990, is amended—

(1) by adding "or" at the end of subparagraph (A),

(2) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(3) by striking subparagraph (C).

(b) REPORT.—(1) By not later than October 1, 1994, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under subparagraphs (O) and (P) of section 101(a)(15) of the Immigration and Nationality Act, and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens.

(2) Not later than 30 days after the date the Committee of the Judiciary on the Senate receives the report under paragraph (1), the Chairman of the Committee shall make the report available to interested parties and shall hold a hearing respecting the report. No later than 90 days after the date of receipt of the report, such Committee shall report to the Senate its findings and any legislation it deems appropriate.

SEC. 203. STANDARDS FOR CLASSIFICATION OF P-1 NONIMMIGRANTS.

(a) SUBSTITUTION OF NEW STANDARDS.—Clause (i) of section 101(a)(15)(P) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended to read as follows:

"(i)(a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);".

(b) NEW STANDARDS.—Section 214(c)(4) of such Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by redesignating subparagraphs (A) through (C) as subparagraphs (C) through (E) and by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) For purposes of section 101(a)(15)(P)(i)(a), an alien is described in this subparagraph if the alien—

"(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

"(B)(i) For purposes of section 101(a)(15)(P)(i)(b), an alien is described in this subparagraph if the alien—

"(I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time.

"(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

"(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

"(ii) In the case of an entertainment group that is recognized nationally as being outstanding in its discipline for a sustained and substantial period of time, the Attorney General may, in consideration of special circumstances, waive the international recognition requirement of clause (i)(I).

"(iii)(I) The one-year relationship requirement of clause (i)(II) shall not apply to 25 percent of the performers and entertainers in a group.

"(II) The Attorney General may waive such one-year relationship requirement for an alien who because of illness or unanticipated and exigent circumstances replaces an essential member of the group and for an alien who augments the group by performing a critical role.

"(iv) The requirements of subclauses (I) and (II) of clause (i) shall not apply to alien circus personnel who perform as part of a circus or circus group or who constitute an integral and essential part of the performance of such circus or circus group, but only if such personnel are entering the United States to join a circus that has been recognized nationally as outstanding for a sustained and substantial period of time or as part of such a circus.".

SEC. 204. CONSULTATION REQUIREMENT.

Section 214(c) of the Immigration and Nationality Act, as amended by section 207(b)(2) of the Immigration Act of 1990, is amended—

(1) in paragraph (3)(A), by striking "after consultation with peer groups in the area of the alien's ability" and inserting "after consulation in accordance with paragraph (6)",

(2) in paragraph (3)(B), by striking "after consultation with labor organizations with expertise in the skill area involved" and inserting "after consultation in accordance with paragraph (6) or, in the case of such an alien seeking entry for a motion picture or television production, after consultation with such a labor organization and a management organization in the area of the alien's ability",

(3) in paragraph (4)(C), as redesignated by section 203(b), by striking "clause (ii) of",

(4) in paragraph (4)(D), as redesignated by section 203(b), by striking "after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved" and inserting "after consultation in accordance with paragraph (6)",

(5) by redesignating paragraph (6) as paragraph (7), and

(6) by inserting after paragraph (5) the following new paragraph:

"(6)(A)(i) To meet the consultation requirements of paragraph (3)(A) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(i) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a peer group (or other person or persons of its choosing, which may include a labor organization) with expertise in the specific field involved.

"(ii) To meet the consultation requirement of paragraph (3)(B) in the case of a petition for a nonimmigrant described in section 101(a)(15)(O)(ii) (other than with respect to aliens seeking entry for a motion picture or television production), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the skill area involved.

"(iii) To meet the consultation requirement of paragraph (4)(D) in the case of a petition for a nonimmigrant described in section 101(a)(15)(P)(i) or 101(a)(15)(P)(iii), the petitioner shall submit with the petition an advisory opinion from a labor organization with expertise in the specific field of athletics or entertainment involved.

"(B) To meet the consultation requirements of subparagraph (A), unless the petitioner submits with the petition an advisory opinion from an appropriate labor organization, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization within 5 days of the date of receipt of the petition. If there is a collective bargaining representative of an employer's employees in the occupational classification for which the alien is being sought, that representative shall be the appropriate labor organization.

"(C) In those cases in which a petitioner described in subparagraph (A) establishes that an appropriate peer group (including a labor organization) does not exist, the Attorney General shall adjudicate the petition without requiring an advisory opinion.

"(D) Any person or organization receiving a copy of a petition described in subparagraph (A) and supporting documents shall have no more than 15 days following the date of receipt of such documents within which to submit a written advisory opinion or comment or to provide a letter of no objection. Once the 15-day period has expired and the petitioner has had an opportunity, where appropriate, to supply rebuttal evidence, the Attorney General shall adjudicate such petition in no more than 14 days. The Attorney General may shorten any specified time period for emergency reasons if no unreasonable burden would be thus imposed on any participant in the process.

"(E)(i) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant artists or entertainers described in section 101(a)(15)(O) or 101(a)(15)(P) to accommodate the exigencies and scheduling of a given production or event.

"(ii) The Attorney General shall establish by regulation expedited consultation procedures in the case of nonimmigrant athletes described in section 101(a)(15)(O)(i) or 101(a)(15)(P)(i) in the case of emergency circumstances (including trades during a season).

"(F) No consultation required under this subsection by the Attorney General with a nongovernmental entity shall be construed as permitting the Attorney General to delegate any authority under this subsection to such an entity. The Attorney General shall give such weight to advisory opinions provided under this section as the Attorney General determines, in his sole discretion, to be appropriate."

SEC. 205. AMENDMENTS RELATING TO O NONIMMIGRANTS.

(a) DEFINITION OF EXTRAORDINARY ABILITY IN THE ARTS FOR O NONIMMIGRANTS.—Section 101(a) of the Immigration and Nationality Act, as amended by sections 123 and 204(c) of the Immigration Act of 1990, is amended by adding at the end the following new paragraph:

"(46) The term 'extraordinary ability' means for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.".

(b) ELIMINATING ADDITIONAL PAPERWORK REQUIREMENT FOR O-1'S.—Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, as amended by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", but only" and all that follows up to the semicolon at the end.

(c) CLARIFICATION OF SIGNIFICANT PHOTOGRAPHY FOR O-2S.—Section 101(a)(15)(O)(ii)(III)(b) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking "signification principal photography" and inserting "significant production (including pre- and post-production work)".

(d) CLARIFICATION OF MULTIPLE EVENTS FOR VISAS FOR O NONIMMIGRANTS.—Section 214(a)(2)(A) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by inserting "(or events)" after "event".

(e) CONSULTATION WITH RESPECT TO READMITTED O-1 NONIMMIGRANTS.—Section 214(c)(3) of the Immigration and Nationality Act, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by adding at the end the following: "The Attorney General shall provide by regulation for the waiver of the consultation requirement under subparagraph (A) in the case of aliens who have been admitted as nonimmigrants under section 101(a)(15)(O)(i) because of extraordinary ability in the arts and who seek readmission to perform similar services within 2 years after the date of a consultation under such subparagraph. Not later than 5 days after the date such a waiver is provided, the Attorney General shall forward a copy of the petition and all supporting documentation to the national office of an appropriate labor organization.".

SEC. 206. AMENDMENTS RELATING TO P NONIMMIGRANTS.

(a) ELIMINATING 3-MONTH OUT-OF-COUNTRY RULE FOR P-2 AND P-3 NONIMMIGRANTS.—Section 214(a)(2)(B) of the Immigration and Nationality Act, as added by section 207(b)(1) of the Immigration Act of 1990, is amended—

(1) by striking "(B)(i)" and inserting "(B)", and

(2) by striking clause (ii).

(b) TREATMENT OF FOREIGN ORGANIZATIONS FOR P-2 NONIMMIGRANTS.—Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by inserting "or organizations" after "and an organization".

(c) TREATMENT OF P-2 NONIMMIGRANTS.—(1) Section 101(a)(15)(P)(ii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended by striking ", between the United States and the foreign states involved".

(2) Section 214(c)(4)(E) of the Immigration and Nationality Act, as added by 207(b)(2)(B) of the Immigration Act of 1990 and as redesignated by section 203(b) of this title, is amended by striking ", in order to assure reciprocity in fact with foreign states".

(d) PERFORMANCE OF TEACHING AND COACHING FUNCTIONS BY P-3 NONIMMIGRANTS.—Section 101(a)(15)(P)(iii)(II) of the Immigration and Nationality Act, as added by section 207(a)(3) of the Immigration Act of 1990, is amended—

(1) by striking "for the purpose of performing" and inserting "to perform, teach, or coach", and

(2) by inserting "commercial or noncommercial" before "program".

SEC. 207. OTHER AMENDMENTS.

(a) RETURN TRANSPORTATION REQUIREMENT FOR O AND P NONIMMIGRANTS.—Section 214(c)(5) of the Immigration and Nationality Act, as added by section 207(b)(2) of the Immigration Act of 1990, is amended by inserting "(A)" after "(5)" and by adding at the end the following new subparagraph:

"(B) In the case of an alien who enters the United States in nonimmigrant status under section 101(a)(15)(O) of 101(a)(15)(P) and whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner are jointly and severally liable for the reasonable cost of return transportation of the alien abroad. The petitioner shall provide assurance satisfactory to the Attorney General that the reasonable cost of that transportation will be provided.".

(b) ENTRY OF FASHION MODELS UNDER H-1B.—Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended—

(1) by inserting "or as a fashion model" after "214(i)(1)", and

(2) by inserting "or, in the case of a fashion model, is of distinguished merit and ability" after "214(i)(2)".

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(3)), as amended by section 207(b)(2) of the Immigration Act of 1990 and by section 204 of this title, is amended by adding at the end the following new paragraph:

"(8) The Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and of the State a report describing, with respect to petitions under each subcategory of subparagraphs (H), (O), (P), and (Q) of section 101(a)(15) the following:

"(A) The number of such petitions which have been filed.

"(B) The number of such petitions which have been approved and the number of workers (by occupation) included in such approved petitions.

"(C) The number of such petitions which have been denied and the number of workers (by occupation) requested in such denied petitions.

"(D) The number of such petitions which have been withdrawn.

"(E) The number of such petitions which are awaiting final action.".

(2) DEADLINE FOR FIRST REPORT.—The first report under section 214(c)(8) of the Immigration and Nationality Act shall be provided not later than April 1, 1993.

SEC. 208. EFFECTIVE DATE.

The provisions of, and amendments made by, this title shall take effect on April 1, 1992.

TITLE III—MISCELLANEOUS AND TECHNICAL CORRECTIONS

SEC. 301. SHORT TITLE OF TITLE; REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

(a) This title may be cited as the "Immigration Technical Corrections Act of 1991".

(b) In this title, the term "INA" means the Immigration and Nationality Act.

SEC. 302. CORRECTIONS RELATING TO TITLE 1 OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 201 of the INA as amended by section 101(a) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(3), by striking "(3) The number computed under this paragraph for a fiscal year" and inserting the following:

"(3)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(a) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year"; and

(B) in subsection (d)(2), by striking "(2) The number computed under this paragraph for a fiscal year" and inserting the following:

"(2)(A) The number computed under this paragraph for fiscal year 1992 is zero.

"(B) The number computed under this paragraph for fiscal year 1993 is the difference (if any) between the worldwide level established under paragraph (1) for the previous fiscal year and the number of visas issued under section 203(b) during that fiscal year.

"(C) The number computed under this paragraph for a subsequent fiscal year".

(2) Section 101 of the Immigration Act of 1990 is amended by adding at the end the following new subsection:

"(c) TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of an alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.".

(3) Section 202(a)(4)(A) of the INA, as amended by section 102(I) of the Immigration Act of 1990, is amended by striking "MINIMUM".

(b)(1) Section 112 of the Immigration Act of 1990 is amended—

(A) in subsection (c), by striking "temporary or" before paragraph (1), and

(B) by adding at the end the following:

"(d) DEFINITIONS.—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.".

(2) Section 203(b) of the INA, as inserted by section 121(a) of the Immigration Act of 1990, is amended—

(A) in paragraphs (1), (2), and (3), by striking "40,000" and inserting "28.6 percent of such world-wide level" each place it appears,

(B) in paragraph (1)(C), by striking "who seeks" and inserting "the alien seeks",

(C) in paragraphs (4) and (5), by striking "10,000" and inserting "7.1 percent of such world-wide level" each place it appears, and

(D) in paragraph (2)(B), by inserting "professions," after "arts,".

(3) Section 216A of the INA, as inserted by section 121(b)(1) of the Immigration Act of 1990, is amended—

(A) in subsection (c)(2)(A), by inserting "(and the alien's spouse and children if it was obtained on a conditional basis under this section or section 216)" after "status of the alien", and

(B) in subsections (c)(3)(B) and (d)(2)(A), by striking "obtaining the status of".

(4) Section 121(b)2) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "deportation".

(5) Section 124(a) of the Immigration Act of 1990 is amended—

(A) in paragraph (1)—

(i) by inserting "(or paragaph (2) as the spouse or child of such an alien)" after "paragraph (3)", and

(ii) by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year."; and

(B) in paragraph (3)(A), by striking "(and has been so employed during the 12 previous, consecutive months)" and inserting "except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months".

(6) Section 132 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)";

(B) in subsection (a), by adding at the end the following new sentence: "If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.";

(C) in subsection (b)(1), effective after fiscal year 1992, by striking "that is not contiguous to the United States and ";

(D) in subsection (c)—

(i) effective beginning with fiscal year 1992, by striking "in the chronological order in which aliens apply for each fiscal year" and inserting "strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State",

(ii) by inserting before the period at the end the following: "and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided", and

(iii) by adding at the end the following: "If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives the shortfall shall be added to the number of such visas to be made available under this section to such natives in the suceeding fiscal year. In applying this section, natives of Northern Ireland shall be deemed to be natives of Ireland."; and

(E) in subsection (e)—

(i) by striking "the grounds" and all that follows through "shall not apply, and",

(ii) by striking "of such section" and inserting "of section 212(a) of the Immigration and Nationality Act", and

(iii) by adding at the end the following: "In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.".

(7) Section 134(a) of the Immigration Act of 1990 is amended by inserting "(or in subsection (d) as the spouse or child of such an alien)" after "subsection (b)".

(c)(1) Section 141 of the Immigration Act of 1990 is amended—

(A) in the heading, by striking "Legal",

(B) in subsection (a), by striking "Legal",

(C) in subsection (a)(1)(B), by striking "of the Subcommittee" and all that follows through "International Law", and

(D) by adding at the end the following new subsection:

(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).".

(2) The item in the table of contents of such Act relating to section 141 is amended to read as follows:

"Sec. 141. Commission on Immigration Reform.".

(d)(1) Section 152(b)(1)(A) of the Immigration Act of 1990 is amended by striking "who has performed faithful service" and inserting "and has performed faithful service as such an employee".

(2) Section 245 of the INA, as amended by section 2(c) of the Armed Forces Immigration Adjustment Act of 1991, is amended—

(A) in subsection (c)(2), by inserting "(J)," after "(I),", and

(B) by adding at the end the following new subsection:

(h) In applying this section to a special immigrant described in section 101(a)(27)(J)—

"(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

"(2) in determining the alien's admissibility as an immigrant—

"(A) paragraphs (4), (5)(A), and (7)(A) of section 212(a) shall not apply, and

"(B) the Attorney General may waive other paragraphs of section 212(a) (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 30 grams or less of marijuana), (3)(A), (3)(B), (3)(C), or (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien's natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 101(a)(27)(J) shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.".

(3) Section 241(h) of the INA, as amended by section 153(b) of the Immigration Act of 1990, is amended by striking the comma after "(3)(A)".

(4) Section 154 of the Immigration Act of 1990 is amended—

(A) in subsection (b)(1)(A), by inserting "or China" after "Hong Kong",

(B) in subsection (b)(1)(B)(i), by inserting "of" after "of section 203(a)", and

(C) by striking paragraph (3) of subsection (c).

(5) Section 155 of the Immigration Act of 1990 is amended—

(A) in subsection (a), by inserting "(or section 203(e), in the case of fiscal year 1992)" after "203(c)", and

(B) in subsection (b), by striking "or the child" and inserting "or who are the spouse or child".

(e)(1) Section 161(a) of the Immigration Act of 1990 is amended by striking "in this section," and inserting "in this title, this title and".

(2) Section 161(c)(1) of the Immigration Act of 1990 is amended—

(A) by inserting "or an application for labor certification before such date under section 212(a)(14)" after "before such date)".

(B) in subparagraph (A), by inserting "or application" after "such a petition",

(C) in subparagraph (A), by inserting ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993" after "(by not later than October 1, 1993". and

(D) by adding at the end the following new sentence:

"In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).".

(3) Section 203(f) of the INA, as inserted by section 162(a) of the Immigration Act of 1990, is amended—

(A) by striking "PRESUMPTION.—" and all that follows through "so described." and inserting "AUTHORIZATION FOR ISSUANCE.—", and

(B) by striking "201(b)(1) or in subsection (a) or (b)" and inserting "201(b)(2) or in subsection (a), (b), and (c)".

(4) Section 204(a)(1) of the INA, as amended by section 162(b) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by adding at the end the following: "An alien described in the second sentence of section 201(b)(2)(A)(i) also may file a petition with the Attorney General under this subparagraph for classification under such section.",

(B) in subparagraph (F), by striking "Secretary of State" and inserting "Attorney General", and

(C) in subparagraph (G)(iii), by striking "or registration".

(5) Section 204(e) of the INA, as amended by section 162(b)(3) of the Immigration Act of 1990, is amended by striking "a immigrant" and inserting "an immigrant".

(6) Paragraph (1) of section 162(e) of the Immigration Act of 1990 is repealed, and the provisions of law amended by such paragraph are restored as though such paragraph had not been enacted.

(7) Section 245(b) of the INA, as amended by section 162(e)(3) of the Immigration Act of 1990, is amended—

(A) by striking "201(a)" and inserting "202 and 203", and

(B) by striking "for the succeeding fiscal year" and inserting "for the fiscal year then current".

(8) Effective as if included in section 162(e) of the Immigration Act of 1990—

(A) clauses (ii)(II) and (iii)(II) of section 101(a)(27)(I) of the INA are amended by striking "applies for a visa or adjustment of status" and inserting "files a petition for status",

(B) section 216(g)(1) of the INA is amended by striking "203(a)(8)" and inserting "203(d)"; and

(C) section 221(a) of the INA is amended by striking "nonpreference,".

(9) Effective as if included in the Immigration Nursing Relief Act of 1989, section 212(m)(2)(A) of the INA is amended, by inserting after the first sentence following clause (vi) the following: "Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off.".

(10) Effective as if included in the Immigration Nursing Relief Act of 1989, as amended by section 162(f)(1)(B) of the Immigration Act of 1990, section 2(b) of the Immigration Nursing Relief Act of 1989 is amended by inserting after "registered nurse," the following: "who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status,".

SEC. 303. CORRECTIONS RELATING TO TITLE II OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 217 of the INA, as amended by section 201(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(4), by striking "BY SEA OR AIR" and inserting "INTO THE UNITED STATES", AND

(B) in the heading of subsection (b), by striking "RIGHTS" and inserting "RIGHTS".

(2) Section 217(e)(1) of the INA, as redesignated by section 201(a)(7) of the Immigration Act of 1990, is amended by striking "(a)(4)(C)" and inserting "(a)(4)".

(3) The second sentence of section 251(d) of the INA, as inserted by section 203(b)(2) of the Immigration Act of 1990, is amended by striking "charterer" and inserting "consignee".

(4) Section 258(c)(2)(B) of the INA, as inserted by section 203(a)(1) of the Immigration Act of 1990, is amended by striking "each such list" and inserting "each list".

(5)(A) Section 101(a)(15)(H)(i)(b) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by inserting "subject to section 212(j)(2)," after "(b)".

(B) Section 212(j) of the INA is amended by striking paragraph (2) and inserting the following:

"(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

"(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

"(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

"(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).".

(6) Section 212(n)(1)(A)(ii) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended by striking "for such aliens" and inserting "for such a nonimmigrant".

(7)(A) Section 101(a)(15)(H)(i) of the INA, as amended by section 205(c)(1) of the Immigration Act of 1990, is amended by striking ", and had approved by,".

(B) Section 212(n) of the INA, as added by section 205(c)(3) of the Immigration Act of 1990, is amended—

(i) in paragraph (1)(A)—

(I) by striking "and to other individuals employed in the occupational classification and in the area of employment" and inserting "admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b)".

(II) by amending subclause (I) to read as follows:

"(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question or".

(III) after subclause (II), by striking "determined" and inserting "based on the best information available";

(ii) in paragraph (1)(D), by striking "(and accompanying documentation)" and inserting "(and such accompanying documents as are necessary)";

(iii) in paragraph (1), by moving the matter after the first sentence of subparagraph (D) flush with the left margin and by adding at the end the following:

"The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.";

(iv) in paragraph (2)(C), by striking "(or a substantial failure" and all that follows through "misrepresentation" and inserting "of paragraph (1)(B). a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation";

(v) in paragraph (2)(D), by striking "In addition to the sanctions provided under subparagraph (C), if" and inserting "If"; and

(vi) in paragraph (2)(D), by inserting before the period at the end the following: ", whether or not a penalty under subparagraph (C) has been imposed".

(8) The Secretary of Labor shall issue final or interim final regulations to implement the changes made by this section to section 101(a)(15)(H)(i)(b) and section 212(n) of the Immigration and Nationality Act no later than January 2, 1992.

(9) Section 206(a) of the Immigration Act of 1990 is amended by inserting "and section 124(a)(3)(A) of this Act" after "Immigration and Nationality Act".

(10) Section 214(c)(2) of the INA, as added by section 206(b)(2) of the Immigration Act of 1990, is amended—

(A) in subparagraph (A), by striking "individuals petitions" and inserting "individual petitions". and

(B) in subparagraph (D)(ii), by striking "involved" and inserting "involves".

(11) Section 214(a)(2)(A) of the INA, as added by section 207(b)(1) of the Immigration Act of 1990, is amended by striking "under section 101(a)(15)(O)" and inserting "described in section 101(a)(15)(O)".

(12) Section 214(c)(5) of the INA, as added by section 207(b)(2)(B) of the Immigration Act of 1990, is amended by striking "101(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(b)"

(13) Section 207(c) of the Immigration Act of 1990 is amended by inserting "of the Immigration and Nationality Act" after "101(a)(15)(H)(ii)(a)" each place it appears.

(14) Section 101(a)(15)(Q) of the INA, as added by section 208(3) of the Immigration Act of 1990, is amended by striking "designated" and inserting "approved".

(b)(1) Section 221(a) of the Immigration Act of 1990 is amended—

(A) in the matter before paragraph (1), by striking "in a position unrelated to the alien's field of study and", and

(B) in paragraph (1), by inserting "academic" before "year".

(2) Section 221(b) of the Immigration Act of 1990 is amended—

(A) by inserting "and the Secretary of Labor" after "the Commissioner of the Immigration And Naturalization", and

(B) by inserting "a report" after "to the Congress".

(3) Section 222(a) of the Immigration Act of 1990 is amended by striking "subject to the succeeding provisions of this section" and inserting "Subject to subsection (b)".

(4) Section 223(a) of the Immigration Act of 1990 is amended—

(A) by striking the period at the end of paragraph (2) and inserting a comma, and

(B) by adding at the end the following: "or who is the spouse or minor child of such an alien if accompanying or following to join the alien.".

SEC. 304. CORRECTIONS RELATING TO TITLE III OF THE IMMIGRATION ACT OF 1990.

(a) Section 302(c) of the Immigration Act of 1990 is amended by striking "AFFECT", "supercede", and "affect" and inserting "EFFECT", "supersede", and "effect", respectively.

(b) Section 244A of the INA, as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(1) in subsection (a)(1), by inserting after "designated under subsection (b)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)",

(2) in paragraph (1)(B), by adding at the end the following: "In the case of aliens registered pursuant to a designation under this section made after July 17, 1991, the Attorney General may impose a separate, additional fee for providing an alien with documentation of work authorization. Notwithstanding section 3302 of title 31, United States Code, all fees collected under this subparagraph shall be credited to the appropriation to be used in carrying out this section,", and

(3) in subsection (c)(1)(A), by inserting after "designated under subsection (b)(1)" the following: "(or in the case of an alien having no nationality, is a person who last habitually resided in such designated state)".

(c)(1) In the case of an alien described in paragraph (2) whom the Attorney General authorizes to travel abroad temporarily and who returns to the United States in accordance with such authorization—

(A) the alien shall be inspected and admitted in the same immigration status the alien had at the time of departure if—

(i) in the case of an alien described in paragraph (2)(A), the alien is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, or

(ii) in the case of an alien described in paragraph (2)(B), the alien is found not to be excludable on a ground of exclusion referred to in section 244A(c)(2)(A)(iii) of the Immigration and Nationality Act; and

(B) the alien shall not be considered, by reason of such authorizes departure, to have failed to maintain continuous physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act if the absence meets the requirements of section 244(b)(2) of such Act.

(2) Aliens described in this paragraph are the following:

(A) Aliens provided benefits under section 301 of the Immigration Act of 1990 (relating to family unity).

(B) Aliens provided temporary protected status under section 244A of the Immigration and Nationality Act, including aliens provided such status under section 303 of the Immigration Act of 1990.

SEC. 305. CORRECTIONS RELATING TO TITLE IV OF THE IMMIGRATION ACT OF 1990.

(a) Section 310(b) of the INA, as amended by section 401(a) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(b) Section 407(c)(11) of the Immigration Act of 1990 is amended by striking ", other than subsection (d)".

(c) Section 407(d)(8) of the Immigration Act of 1990 is amended by striking "Section 328(c) (8 U.S.C. 1439(c)) is amended" and inserting "Subsections (b)(3) and (c) of section 328 (8 U.S.C 1439) are amended".

(d) Subsection (g) of section 334 of the INA, as redesignated by section 407(d)(12)(E) of the Immigration Act of 1990, is redesignated as subsection (f).

(e) Section 407(d)(12(B) of the Immigration Act of 1990 is amended by adding "and" at the end of clause (i).

(f) Section 335(b) of the INA, as amended by section 407(d)(13(C)(iii) of the Immigration Act of 1990, is amended by striking "District Court" and inserting "district court".

(g) Section 407(d)(14)(D)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(h) Section 407(d)(14)(3)(ii) of the Immigration act of 1990 is amended by striking "persons" and inserting "person".

(i) Section 337(c) of the INA is amended by striking "before".

(j)(1) Section 407(d)(16)(C) of the Immigration Act of 1990 is amended by striking the comma after "venue".

(2) Section 338 of the INA, as amended by section 407(d)(16)(C) of the Immigration Act of 1990, is amended by striking "District" and inserting "district".

(k) Section 340 of the INA, as amended by section 407(d)(18) of the Immigration Act of 1990, is amended—

(1) in the first sentence of subsection (a), by striking "District Court" and inserting "district court", and

(2) in the second sentence of subsection (g), by striking "clerk of the court" and inserting "clerk of court".

(l) Section 407(d)(19)(A)(i) of the Immigration Act of 1990 is amended by striking "clerk of the court" and inserting "clerk of court".

(m) Effective as if included in section 407(d) of the Immigration Act of 1990:

(1) Paragraph (24) of section 101(a) of the INA is repealed.

(2) Section 312 of the INA is amended by striking "petition" and inserting "application" each place it appears.

(3) The heading of section 322 of the INA is amended by striking "PETITION" and inserting "APPLICATION".

(4) The item in the table of contents of the INA relating to section 322 is amended by striking "petition" and inserting "application".

(5) Section 330 of the INA is amended by striking "of this subsection" and inserting "of this section".

(6) Section 332(a) of the INA is amended by striking "petitioners" and inserting "applicants".

(7) Section 334(a) of the INA is amended by striking ", in duplicate,".

(8) Section 341(a) of the INA is amended by striking "a petitioner" and inserting "an applicant".

(n) Section 408(a)(2)((B) of the Immigration Act of 1990 is amended by striking "on the date of the enactment of this Act" and inserting "on January 1, 1992".

SEC. 306. CORRECTIONS RELATING TO TITLE V OF THE IMMIGRATION ACT OF 1990.

(a)(1) Section 101(a)(43) of the INA, as amended by section 501(a)(4) of the Immigration Act of 1990, is amended by striking" "and inserting a period.

(2) Section 502(a) of the Immigration Act of 1990 is amended by striking "(8 U.S.C. 1152a(a)(1))" and inserting "(U.S.C. 1105a(a)(1))".

(3) Section 287(a)(4) of the INA, as amended by section 503(a)(2) of the Immigration Act of 1990, is amended by striking ", and" at the end and inserting "; and".

(4) Subparagraph (B) of section 242(a)(2) of the INA, as added by section 504(a)(5) of the Immigration Act of 1990, is amended to read as follows:

"(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(5) Section 236(e)(1) of the INA, as amended by section 504(b) of the Immigration Act of 1990, is amended by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)".

(6) Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 507 of the Immigration Act of 1990, is amended—

(A) by striking "the certified records" and inserting "notice", and

(B) by inserting before the period at the end the following: "and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record".

(7) Section 509(b) of the Immigration Act of 1990 is amended by inserting before the period at the end the following: ", except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction".

(8) The last sentence of section 510(b) of the Immigration Act of 1990 is amended by striking "for".

(9) The last sentence of section 510(c) of the Immigration Act of 1990 is amended by striking "been been" and inserting "been".

(10) The last sentence of section 212(c) of the INA, as added by section 511(a) of the Immigration Act of 1990, is amended by striking "an aggravated felony and has served" and inserting "one or more aggravated felonies and has served for such felony or felonies".

(11) Section 513(b) of the Immigration Act of 1990 is amended—

(A) by striking "petitions to review" and inserting "petitions for review", and

(B) by inserting before the period at the end the following: "and shall apply to convictions entered before, on, or after such date".

(12) Section 514(a) of the Immigration Act of 1990 is amended by striking "10 years" and inserting "ten years".

(13) Paragraphs (1) and (2) of section 515(b) of the Immigration Act of 1990 are amended to read as follows:

"(1) The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

"(2) The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.".

(b)(1) Section 274B(g)(2)(B)(iv)(II) of the INA, as amended by section 536(a) of the Immigration Act of 1990, is amended by striking "subclause (IV)" and inserting "subclauses (III) and (IV)".

(2) Section 274A(b)(3) of the INA, as amended by section 538(a) of the Immigration Act of 1990, is amended by striking the comma after "officers of the Service".

(3) Section 274B(g)(2)(B) of the INA, as amended by section 539(a) of the Immigration Act of 1990, is amended—

(A) in clause (iv)(IV), by striking the period at the end and inserting a semicolon,

(B) in clauses (v) and (vi), by striking the comma at the end and inserting a semicolon,

(C) in clause (vii), by striking ", and" and inserting "; and",

(D) in clause (vii), by striking "to order (in an appropriate case) the removal of" and inserting "to remove (in an appropriate case)", and

(E) in clause (viii), by striking "to order (in an appropriate case) the lifting of" and inserting "to lift (in an appropriate case)".

(c)(1) Section 274B(g)(2)(D) of the INA is amended by striking "physicially" and inserting "physically".

(2) Section 543(a)(3) of the Immigration Act of 1990 is amended by inserting "each place it appears" before "and inserting".

(3) Sections 252(c) and 275(a) of the INA, as amended by section 543(b) of the Immigration Act of 1990, are each amended by striking "fined not more than" and all that follows through "United States Code)" and inserting "fined under title 18, United States Code,".

(4)(A) The second sentence of section 231(d) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(B) The third sentence of section 237(b) of the INA is amended by striking "district director of customs" and inserting "Commissioner".

(C) The second sentence of section 254(a) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(D) The second sentence of section 273(b) of the INA is amended by striking "collector of customs" and inserting "Commissioner".

(5)(A) Section 274C(a) of the INA, as added by section 544(a) of the Immigration Act of 1990, is amended—

(i) in paragraph (2), by inserting "or to provide" after "or receive",

(ii) in paragraph (3), by inserting "or to provide or attempt to provide" after "attempt to use", and

(iii) in paragraph (4), by inserting "or to provide" after "receive".

(B) Section 544 of the Immigration Act of 1990 is amended by striking "(c) EFFECTIVE" and inserting "(d) EFFECTIVE".

(6) Section 242B of the INA, as inserted by section 545(a) of the Immigration Act of 1990, is amended—

(A) in subsection (a)(1)(E), by striking ", upon request,";

(B) in subsection (a)(2)(A)(ii), by inserting ", except under exceptional circumstances," after "failure";

(C) in subsection (a)(2), by adding at the end the following:

"In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).";

(D) in subsection (b)(1), by inserting before the period at the end of the following: ", unless the alien requests in writing an earlier hearing date";

(E) in subsection (b)(2)—

(i) by inserting "pro bono" after "to represent", and

(ii) by adding at the end the following "Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.";

(F) in subsection (c)—

(i) in paragraph (1), by striking "except as provided in paragraph (2)," each place it appears,

(ii) in paragraph (1), by adding at the end the following: "The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).", and

(iii) by striking the second sentence of paragraph (2);

(G) in subsection (c)(4), by inserting "(or 30 days in the case of an alien convicted of an aggravated felony)" after "60 days";

(H) in subsection (d), by striking "the Board" and inserting "the Attorney General";

(I) in subsection (e)(4)(B), by inserting "a" after "with respect to"; and

(J) in subsection (e)(5), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

(7) The 8th sentence of section 242(b) of the INA, as amended by section 545(e) of the Immigration Act of 1990, is amended to read as follows: "Such regulations shall include requirements that are consistent with section 242B and that provide that—

"(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held.

"(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

"(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

"(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.".

SEC. 307. CORRECTIONS RELATING TO TITLE VI OF THE IMMIGRATION ACT OF 1990.

(a) Section 212(a) of the INA, as amended by section 601(a) of the Immigration Act of 1990, is amended—

(1) in paragraph (1)(A), by adding "or" at the end of clause (ii);

(2) in paragraph (3)(A)(i), by inserting "(I)" after "any activity" and by inserting "(II)" after "sabotage or";

(3) in paragraph (3)(B)(iii)(III), by striking "an act of terrorist activity" and inserting "a terrorist activity";

(4) in paragraph (3)(D)(iv), by striking "if the alien" and inserting "if the immigrant";

(5) in paragraph (3)(C)(iv), by striking "identities" and inserting "identity";

(6) in paragraph (5)(C), by striking "preference immigrants" and all that follows through the end and inserting the following: "immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).";

(7) in paragraph (6)(B)—

(A) by striking "who seeks" and inserting "(a) who seeks",

(B) by striking "(or" and inserting ", or (b) who seeks admission", and

(C) by striking "felony)" and inserting "felony,";

(8) in paragraph (6)(E)—

(A) by redesignating clause (ii) as clause (iii), and

(B) by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(9) in paragraph (8)(B), by striking "alien" the first place it appears and inserting "person"; and

(10) in paragraph (9)(C)—

(A) in clause (i), by striking everything that follows "entry of" and inserting "an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until the child is surrendered to the person granted custody by that order.", and

(B) in clause (ii), by striking "to an alien who" and all that follows through "signatory" and inserting "so long as the child is located in a foreign state that is a party".

(b) Section 212(c) of the INA, as amended by section 601(d)(1) of the Immigration Act of 1990, is amended by striking "subparagraphs (A), (B), (C), or (E) of paragraph (3)" and inserting "paragraphs (3) and (9)(C)".

(c) Section 212(d)(3) of the INA, as amended by section 601(d)(2)(B)(i) of the Immigration Act of 1990, is amended—

(1) by striking "(3)(A)," and inserting "(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii)," each place it appears, and

(2) by striking "(3)(D)" and inserting "(3)(E)" each place it appears.

(d) Section 212(d)(11) of the INA, as added by section 601(d)(2)(F) of the Immigration Act of 1990, is amended by inserting "and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof)" after "section 211(b)".

(e) Section 212(g)(1) of the INA, as amended by section 601(d)(3) of the Immigration Act of 1990, is amended by striking "section (a)(1)(A)(i)" and inserting "subsection (a)(1)(A)(i)".

(f) Section 212(h) of the INA, as amended by section 601(d)(4) of the Immigration Act of 1990, is amended—

(1) in the matter before paragraph (1), by striking "in the case of" and all that follows through 'permanent residence"; and

(2) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting "(A) in the case of any immigrant" after "(1)",

(B) by striking "and" at the end of subparagraph (A),

(C) by striking "and" at the end of subparagraph (C) and inserting "or",

(D) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and

(E) by adding at the end the following:

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and".

(g) Section 212(i) of the INA, as amended by section 601(d)(5) of the Immigration Act of 1990, is amended by striking "alien" and "alien's" each place it appears and inserting "immigrant" and "immigrant's", respectively.

(h) Section 241(a) of the INA, as amended by section 602(a) of the Immigration Act of 1990, is amended—

(1) by striking "deportable as being", and by inserting "deportable" after "the following classes of";

(2) in paragraph (1)(D)(i), by inserting "respective" after "terminated under such";

(3) in paragraph (1)(E)(i), by inserting "any" before "entry" the second and third places it appears;

(4) in paragraph (1)(E), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.";

(5) in paragraph (1)(G), by striking "212(a)(5)(C)(i)" and inserting "212(a)(6)(C)(i)";

(6) in paragraph (1)(H), by striking "paragraph (6) or (7)" and inserting "paragraph (4)(D)";

(7) in paragraph (2)(D), by inserting "or attempt" after "conspiracy";

(8) in paragraph (3), by adding at the end the following:

"(C) DOCUMENT FRAUD.—Any alien who is the subject of a final order for violation of section 274C is deportable.";

(9) in subparagraphs (A) and (B) of paragraph (4), by striking "after entry has engaged" and inserting "after entry engages"; and

(10) in paragraph (4)(C)(ii), by striking "excluability" and inserting "excludability".

(i) Section 102 of the INA, as amended by section 603(a)(2) of the Immigration Act of 1990, is amended by striking "paragraph (3) (other than subparagraph (E)) of section 212(a)" each place it appears and inserting "subparagraphs (A) through (C) of section 212(a)(3)".

(j) Effective as if included in section 603(a)(5) of the Immigration Act of 1990, section 210(b)(7)(B) of the INA is amended by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)".

(k) Effective as if included in section 602(b) of the Immigration Act of 1990, section 241 of the INA is amended—

(1) by striking subsection (d), and

(2) in the subsection (h) (added by section 153(b) of the Immigration Act of 1990) by striking "exist" and inserting "existed" and by redesignating the subsection as subsection (c).

(l) Effective as if included in section 603(a) of the Immigration Act of 1990:

(1) Sections 207(c)(3) and 209(c) of the INA as amended by section 603(a)(4)(B) of the Immigration Act of 1990, are each amended by striking "subparagraphs (A)" and inserting "subparagraph (A)".

(2) Section 210A(e)(2)(B) of the INA is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) Paragraph (3) (relating to security and related grounds).".

(3) Section 217(a) of the INA is amended by striking "(26)(B)" and inserting "(7)(B)(i)(II)".

(4) Section 218(g)(3) of the INA is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)(i)".

(5) Section 244A(c) of the INA as inserted by section 302(a) of the Immigration Act of 1990, is amended—

(A) in paragraph (2)(A)(iii)(I), by striking "paragraphs (9) and (10)" and inserting "paragraphs (2)(A) and (2)(B)"; and

(C) by amending subclause (III) of paragraph (2)(A)(iii) to read as follows:

"(III) paragraphs (3)(A), (3)(B), (3)(C), or (3)(E) of such section (relating to national security and participation in the Nazi persecutions or those who have engaged in genocide).".

(6) Section 245A(d)(2)(B)(ii) of the INA is amended—

(A) by striking subclause (IV),

(B) by redesignating subclause (II) as subclause (IV) and by transferring and inserting it after clause (III).

(C) by redesignating subclause (III) as subclause (II),

(D) by inserting after subclause (II) (as so redesignated) the following new subclause:

"(III) Paragraph (3) (relating to security and related grounds).", and

(E) by striking "Subclause (II)" and inserting "Subclause (IV)".

(7) Section 272(a) of the INA is amended by striking the comma before "shall pay".

(8) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended by section 603(a)(20)(B) of the Immigration Act of 1990, is amended by striking "(D)" and inserting "(E)".

(9) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "(23)(B), (27), (29), or (33)" and inserting "(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)".

(10) Section 2(a)(3) of the Immigration Nursing Relief Act of 1989 is amended by striking "212(a)(14)" and inserting "212(a)(5)(A)".

(m) Effective as if included in section 603(b) of the Immigration Act of 1990—

(1) paragraph (4)(B) of such section is amended by striking "in paragraph (2)", and

(2) section 242(e) of the INA is amended by striking "paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3), or (4)".

SEC. 308. CORRECTIONS RELATING TO TITLE VII OF THE IMMIGRATION ACT OF 1990.

(a) Effective October 1, 1991, section 245(e)(3) of the INA, as added by section 702(a)(2) of Immigration Act of 1990, is amended by striking "204(h)" and inserting "204(g)".

(b) Section 702(b) of the Immigration Act of 1990 is amended by striking "204(h) (8 U.S.C. 1154(h))" and inserting "204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act,".

(c) Section 304(f) of the Immigration Reform and Control Act of 1986, as amended by section 704(b) of the Immigration Act of 1990, is amended—

(1) by striking "appointment in the and" and inserting "appointment and". and

(2) by striking "civil" the first place it appears and inserting "competitive".

(d) Section 404(b)(2)(A) of the INA, as added by section 705(a)(5) of the Immigration Act of 1990, is amended by adding at the end the following new sentence:

"In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district."

SEC. 309. ADDITIONAL MISCELLANEOUS CORRECTIONS.

(a)(1)(A) Section 209 of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203) is amended—

(i) in subsection (a)—

(I) by striking "Title 8, United States Code, section 1356 is amended by adding" and inserting "Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end", and

(II) in the subsection (o) added by such subsection, by striking "will" and inserting "shall"; and

(ii) by amending subsection (b) to read as follows:

"(b) Section 344(g) of the Immigration and Nationality Act (8 U.S.C. 1455(g)) is amended by inserting after 'Treasury of the United States' the following: 'except that all such fees collected or paid over on or after October 1, 1988, shall be deposited in the Immigration Examinations Fee Account established under section 286(m)'.".

(B) The fourth proviso under Immigration and Naturalization Service in the Department of Justice Appropriations Act, 1990 (title II of Public Law 101-162, 103 Stat. 1000) is amended to read as follows: ": *Provided further*, That section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by striking 'in excess of $50,000,000' and by striking the second sentence".

(2)(A) Section 286 of the INA, as amended by section 210 of the Department of Justice Appropriations Act, 1991, is amended—

(i) in subsection (h)(1)(A), by inserting a period after "available until expended",

(ii) in subsection (m), by striking "additional" and inserting "additional",

(iii) by moving the left margins of subsection (q)(2) and the matter in subsection (q)(3)(A) (before clause (i)) 2 ems to the left,

(iv) in subsection (q)(3)(A), by inserting "the" after "The Secretary of", and

(v) in subsection (q)(5)(B), by striking "subsection (q)(1)" and inserting "paragraph (1)".

(B) Section 210(a)(2) of the Department of Justice Appropriations Act, 1991, is amended by striking "in which fees" and inserting "in which the fees".

(3) The amendments made by paragraph (1) and (2) shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 and the Department of Justice Appropriations Act, 1990, respectively.

(b)(1) Section 101(a)(15)(D)(i) of the INA is amended by inserting a comma after "States)".

(2) The item in the table of contents of the INA relating to section 242A is amended by striking "Procedures" and inserting "procedures".

(3) The item in the table of contents of the INA relating to section 345 is repealed.

(4) Section 101(c)(1) of the INA is amended by striking "322, and 323" and inserting "and 322".

(5) Section 204(f)(4)(A)(ii)(II) of the INA, as redesignated by section 162(d)(6) of the Immigration Act of 1990, is amended by striking "section 652 of such Act" and inserting "the second and third sentences of such section".

(6) Paragraph (3) of section 210(d) of the INA is amended—

(A) by indenting the paragraph (and its subparagraphs) 2 ems to the right;

(B) by striking "Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA)" and inserting "Service pursuant to this subsection";

(C) in the matter before subparagraph (A), by striking "INS" each place it appears and inserting "Service";

(D) in subparagraph (A), by striking "as defined in section 210(a)(1)(A) of the INA the INS" and inserting "described in subsection (a)(1)(A) the Service";

(E) in subparagraph (A), by striking "in the INA"; and inserting "in this Act";

(F) in subparagraph (B), by striking "as defined in section 210(a)(1)(B)(1)(B) of the INA" and inserting "described in subsection (a)(1)(A)"; and

(G) in subparagraph (B), by striking "section 210(b)(1)(A)" and inserting "subsection (b)(1)(A)".

(7) Section 212(j) of the INA is amended by striking "International Communication Agency" in paragraphs (1)(D) and (3) and inserting "United States Information Agency".

(8) Section 218(i)(1) of the INA is amended by striking "274A(g)" and inserting "274A(h)(3)".

(9) Section 242(h) of the INA is amended by inserting a comma after "Parole".

(10) Section 242(a) of the INA is amended by striking "101(a)(43)" and inserting "101(a)(43))".

(11) Section 274A(b)(1)(D)(ii) of the INA is amended by striking "clause (ii)" and inserting "clause (i)".

(12) Section 286(e)(1)(D) of the INA is amended by striking "of this title".

(13) Section 313(a)(2) of the INA is amended by inserting "and" before "(F)" and by striking "; (G)" and all that follows through "of 1950" the second place it appears.

(14) Section 344(c) of the INA is redesignated by section 407(d)(19)(F) of the Immigration Act of 1990, is amended by striking "of this subchapter" and inserting "of this title".

(15) The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99-653).

SEC. 310. EFFECTIVE DATES.

Except as otherwise specifically provided, the amendments made by (and provisions of)—

(1) sections 302 through 308 shall take effect as if included in the enactment of the Immigration Act of 1990.

(2) section 309(a) shall be effective with respect to allotments for fiscal years beginning with fiscal year 1989, and

(3) section 309(c) shall take effect on the date of the enactment of this Act.

Amend the title to read as follows: "A bill to amend the Immigration and Nationality Act to restore certain exclusive authority in courts to administer oaths of allegiance for naturalization, to revise provisions relating to O and P nonimmigrants, and to make certain technical corrections relating to the immigration laws."

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

LEVIN (AND OTHERS) AMENDMENT NO. 1449

Mr. REID (for Mr. LEVIN, for himself, Mr. KASTEN, and Mr. RIEGLE) proposed an amendment to the amendment of the House to the bill (S. 1532) to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes, as follows:

In the appropriate place in the bill insert the following new section:

"SEC. . Amend Section 105 of the Older Workers Benefit Protection Act (P.L. 101-433) by striking the semicolon at the end of paragraph (b)(1) and inserting thereafter the following: '; or that is a result of pattern collective bargaining in an industry where the agreement setting the pattern was ratified after September 20, 1990, but prior to the date of enactment, and the final agreement in the industry adhering to the pattern was ratified after the date of enactment, but not later than November 20, 1990;' "

NOTICE OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Oversight of DOD Hospital and Medical Supply System, on Thursday, December 5, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public that two field hearings have been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The purpose of the hearings is to receive testimony on S. 433, the Mining Law Reform Act of 1991.

The hearings are scheduled to take place on December 18, 1991, in Salt Lake City, UT, and December 19, 1991, in Bayard, NM. The exact time and locations for the hearings are to be announced.

Testimony will be by invitation only. For further information, please contact Lisa Vehmas of the subcommittee staff at 202/224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 26, 1991, at 10 a.m. to hold a hearing on cutting taxes for middle-income Americans.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Tuesday, November 26, 1991, after the first vote of the afternoon, to hold a business meeting to vote out the nominations of Charles Hilty to be Assistant Secretary of Agriculture, and Gary Byrne to be a member of the Farm Credit Administraion Board.

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

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed/executive session on Tuesday, November 26, 1991, at 2:30 p.m., to discuss the nomination of Lt. Gen. Thomas J. Hickey, USAF, to be placed on the retired list in the grade of lieutenant general; and to discuss other pending nominations.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on November 26, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate an original bill providing for an amendment to the 1956 Lumbee Act, and to meet on S. 1602, the Fort Peck Indian Tribes-Montana Compact Act of 1991.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 26, at 10 a.m. to receive a closed briefing on recent developments with regard to chemical and biological weapons proliferation.

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

COMMITTEE ON JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, November 26, 1991, at 9:30 a.m., to hold a hearing by the Juvenile Justice Subcommittee.

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

ADDITIONAL STATEMENTS

RECOGNITION OF BUFORD BIBLE, KNOXVILLE, TN

• Mr. SASSER. Mr. President, in a time when American industry is under siege by a rising flood of foreign competition, I would like to take a moment to recognize Mr. Buford Bible of Knoxville, TN, who recently bought his 35th Chevrolet. This is the first time that a single customer has bought his 35th car from the same Chevrolet dealer, and I believe this event is quite an achievement for both Mr. Bible and Tarr Chevrolet, where Mr. Bible bought his car. In my view, Mr. Bible's purchase illustrates that the American automotive industry still offers products that are beyond compare, and I ask to submit into the RECORD a letter I wrote to Mr. Bible commending him on this accomplishment.

The letter follows:

U.S. SENATE,
Washington, DC, November 25, 1991.

Mr. BUFORD BIBLE,
Knoxville, TN.

DEAR MR. BIBLE: Mr. Lonas Tarr has informed me that you recently purchased your 35th Chevrolet from Tarr Chevrolet. This purchase is indeed an historic milestone, and I would like to take this opportunity to commend you on this accomplishment.

As an educator, you have been a role model for generations of Tennesseans, and your career was certainly a successful one. In this time of increasingly stiff competiton in the automotive market, once again you offer a shining example for all of us to follow.

I have heard many complain that American industry no longer offers quality products at an affordable price, but I believe that American products meet and often surpass world standards of quality. With your 35th Chevrolet, you prove that American industry is still second to none, and I challenge all Americans to follow your lead.

I have known Lonas Tarr for a number of years. I am sure that the service you received at his dealership over the last 40 years has been beyond compare. It is this effective relationship between salesman and customer on which this nation was built. Satisfied customers—like you—reflect the capitalist ideal and are the engine for an American democracy that is the envy of the world.

Once again, I would like to commend you on purchasing your 35th Chevrolet. I would welcome the opportunity to be of assistance to you or your family should the occasion arise.

Best wishes and keep in touch.

Sincerely,

JIM SASSER,
U.S. Senator.•

UNIVERSITY OF FLORIDA WINS FIRST OFFICIAL SOUTHEASTERN CONFERENCE FOOTBALL TITLE

1991 IS THE YEAR OF THE GATOR

• Mr. MACK. Mr. President, on Saturday, November 16, the University of Florida Fightin' Gator Football Team won its first official Southeastern Conference Football Championship.

From its humble beginnings in 1906 to the present, the University of Florida football program has had a rich and proud history. And now, this 1991 team has built on the enthusiasm and excitement of the last 85 years of gridiron competition and started a new chapter in the annals of Florida football.

Not only is this SEC championship special for the players and coaches who won it on the field, but it's also a moment to savor for the many past and present Gator fans who have lived and died Florida football.

It is also important to note that 25 years ago this season, for the first time a player from the University of Florida won college football's most distinguished honor—the Heisman Trophy. That same legend, Steve Spurrier, has now returned as coach to lead his alma mater to its first official SEC championship. Both as a player and now as a coach, he has brought excitement and excellence to Florida football.

This is indeed a joyous occasion for Gator fans in Florida and around the country. After 58 years of disappointment and frustration and "Wait 'til Next Year" in SEC football competition, the orange and blue can truthfully say with pride that 1991 is "The Year of the Gator."

As the Senator from Florida and an alumnus of the University of Florida, I would like to extend my congratulations on a job well done to the players, coaches and staff of the 1991 fightin' Gators.

UNIVERSITY OF FLORIDA'S 1991 SEC SCHEDULE AND RESULTS

Home	Score	Visitor	Score
Florida	35	Alabama	0
Florida	29	Mississippi State	7
Florida	16	Louisiana State	0
Florida	35	Tennessee	18
Florida	31	Auburn	10
Florida	45	Georgia	13
Florida	35	Kentucky	26

FIGHTIN' GATOR 1991 SEC CHAMPIONSHIP TEAM

PLAYERS

Brady Ackerman, Myrick Anderson, Pete Archie, Ephesians Bartley, Chris Bilkie, Norm Bolduc, Mike Brandon, Craig Carey, Kevin Carter, Michel Cohen, Kendall Cook, Gantt Crouch, Brad Culpepper, Aeden Czyzewski, Judd Davis, Charlie Dean, Terry Dean, Gregg Diamond, Cal Dixon, Monty Duncan, Shayne Edge, Tre Everett, Kevin Freeman, Brian Fisher, Brian Fox.

William Gaines, Michael Gilmore, Greg Gingeleski, Kevin Glenn, Dean Golden, Monty Grow, Bill Gunter, Henry Haston, Lawrence Hatch, Aubrey Hill, Harrison Houston, Matt Hurbanis, Hesham Ismail, Terrell Jackson, Willie Jackson, Ellis Johnson, Leroy Jones, Greg Keller, Larry Kennedy, Eddie Lake, Kedra Malone, Shane Matthews, Willie McClendon, Tony McCoy, Dexter McNabb.

Darren Mickell, Carlton Miles, Harold Monk, Brian Montgomery, Johnny Nichols, Marquette Oliver, Tim Paulk, Carlton Pouncy, Kelvin Randolph, Errict Rhett, Ed Robinson, Kirk Robinson, Tony Rowell, George Rushing, Ryan Ruland, Sam Scavella, Dexter Smith, Lex Smith, Del Speer, David Swain, Ryan Taylor, Harvey Thomas, Jim Watson, Mark White, Wil White, Rod Whited.

COACHES

Steve Spurrier, Jerry Anderson, Jim Collins, Dwayne Dixon, Carl Franks, Rich McGeorge, John Reaves, Bob Sanders, Charlie Strong, Ron Zook.

STAFF

Dr. John Lombardi, President, Bill Arnsparger, Norm Carlson, Ross Davis, Bud Fernandez, Jeremy Foley, John Humenik, Dr. Pete Indelicato, Doug Kaufman, Betty Ling, Chris Patrick, Tim Sain, Dr. Richard Shaara, Jamie Speronis.•

WORKER'S FAMILY PROTECTION ACT

• Mr. GLENN. Mr. President, I rise today to join my colleagues in cosponsoring S. 353, the Workers' Family Protection Act of 1991. This legislation addresses the growing problem of employee transported contaminant releases, a issue which has received very little attention. By providing grants for further research, hopefully we can ascertain the effects of such contaminant releases and then work to address a solution for this problem.

In the past, I have sponsored many bills which would protect employees who work with hazardous materials. But we have not adequately addressed the issue of the home. Knowing that chemical compounds such as lead and mercury have dangerous effects on people, we need to ensure people are properly protected from such toxins. Families remain in the dark about the possible risks of this toxic contamination. In fact, we ourselves do not know the magnitude of this problem. As my colleague from Vermont and sponsor of S. 353 pointed out, we have not studied this problem since the 1970's.

S. 353 will ease the family's anxieties by sponsoring additional research. With such information we will have the information not only to answer the queries of families, but also to solve the problem of contamination releases.

Mr. President, we cannot afford to ignore such a problem with the health of so many on the line. Under the Workers' Family Protection Act, we can finally gather the information needed to prevent these poisons from entering the home.•

OUTSTANDING SCHOOL NURSE OF 1991—BEVERLY ANN SHIPE

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Beverly Ann Shipe who has been selected Outstanding School Nurse of 1991 by American School Health Association.

Beverly Ann Shipe is a teacher/practitioner school nurse in the Sweet Home School District in Amherst, NY. Mrs. Shipe functions as a school nurse

practitioner in an expanded role, and as an elementary health education teacher.

Beverly Ann received her R.N. and B.S.N. degrees from D'Youville College in 1976. She went on to complete the School Nurse Practitioner Program at SUNY, Buffalo. She earned her M.S.N. degree in 1983. She is a New York State Board of Regents certified School Nurse Teacher and holds two national board certifications: School Nurse Practitioner from the American Nurses Association and Pediatric Nurse Practitioner from the National Certifying Board of Pediatric Nurse Practitioners and Nurses. She is a fellow of the National Association of Pediatric Nurse Associates and Practitioners.

Mrs. Shipe is a recipient of many prestigious awards including the National Association of School Nurses' Lina Rogers Collaborative Research Award, 1991 New York State Legislature Nurse of Distinction Award, and the 1986 Metropolitan Life Foundation Excellence in Health Education Initiative Healthy Me Award; among others.

She is the organizer of many health-related activities and health fairs. Mrs. Shipe believes that providing a positive clinical and educational experience in school can help interdict many of the social and health-related problems in society today.

For these and many other great contributions that Beverly Ann has made and continues to make in the lives of our young people I salute her and wish her well. Thank you, Beverly Ann and thank you, Mr. President.•

AMBASSADOR SMITH HEMPSTONE

• Mr. SIMON. Mr. President, the situation in Kenya has deteriorated.

But the one thing that Americans should note with pleasure is that our Ambassador, Smith Hempstone, has stood up courageously and forthrightly for the cause of human rights and the cause of democracy in that country.

Obviously, the hope of all of us is that President Moi will recognize that change is coming and will lead on that change and permit it to take place. He should do it graciously, as President Kaunda did in Zambia.

I confess that when Smith Hempstone was named, I was not that enthusiastic. While I continue to differ in political philosophy from Smith Hempstone, I recognize that he has shown skills and courage that a more traditional foreign service officer might not have.

He has not softened his message in any way, calling for democracy and freedom for the people of Kenya, and I applaud him for that.•

HONORING THE EMPLOYEES OF THIOKOL CORP., SPACE OPERATIONS

• Mr. HATCH. Mr. President, I rise today to honor the fine employees of Thiokol Corp., space operations, Ogden, UT. Recently, NASA awarded the George M. Low Trophy to this outstanding Utah company for its achievements in quality and productivity improvement and total quality management. This award recognizes the best NASA contractors who work on the space program. The award criteria, developed by NASA in conjunction with the American Society for Quality Control, were used to judge nominees on performance achievements and improvements in customer satisfaction, quality, and productivity levels. Thiokol Corp., documented four areas of excellence for consideration by NASA: First, continued high reliability of the space shuttle solid rocket motors; second, increased quality of products and services; third, dedicated employees and suppliers and; fourth, commitment to continuous improvement.

Mr. President, Thiokol's rocket motor redesign, which produces most of the thrust for the space shuttle lift-off, and its reliability that has proved dependable in more than a dozen flights since 1988, and the high quality of its products and services, all show the extremely high commitment and devotion of Thiokol's employees. The George M. Low Trophy is the highest award that NASA presents to its contractors, and I am extremely proud of the fine men and women of Thiokol Corp., who have brought honor to the corporation they work for and the great State of Utah in which they live.•

AMERICAN JEWISH COMMUNITY SUPPORT FOR LAND-FOR-PEACE IN ISRAEL

• Mr. WELLSTONE. Mr. President, the Middle East peace conference which opened in Madrid last month represents an historic opportunity to bring peace to a troubled region. Simply by sitting down together and listening to one another, the protagonists have taken the first step toward a durable and peaceful settlement between Israel, the Arab States, and the Palestinians. I commend President Bush and Secretary of State Baker for the skill and dedication they demonstrated in getting this peace process underway.

The next step in this process requires hard negotiations between Israel and the Palestinians and her Arab neighbors. Peace cannot be imposed from the outside by the United States or anyone else. However, Israel's future concerns all Americans, as well as Jews the world over. American Jews, in particular, have given Israel crucial financial, moral, and political support since her founding.

Many leaders of the American Jewish community ardently hope that the Israeli Government will seize the current opportunity to engage in meaningful negotiations with the Palestinians. Two hundred American rabbis last week presented Prime Minister Yitzhak Shamir with a letter urging him to freeze Israeli settlement activities in order to advance the peace process. The Prime Minister was in the United States to address the annual meeting of the Council of Jewish Federations. A survey of officers and board members of the council revealed that a majority of these Jewish leaders believes that Israel should accept an eventual demilitarized Palestinian State, and swap land in return for recognition of Israel by their Arab neighbors.

Mr. President, I want to draw the attention of my colleagues to the views of these two influential segments of the American Jewish community. I request that the text and signatures of the rabbis' letter to Prime Minister Shamir, and a Washington Post article on the survey of Council of Jewish Federation leaders, are printed in the CONGRESSIONAL RECORD.

The material follows:

[From the Washington Post, Nov. 21, 1991]

POLL FINDS DISAGREEMENT WITH SHAMIR'S POSITION

(By John M. Goshko)

A significant number of American Jewish community leaders strongly disagree with Israel's unwillingness to seek a Middle East peace settlement that would be based on giving up Israeli-occupied territory, according to a survey made public yesterday.

The survey covers the views of 205 of the more than 300 officers and board members of the Council of Jewish Federations, who are holding their annual meeting in Baltimore. The council is the umbrella for 153 local federations serving Jewish communities throughout this country.

Israeli Prime Minister Yitzhak Shamir is scheduled to address the conference today, following a tradition in which Israeli prime ministers have appeared at the conference in recognition of the council's large role in American Jewish life.

However, according to the survey, the audience that Shamir will be addressing this year disagrees with his refusal to freeze Jewish settlements in the West bank and the Gaza Strip, and the group believes Israel should accept a demilitarized Palestinian state and swap land in return for recognition of Israel by Arab neighbors.

While American Jews differ about specifics of the Middle East peace process, past polls have indicated that most favor a settlement based on "land for peace." Nonetheless, the major American Jewish organizations have been reluctant to express their reservations about Shamir's hard-line policies out of a sense of solidarity with Israel.

Organizers of this most recent survey said yesterday that the start of a renewed peace process, begun at talks in Madrid last month, has put added pressure on Israel to show more flexibility and has made American Jewish leaders willing to differ more openly with Shamir. They also said that many American Jews want to avert a clash between Israel and President Bush, an outspoken foe of additional Israeli settlements in the occupied territories.

This week, 200 American rabbis wrote to Shamir calling on him to freeze settlements.

The survey was conducted for the Los Angeles-based Wilstein Institute of Jewish Pol-

icy Studies, which is associated with the conservative branch of American Judaism. The questionnaire was designed and analyzed by Prof. Steven M. Cohen of Queen's College in New York and Prof. Seymour Martin Lipset, a political scientist now at George Mason University.

At a news conference yesterday, Lipset said telephone interviews with prospective attendees at the Baltimore meeting revealed that the 205 who responded are largely business people and professionals with a median age of 55 and a median annual income of more than $200,000; they are highly knowledgeable about Israeli affairs, give an average of more than $20,000 a year to Israel and regard themselves politically as liberal to middle-of-the-road.

Lipset characterized the respondents as "security-oriented doves" who are near-unanimous in agreeing that Israel's safety requires a strong military, including forces in the occupied territories, for many years to come; Jerusalem must remain Israel's undivided capital; and Arab refusal to accept the Jewish state's legitimacy is "the major obstacle to peace."

At the same time, a large majority endorsed a freeze on settlements in exchange for U.S. loan guarantees and most disagreed with Shamir's opposition to returning even "one inch" of occupied territory. A substantial majority also differed with Shamir's categorical refusal to eventually allow a Palestinian state and to conduct negotiations with the Palestine Liberation Organization if it recognizes Israel and ceases terrorism.

AMERICANS FOR PEACE NOW,
November 21, 1991.

DEAR PRIME MINISTER YITZHAK SHAMIR: We, American rabbis who are deeply committed to the State of Israel, its survival, security, and well-being, extend a warm welcome to you.

Like our ancestor Jacob in this week's portion of the Torah, Parashat Vayishlah, you, as Prime Minister, and we as the Jewish people, stand at a crossroads of Jewish History. Like Jacob—crossing the ford of Yabbok and preparing to reconcile with Esau, and achieve his new name and destiny as Israel—historical opportunities present themselves to Zionism, our thousands' years hope. We urge you for the sake of Zion and Jerusalem to listen to the voices of the majority of American Jews and the majority of Israelis who in their hearts hold the following beliefs:

A greater Israel is not identical with the size of its boundaries. Israel's security is the most crucial issue. Territorial compromise that enhances the possibility of peace and long-term security is for us a religious obligation, not a political expediency and not a weakness. Netzach Israel (the eternity of Israel) is a moral principle, not a geographical issue.

Furthermore, the resettlement of our brothers and sisters from abroad means more to us than the settlements in the West Bank and Gaza. Continued settlement activities are not only detrimental to the peace process, but also to the successful absorption of the new Olim in Israel. Therefore we encourage a freeze on settlements.

The opening of the peace conference reminded us that our enemies are still our enemies, that living together with Esau remains a future hope. Therefore, all the more reason to follow Jacob's example and Sarah's wisdom and accept the principles of separation of the two people and partition of the land. This is the only realistic hope, it is the historic path of Zionism and the wishes of the majority of Israelis, American Jews, the world community, and finally, after years of rejectionism, of the Palestinian people too.

As American Jews and religious leaders, we are acutely aware of the unique and vital role the U.S. government holds regarding the peace process. Therefore we strongly support the efforts of our government to bring about a durable and peaceful settlement between Israel, the Arab states, and the Palestinians. As in the case of the Camp David Accords, we will support positive U.S. incentives to all parties to bring about a reconciliation.

We respect your strength and congratulate you for your perseverance in leading Israel to the peace conference. The ultimate priority of peace may lead you and the Israeli people to take substantial risks with regard to territory. If this is your course, you will have the overwhelming support of the Jewish people.

This week's Torah portion concludes with Esau and Jacob reuniting to attend to the burial of their father Yitzhak. We hope and pray that the legacy of Yitzhak Shamir will also be one of peacemaker.

Signatories listed in formation:
Rabbi Kass Abelson, Minneapolis, MN.
Rabbi Jeffrey Ableser, Phoenix, AZ.
Rabbi Arik W. Ascherman, Berkeley, CA.
Rabbi Richard F. Address, Philadelphia, PA.
Rabbi Daniel Alder, New York, NY.
Rabbi Rebecca T. Alpert, Philadelphia, PA.
Rabbi Joel Alpert, Elkins Park, PA.
Rabbi Miriam Ancis, New York, NY.
Rabbi Akiva Annes, Tarzana, CA.
Rabbi Charles Arian, Washington, DC.
Rabbi Albert S. Axelrod, Waltham, MA.
Rabbi David Azen, Philadelphia, PA.
Rabbi Andrew Baker, Washington, DC.
Rabbi Martin Ballonoff, Petaluma, CA.
Rabbi Samuel Barth, New York, NY.
Rabbi Lewis M. Barth, Los Angeles, CA.
Rabbi D'vorah Bartnoff, Philadelphia, PA.
Rabbi Haim Dov Beliak, Los Angeles, CA.
Rabbi Maynard Bell, Paradise Valley, AZ.
Rabbi Michael Berenbaum, San Rafael, CA.
Rabbi William C. Berk, Phoenix, AZ.
Rabbi Howard Berman, Chicago, IL.
Rabbi Sol Bernards, Brooklyn, NY.
Rabbi Leila Berner, Media, PA.
Rabbi Joseph R. Black, Minneapolis, MN.
Rabbi Barry Block, Chicago, IL.
Rabbi Marc Blumenthal, Denver, CO.
Rabbi Alan Breqman, Highland Park, IL.
Rabbi Barnett J. Brickner, St. Louis, MO.
Rabbi Caryn Broightman, Philadelphia, PA.
Rabbi Herbert Bronstein, Chicago, IL.
Rabbi Deborah R. Bronstein, Los Angeles, CA.
Rabbi Jan Gerald Brown, Los Angeles, CA.
Rabbi Harold F. Caminker, Long Grove, IL.
Rabbi Debra S. Cantor, Brooklyn, NY.
Rabbi Steven A. Chester, Oakland, CA.
Rabbi Samuel Chiel, Newton, MA.
Rabbi Stanley F. Chyet, Los Angeles, CA.
Rabbi Sharon Cohen, Medford, MA.
Rabbi Jordan D. Cohen, Santa Barbara, CA.
Rabbi Stephen Cohen, Santa Barbara, CA.
Rabbi Hillel Cohn, San Bernardino, CA.
Rabbi Neil Comess-Daniels, Los Angeles, CA.
Rabbi Rachel Cowan, New York, NY.
Rabbi Robert Daum, San Rafael, CA.
Rabbi James Dennett, St. Louis, MO.
Rabbi James S. Diamond, St. Louis, MO.
Rabbi Dan Dorfman, San Francisco, CA.
Rabbi Israel Dresner, Wayne, NJ.
Rabbi Ellen W. Dreyfus, Park Forest, IL.
Rabbi Larry Edwards, Ithaca, NY.
Rabbi Denise L. Eger, Los Angeres, CA.
Rabbi Michael B. Eisenstat, Coral Gables, FL.
Rabbi Steven Fager, Durham, NC.
Rabbi David S. Fass, New City, NY.
Rabbi David Feder, Detroit, MI.
Rabbi Emily H. Feigenson, Los Angeles, CA.
Rabbi Edward Feld, Princeton, NJ.
Rabbi Louis Feldstein, Miami, FL.
Rabbi Reuven Firestone, Boston, MA.
Rabbi Frank Fischer, Chapel Hill, NC.
Rabbi Alan Flam, Providence, RI.
Rabbi Lori Forman, New York, NY.
Rabbi David Frank, Encinitas, CA.
Rabbi Daniel Freedlander, Paramus, NJ.
Rabbi Allen I. Freehling, Los Angeles, CA.
Rabbi Lee Friedlander, Roslyn, NY.
Rabbi Ronne Friedman, Boston, MA.
Rabbi Dale Friedman, Philadelphia, PA.
Rabbi John Friedman, Durham, NC.
Rabbi Joan Friedman, Bloomington, IN.
Rabbi Nancy Fuchs-Kreimer, Bala Cynwyd, PA.
Rabbi Roy Furman, Chicago, IL.
Rabbi Hilel Gamoran, Palatine, IL.
Rabbi Robert T. Gan, Los Angeles, CA.
Rabbi Dov Gartenberg, Seattle, BA.
Rabbi Laura Geller, Los Angeles, CA.
Rabbi Roland Gittelshon, Boston, MA.
Rabbi Mark Glickman, Dayton, OH.
Rabbi Robert Gluck, Philadelphia, PA.
Rabbi Rosalind A. Gold, Reston, VA.
Rabbi Jerrold Goldstein, Northridge, CA.
Rabbi Donald Goor, Tarzana, CA.
Rabbi David Gordis, Los Angeles, CA.
Rabbi Samuel Gordon, Wilmette, IL.
Rabbi Jerome Gorelman, St. Louis, MO.
Rabbi Arthur Green, Philadelphia, PA.
Rabbi Julie Greenberg, Philadelphia, PA.
Rabbi Howard R. Greestein, Jacksonville, FL.
Rabbi Jerome W. Grollman, St. Louis, MO.
Rabbi Susan Grossman, New York, NY.
Rabbi Stephen Hart, Chicago, IL.
Rabbi Floyd Herman, Baltimore, MD.
Rabbi Arthur Hertzberg, Englewood, NJ.
Rabbi Norman D. Hirsh, Seattle, WA.
Rabbi Seth Hochberg-Miller, Long Beach, CA.
Rabbi Lisa Hochberg-Miller, Long Beach, CA.
Rabbi Vicki Hollander, Seattle, WA.
Rabbi Linda Holtzman, Philadelphia, PA.
Rabbi Jeff Huntting, Beverly Hills, CA.
Rabbi Yitzhak Husbands-Hankin, Eugene, OR.
Rabbi Robert P. Jacobs, St. Louis, MO.
Rabbi Steven Jacobs, Encino, CA.
Rabbi Devorah Jacobson, Claremont, CA.
Rabbi Garry Johnson, Agora, CA.
Rabbi Yoel Kahn, San Francisco, CA.
Rabbi Arnold Kaiman, Chicago, IL.
Rabbi Allen Kaplan, New York, NY.
Rabbi Patricia Karlin-Neuman, Alameda, CA.
Rabbi Jan Katzew, Chicago, IL.
Rabbi Jan Kaufman, Washington, DC.
Rabbi James Kaufman, North Hollywood, CA.
Rabbi Ralph Kingsley, Miami, FL.
Rabbi Sharon Kleinbaum, Washington, DC.
Rabbi Bonnie Koppell, Meza, AZ.
Rabbi Michael Kramer, Bowie, MD.
Rabbi Douglass E. Krantz, Armonk, NY.
Rabbi Aaron Kriegel, Los Angeles, CA.
Rabbi Fred Krinsky, Claremont, CA.
Rabbi Howard Laibson, Long Beach, CA.
Rabbi Martin Lawson, San Diego, CA.
Rabbi Barton Lee, Tempe, AZ.
Rabbi Allan Lehman, Gainesville, FL.
Rabbi Arthur Lelyveld, Cleveland, OH.
Rabbi Joy Levitt, Roslyn, NY.
Rabbi Naomi Levy, Venice, CA.

Rabbi Richard N. Levy, Los Angeles, CA.
Rabbi Mordechai Liebling, Philadelphia, PA.
Rabbi Eugene Lipman, Washington, DC.
Rabbi Serge A. Lippe, Paradise Valley, AZ.
Rabbi Charles D. Lippman, New York, NY.
Rabbi Jane Litman, Manhattan Beach, CA.
Rabbi Mark Loeb, Baltimore, MD.
Rabbi Tom Louchheim, Tucson, AZ.
Rabbi Jack Luxemburg, Rockville, MD.
Rabbi Janet R. Marder, Los Angeles, CA.
Rabbi Shana Margolin, Bell Meade, NJ.
Rabbi Marc Margolius, Narbeth, PA.
Rabbi Susan Marks, Santa Monica, CA.
Rabbi Jeff Marks, Santa Monica, CA.
Rabbi Robert G. Marx, Chicago, IL.
Rabbi Simeon J. Maslin, Philadelphia, PA.
Rabbi J. Rolando Matalon, New York, NY.
Rabbi Bernard H. Mehlman, Boston, MA.
Rabbi Shelley Melzer, New York, NY.
Rabbi Paul Menitoff, Boston, MA.
Rabbi Marshall Meyer, New York, NY.
Rabbi Carole Meyers, Glendale, CA.
Rabbi Jacob Milgrom, Berkeley, CA.
Rabbi Charles Mintz, Minneapolis, MN.
Rabbi James Mirel, Seattle, WA.
Rabbi Norman Mirsky, Santa Monica, CA.
Rabbi Joel Mishkin, Baltimore, MD.
Rabbi Nina J. Mizrahi, St. Louis, MO.
Rabbi Michael Paley, New York, NY.
Rabbi Jack Paskoff, New Brunswick, NY.
Rabbi Hayim Goren Perelmuter, Chicago, IL.
Rabbi Michael Perelmuter, Santa Monica, CA.
Rabbi Aaron M. Petuchowski, Roslyn Heights, NY.
Rabbi David Pinkwasser, Tempe, AZ.
Rabbi Albert Plotkin, Phoenix, AZ.
Rabbi James Prosnit, Bridgeport, CT.
Rabbi Sanford Ragins, Los Angeles, CA.
Rabbi Einat Ramon, Berkeley, CA.
Rabbi Paula Reimers, Long Beach, CA.
Rabbi Steven Carr Reuben, Pacific Palisades, CA.
Rabbi Steve Robbins, Beverly Hills, CA.
Rabbi Jeff Ronald, Davis, CA.
Rabbi John Rosove, Hollywood, CA.
Rabbi Morris L. Rubinstein, Sun Valley, CA.
Rabbi James Sagarin, Chicago, IL.
Rabbi Paul Z. Saiger, Rochester, NY.
Rabbi Melvin Sands, Claremont, CA.
Rabbi Dennis C. Sasso, Indianapolis, IN.
Rabbi Sandy E. Sasso, Indianapolis, IN.
Rabbi Stanley T. Schickler, Port Washington, NY.
Rabbi Ira Schiffer, Baltimore, MD.
Rabbi Robert D. Schreibman, Northfield, IL.
Rabbi Barry L. Schwartz, Chevy Chase, MD.
Rabbi Sidney Schwarz, Rockville, MD.
Rabbi Chaim Seidler-Feller, Los Angeles, CA.
Rabbi Gerald Serotta, Washington, DC.
Rabbi Isaac Serotta, Washington, DC.
Rabbi Rami Shapiro, Miami, FL.
Rabbi Rona Shapiro, Springfield, MA.
Rabbi Mark Shapiro, Springfield, MA.
Rabbi Alexander Shapiro, South Orange, NJ.
Rabbi Henry M. Shreibman, Chicago, IL.
Rabbi Marion Shulevitz, New York, NY.
Rabbi Daniel I. Siegel, Dartmouth College.
Rabbi James Simon, Wooster, MA.
Rabbi Marjorie Slome, Brooklyn, NY.
Rabbi Ruth Sohn, Boston, MA.
Rabbi Joshua Stampfer, Portland, OR.
Rabbi Richard S. Sternberger, Washington, DC.
Rabbi Sharon Stiefel, Philadelphia, PA.
Rabbi Warren Stone, Kensington, MD.
Rabbi Ariel Stone, Miami, FL.
Rabbi Michael Strassfield, New York, NY.
Rabbi Marla Subeck, Northfield, IL.
Rabbi Frank N. Sundheim, Miami, FL.
Rabbi Brooks Susman, St. Louis, MO.
Rabbi Daniel Swartz, Los Angeles, CA.
Rabbi Robert P. Tabak, Philadelphia, PA.
Rabbi David Teutsch, Philadelphia, PA.
Rabbi Leonard Thal, Los Angeles, CA.
Rabbi Gordon Tucker, New York, NY.
Rabbi Burton Visotzky, New York, NY.
Rabbi David Vorspan, Reseda, CA.
Rabbi Max Vorspan, Los Angeles, CA.
Rabbi Leon Waldman, Fairfield, CT.
Rabbi Brian Walt, Havertown, PA.
Rabbi Shiela Weinberg, Amherst, MA.
Rabbi Daniel Weiner, Baltimore, MD.
Rabbi Samuel Weintraub, New York, NY.
Rabbi Simcha Weintraub, Brooklyn, NY.
Rabbi Avi Weiss, Cambridge, MA.
Rabbi Joseph Weizenbaum, Tucson, AZ.
Rabbi Harold White, Washington, DC.
Rabbi Michael White, Los Angeles, CA.
Rabbi Paula Winnig, Queens, NY.
Rabbi Joseph Wolf, Portland, OR.
Rabbi Gregory Wolfe, Milwaukee, WI.
Rabbi David S. Wolfman, Lexington, MA.
Rabbi Gordon Yaffe, Stratford, CT.
Rabbi Cary D. Yales, Lexington, MA.
Rabbi Elaine S. Zecher, Boston, MA.
Rabbi Daniel G. Zemel, Washington, DC.
Rabbi Marcia Zimmerman, Minneapolis, MN.
Rabbi Daniel Zucker, Los Angeles, CA.•

TRIBUTE TO MINNESOTAN JOHN BERKEY, 1991 CHRISTMAS STAMP DESIGNER

• Mr. DURENBERGER. Mr. President, it is with pride that I rise today in honor of Minnesotan John Berkey, designer of the 1991 Christmas stamp. Millions of Christmas greetings will be received in homes across the Nation during this holiday season and attached to those cards and letters will be John's contemporary designs of Santa in a variety of Christmas scenes.

This year's Christmas series marks a continuation of a successful career for John Berkey. In addition to holiday stamps, John has been commissioned by the U.S. Postal Service to design the 1983 Christmas stamp as well as the recently issued Hubert H. Humphrey postage stamp. A resident of Excelsior, MN, since 1941, John's artwork has been seen by millions of Americans in films as well as his sketches and paintings. Anyone picking up the upcoming book "Painted Space" will easily recognize John's work.

Mr. President, again I salute John Berkey on being chosen as the designer of the 1991 Christmas stamp, and I thank him for allowing us to share in the gift of his marvelous talents.•

LIFE STORY: BURDENS, DREAMS MINGLE FOR INMATE, 20

• Mr. SIMON. Mr. President, crimes are not committed in some vacuum. I do not suggest that criminals should not be punished for their actions, nor should we say that society is always to blame and, therefore, we have to treat those who commit crimes with great leniency.

But just as we have been told that unemployment is a major cause of alcohol and drug abuse, social conditions create other crimes.

Recently, I read an article of one prison inmate written by Bill Smith of the St. Louis Post-Dispatch.

It is a moving story, and it is a reminder that we have to pay attention to our social problems if we are to significantly reduce the crime problem.

I ask that the article be printed in the RECORD at this point.

The article follows:

[From the St. Louis Post-Dispatch, Nov. 19, 1991]

LIFE STORY: BURDENS, DREAMS MINGLE FOR INMATE, 20

(By Bill Smith)

Sometimes, on these cold November afternoons, Richard Perry says, he will sit and read to his friend inside the stark third-floor walls of City Hall.

"You got to start off with the easy books," said Perry, who is jailed on a murder charge. "I've been reading him a book called 'Lady Bug' from the library. It's a little cartoon book about kids and animals. I try to teach him the words.

"We'll watch a little TV, or play some spades or some checkers. Some of us play chess; Donald doesn't play chess."

On November 19, Donald Earl McCarthy will turn 21.

He can't read.

He can't write.

He doesn't know the name of the president of the United States.

He never has held a steady job.

Nov. 19 will mark his 94th straight day as a prisoner of the city of St. Louis—the 94th day since police discovered him and his younger brother hiding atop a walk-in cooler inside Flayer's Tavern. It was 4 a.m. on a warm August morning, and he had $14 stuffed in his pockets—all in quarters, dimes and nickels.

"I ain't going to lie about it," he said in an interview. "We went in there to get some money."

In nine days, Donald McCarthy legally will be a man.

He doesn't have a drivers license.

He is deaf in one ear and hearing impaired in the other.

His speech is crude, slurred and difficult to understand.

If he could travel anywhere in the world, he said, "I think I'd go to a bingo game.

"Do you think," he asked a reporter, "that I could get out for my birthday? I'd like to go to see a movie—maybe the one about that little dude who got in all that trouble at Christmas. I saw a thing for that one in the newspaper."

He spent part of last summer living in a storage shed in Lawrence Cooley's junkyard in the Cote Brillante neighborhood, eating White Castle hamburgers when he could get some money and earning a few dollars by helping Cooley and the boys load old tires onto trucks.

He's a good little worker, but I can't be responsible for him," Cooley said. "You got to watch him so he don't hurt himself.

"He'll call from jail almost every day, asking me, "if he get out can he have a job."

His mother and his stepfather say they can't scrape together $250 to pay his bond. They don't even have enough to pay this month's rent, said John Alsup, McCarthy's stepfather.

They are too poor, they say, to put gas in the family's old truck to drive the five miles to the jail to visit their son.

Maybe she can visit on Sunday, his mother said, "if something doesn't come up."

Last month, the couple said, they had to get an unlisted telephone number so Donald would stop calling them collect from the jail. "We owe the phone company $303 from last month," his stepfather said. Inmates' calls are collect, even in town.

"He's not a kid any more," said John Alsup. "Sometimes, I think he's a genius. He can fix old radios nobody can figure out. He can fix cars nobody can figure out."

GUILTY PLEAS AND APOLOGIES

In a year plagued by murder and other violence in the city, the people who know Donald McCarthy say he is anything but violent.

"He's not a hardened criminal; he's too fragile," said Bob Fleming, manager of Flayer's. Fleming was there that August morning when police brought Donald McCarthy out of the tavern.

"There's not a doubt in my mind that that kid can be rehabilitated. But he's got a lot of strikes against him."

Paul Thornton operates a hauling and salvage company in the city and has known McCarthy for several years.

Says Thornton: "He isn't a bad fellow.

"He'd take a battery charger or a TV from the shop, and his little brother would come and tell us about it. And then Donnie would bring the stuff back, and he'd apologize for taking it.

"He wants to learn; if somebody would just take the time."

Donald McCarthy is in the most serious trouble of his young life.

And he knows it.

On Thursday, he stood in Judge Anna C. Forder's courtroom and admitted that he had broken into the tavern.

Yes, he told the judge, he knew that he had a right to trial by jury.

Yes, he said, he knew he could go to prison.

The circuit attorney's office is asking for seven years.

His public defender is asking for probation.

Records say McCarthy is 5 feet 8 inches tall and weights 140 pounds. But in the big courtroom on Thursday, he seemed much smaller.

Forder leaned across the bench and spoke loudly to him to make sure he could understand.

It was the third time in three years that McCarthy had stood before a judge and pleaded guilty of a theft-related charge. In December, he pleaded guilty of stealing a truck, although he says now that he can't remember that incident at all.

Two years earlier, in July 1988, he pleaded guilty of second-degree burglary for breaking into a city service station.

"I wanted to get some tools so I could work on cars and make some money; I know I shouldn't have done it," he says.

Sometimes, he says, he lies in his bunk late at night and remembers back to a day some 10 years ago when he was struck by a car while playing baseball near Elliot School.

"I think I might go in front of a car again and get killed," he said. "What else is there to do?"

"SLOW LEARNER" TO DROPOUT

Donald McCarthy's childhood—at least a part of it—is in his city public school file. School officials made the file available to a reporter after McCarthy and his family gave their permission.

When he was 5, a psychological examiner with the school system labeled him a "slow learner." One test reported an IQ of 50, indicating moderate retardation. A second showed an IQ of 72, indicating a more mild retardation.

As a 6-year-old special education student at Stix School, he was described by a teacher as "a small boy who is very unhappy."

"It would appear that he wants much attention at school. Does try to please teachers by running tasks, cleaning up classroom."

His personal appearance was described as poor. "He comes to school every day with dirty face and hands," says the evaluation.

"Seldom smiles."

In 1979, at the age of 9, records show, Donald and his two brothers were placed in foster care for a year and a half as a result of suspected child abuse.

His mother and stepfather said it was a drummed-up charge.

"They came in and sprayed green stuff on the food so it looked like mold," said Victoria Alsup, McCarthy's mother.

In September 1984, when Donald was 13, a school psychologist at Blewett Middle School wrote:

"Tires quickly, daydreams, is usually preoccupied, does not make friends, lacks self-confidence, gives up easily, withdrawn, overconforms, unable to express ideas, depressed, worried, does not trust others, disoriented, overly dependent, poor grooming * * *"

He was reading at a primer level; his mathematics ability was at a first-grade level. A speech therapist noted that he had a severe speech impairment. "Speech is unintelligible to the casual listener," the therapist wrote. An intelligence test showed him with an IQ of 55; 100 is normal.

A final report is dated April 28, 1986. It was one month before Donald McCarthy would leave Blewett Middle School. The next summer he would be enrolled at Vashon High School.

That final report showed that he was reading at a first-grade level. "The student is functioning within the range of mildly handicapped abilities."

The report showed that at least three attempts had been made to reach his parents. After each attempt there is the notation, "Negative response."

In the fall of 1986, Donald McCarthy said, he was in his first high school class as a special education student at Vashon when the teacher asked the class to read and answer some questions in a textbook.

He says he raised his hand and said he could not read; he says the teacher took him to the principal. He says he never went back to that class.

He only went to school sporadically for the next two and a half months. When he turned 16, Donald McCarthy left school for good.

After all, he said, his older brother had done the same.

DREAMS AND A DAY IN COURT

Her older son, now 24, "can't read or write either," Victoria Alsup said.

He knows he faces a tough, uphill battle, Donald McCarthy says, but there are still things he wants to do one day.

"I don't want to go to the penitentiary," he said. "I want to go back to the junkyard. Or I want to go back home to live with my mom and dad.

"I could live in an apartment," he said, "if I could get somebody to come in and cook for me."

Before his arrest, McCarthy did work for neighbors in the area near the old water tower on North Grand, where his family lives.

"If he gets out," his mother said, "I want to get him in with the Job Corps."

But he has his own ideas, too.

"If I can get out of there, I want to get me a garage, some place in the city and work on cars and whatnot. I have a dream about that—me working on cars and making some good money. Have my own tow truck. when somebody calls up on the phone, I can go out and get them."

Now, though, Donald McCarthy plays checkers and looks at the pictures in hot rod magazines. "I could get an old car at the junkyard for $50 and fix it up real nice," he said.

Sometimes, when he gets a few dollars from his parents, he buys popcorn and candy bars.

His parents get $407 a month in Social Security for Donald as a result of his retardation, his mother says. They also get $407 for their daughter, 11. That is the family's total income, they said. They say they wish they could save enough to post bond for their son, but it's just not possible.

"We just got the checks at the first of the month," John Alsup told McCarthy on the phone last week, "and it's gone already."

Except for a reporter and his public defender, he has had no visitors in the three months he has been shuttled between City Jail and the Workhouse.

Still, he knows the visiting hours.

"To 5:45 to 7:45 on Mondays and Fridays; to 12 to 2 on Wednesdays.

"Do you think you could get my mom and dad's phone number? Do you think you could ask them to visit me?

"Sometimes I get mad," he said. "Sometimes I think why nobody can't bond me out.

"Yeah, I know whose fault it is that I'm here. It's my fault. I know that."

He can see the cars come and go through the cloudy, barred windows. He can see the people on the sidewalks, hurrying from one building to the next.

Sometimes, he says, it seems like summer was just yesterday. Soon it will be Thanksgiving and then Christmas.

He doesn't know where he will be on Christmas.

"It's in judge Forder's hands," said public defender Janis Good.

Donald McCarthy is scheduled to be sentenced on Dec. 13—a Friday the 13th, Judge Forder noted as she marked it on her calendar.

"I don't like that," Donald McCarthy said. "I don't like Friday the 13th. It's bad luck.

"My mom and dad don't even go out of the house."•

TRIBUTE TO MISSOURI'S ENVIRONMENTAL IMPROVEMENT AND ENERGY RESOURCES AUTHORITY

• Mr. BOND. Mr. President, I rise today to pay tribute to Missouri's Environmental Improvement and Energy Resources Authority, which along with the University of Missouri Extension, was recently recognized with a 1991 Presidential Envoronmental Conservation Challenge Award.

The working partnership between EIERA and University of Missouri Extension culminated in the household hazardous waste project, which was created to inform the citizens of Missouri about the importance of safe dis-

posal and storage on hazardous waste products from household chemicals. The project has helped increase awareness of the dangers that can result from improper use and disposal, and contribute to a safer environment. The household hazardous waste project began as a grassroots community effort that was expanded statewide due to the hard work and efforts of the EIERA and University of Missouri Extension.

We are proud that Missouri's efforts to increase community awareness on this important issue have resulted in the household hazardous waste project being adopted as a nationally recognized model used by the United Nations and countless others. On behalf of my fellow Missourians, I congratulate our Environmental Improvement and Energy Resources Authority and the University of Missouri Extension on the national recognition their efforts have earned.●

CBO ESTIMATE ON S.J. RES. 23

● Mr. JOHNSTON. Mr. President, on September 20, the Committee on Energy and Natural Resources reported Senate Joint Resolution 23, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920. The committee submitted a report on this resolution but the budget impact estimate from the Congressional Budget Office was not ready at the time of the submittal. That estimate has now been received by the committee and I ask that it be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 25, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 23, a joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920, as ordered reported by the Senate Committee on Energy and Natural Resources, November 20, 1991. Enactment of this resolution would result in no cost for the Federal Government or for State or local governments. Enactment of S.J. Res. 23 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this bill.

S.J. Res. 23 would grant the consent of the United States to a number of amendments to the Hawaiian Homes Commission Act, 1920, already adopted by the State of Hawaii. These amendments generally concern the administration and development of the Hawaiian home lands.

If you wish further on this estimate, we will be pleased to provide them. The CBO staff contact is Marjorie Miller, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER.●

VETERAN OBSERVANCE OF PEARL HARBOR

● Mr. D'AMATO. Mr. President, it is incumbent upon all of us to remember Pearl Harbor today, November 26, 1991. It was 50 years ago today that six Japanese aircraft carriers, and a full complement of cruisers, destroyers and support vessels set sail from Hitokappu Bay led by Admiral Chuichi Nagumo's flagship, the *Akagi*, on their way to that day of infamy at Pearl Harbor.

While a pressing prior commitment precludes my attendance at the Syracuse, NY, VA Medical Center observance of the 50th anniversary of the raid on Pearl Harbor, I want to join in their observance by recalling that day.

It has been 50 years since that fateful day when the dreaded news of death and destruction reached our parents, grandparents, and other relatives. The surprise attack by the Imperial Japanese naval air forces upon our naval base at Pearl Harbor and the airfields around the island of Oahu was to shake the world as we knew it to its very foundation. Reactions to the news varied from disbelief, shock, and surprise to anger. Later, these feelings would translate into a sense of mission, duty, and responsibility which would drive the American war machine and keep the recruitment offices jammed with volunteers.

The raid on Pearl Harbor is an event which will be forever ingrained in the hearts and minds of all of us old enough to remember. The war is over, but we shall never forget. We shall not forget the destruction and sorrow of the day which drew us into World War II. Today as we remember that "day of infamy," let us also remember that we fought for peace, for a lasting peace that will carry us through in future generations.●

THIRD COUNTRY MEAT DIRECTIVE—S. 1738

● Mr. COATS. Mr. President, today, I rise in support of S. 1738. The so-called third country meat directive bill. This bill, in my opinion does a great deal to make the point that we in the United States—lawmakers, processers, farmers, and consumers—are serious indeed about promoting and insisting upon fair trade practices.

For many years, the European Community has had in place what it calls the third country meat directive. By their standards, this directive seeks to restrict U.S. meat and meat products processed in plants which do not meet the standards of the directive. Mr. President, in my opinion, this is no more than a clever name for an unfair nontariff trade barrier.

The third country meat directive is an arbitrary standard arranged and rearranged to meet the import needs of the day by the European Community. Unfortunately, of late, there seems to be very little need for U.S. meat products in the European Community. Last year the United States exported 809,386 metric tons of meat and meat products—only a small percentage of which went to the European Community. By contrast, the United States in 1988 imported nearly 6 million metric tons of European Community meat and meat products.

I have been pleased to see that recently, the European Community has decided to relist 14 meat processing plants as eligible to ship meat and meat products to the European Community. This is a move in the right direction. However, it is not a move far enough. We must move to eliminate all trade barriers, especially those which are unfair and unnecessary.

As I have traveled across the State of Indiana, I continue to hear from pork producers, sheep producers, poultry producers, and cattlemen, who just want the opportunity to compete in a fair and impartial fashion. They are not asking to automatically be declared the winner, only to compete on a level playing field. It is their feeling, and mine I might add, that if we play with even odds that the Hoosier farmer and the American farmer will prevail.

S. 1738 seeks to bring this misalignment a little bit more in line. Specifically, it will prohibit the import of meat products from the European Community until these unfair trade barriers are removed. It is for this reason, that I join as a cosponsor today of S. 1738.●

INTERNATIONAL COMPARISONS OF SCIENCE AND MATHEMATICS ACHIEVEMENT

● Mr. HATFIELD. Mr. President, in recent weeks, I have been following a disturbing colloquy that is taking place in the print media. I refer to the sequence of articles claiming that the achievement of U.S. students is or is not at tragically low levels, particularly in international comparisons.

When systems analysts at the Sandia National Laboratories examined data on the status of United States education, they represented an objective outsider perspective. Their conclusions, which ran counter to others that report dreadful crises in American education, were quashed by the administration for being a call for complacency at a time when just the opposite is required. One antonym of complacency is "panic"—as in fear, trepidation, or hysteria—which I doubt was being advocated.

Other parties joined in the see-saw dialog. Testing experts issued their analyses of international testing procedures and test results, challenging the validity of international rankings. The Department of Education insisted that those claims are foolish, since U.S. students definitely lag in math and

science achievement. A research psychologist, highly profiled in this analyses of the gloom and doom critics of U.S. education, was hired by a leading education association then released when he continued to participate in the media coverage.

Both sides of these public conversations have made significant contributions to advances in mathematics and science education in the Nation. Both sides have displayed their confidence in the commitment of American educators to improving the substance, content, delivery, and environment of schooling. So, as an outdated commercial inquired, "Where's the beef?"

Mr. President, my own beef with this situation—perhaps I should say my concern, disappointment, or distress—is with what I think are unintended consequences of some of our official reporting on and resulting media coverage of the status of U.S. students. The Washington Post quoted the coordinator of the 1993 international comparison of mathematics and science achievement as saying:

I find it scary when I look at a magazine and see a graph ranking countries with virtually no explanatory material. The graph makes it look like the Japanese system is wonderful and the United States system is the pits.

Even if there were explanatory text, we all know that people often look at a graph and ignore the written analyses. That's a fundamental technique of advocacy: Present your data in eye-catching pictorials that back up your position,

That's my concern: What is our position regarding American precollege education? What are we advocating?

First, I must comment that there is a continuum connecting the extreme perspectives of complacency and panic. It's not a case of either one or the other. Second, the public quibbling between researchers and government officials does nothing to enlist the general public's support for educational improvement efforts. And, third, to my regret, I am compelled to point out that the fourth national educational goal adds fuel to this debate and that it is inconsistent with the other five goals.

The fourth goal states, "By the year 2000, U.S. students will be the first in the world in science and mathematics achievement." This is the only national education goal that imposes an external comparison; the other five commit the Nation to improving our status quo in school readiness, graduation rate, academic competency, literacy and citizenship, and freedom from drugs and violence. The other five goals embody an American tradition: We can always do better.

If an industry spokesman were to predict, "By the year 2000, the U.S. automobile industry will be the first in the world," or an alumnus, "By the year 2000, the Willamette Bearcats will be the best football team in the world," people may jeer good-naturedly but will recognize the bravado as statements of hope. If officials claim, "By the year 2000, the military power of the United States will be the strongest in the world," or "By the year 2000, the American space exploration program will be the most advanced in the world," listeners might just shrug while advocates would point to missiles or missions.

I am certainly not opposed to U.S. students being the first in the world in science and mathematics achievements. My legislative history will confirm the leading role I have to support math-science education. However, I don't consider first in the world to be a valid goal, for a very fundamental reason. The National Assessment of Educational Progress is expending enormous efforts to develop valid instruments to measure mathematics and science achievement in just our own country, instruments that are as valid in the schools of Evanston as in the Andrews school district in Princeton, OR, which consists of only one school with 6 students. How much more complicated it must be to ensure validity in international comparisons!

The third national goal includes mathematics and science among the challenging subject matter in which American students will demonstrate their competency in grades four, eight, and twelve. Just as importantly, the third goal also includes competency in English, history, and geography. This is the goal I support. We must establish competency standards and see whether our students progress toward them. In the process, if they somehow produce the best test results among fourth graders in the world, that's icing on the cake. But that would still not make them the first in the world. It would just make their test scores the highest.

The mathematics and science education communities, through their professional societies, have made great investments of membership funds and time for improvement efforts. It is ironic that these are the groups whose so-called failures are pointed to by writers who use international test scores as weapons of aggression. The math teacher groups have developed national standards for curriculum, teacher preparation, and teaching. Those standards are now being used to frame training activities and conferences across the country. Science teachers have also begun the process of developing similar standards for science education. Partial funding, in fact, have been given to these activities by the National Science Foundation and the Department of Education.

Another significant achievement in this country is that a greater percentage of students stay in school for longer portions of their lives than in any other country in the world. Our higher education system of universities, liberal arts colleges, community colleges, and technical institutions is unmatched in the world. We are also the only country on earth to mention nontraditional students in our academic literature and in legislation, making the expansion of educational opportunities well beyond the teen years.

I am convinced that we must work together to continue to improve our schools. I will keep reading newspapers and journals to see whether other educators, policymakers, and bureaucrats share my belief or whether they will continue their campaign to convince the Nation of the mediocrity of U.S. students in mathematics and science.

Mr. President, I ask that a recent article in Science summarizing this situation be printed in the RECORD.

The article follows:

QUESTIONS RAISED ON MATH RANKINGS

(Edited by Constance Holden)

A reversal of the old question "If you're so smart why aren't you rich?" has been posed by a National Science Foundation official: If our science education system is so rotten, how come the United States still enjoys overwhelming dominance in scientific productivity?

Iris C. Rotberg, writing in a National Academy of Engineering publication, The Bridge, says the answer may be that international comparisons of student achievement in science and math have been providing "highly misleading indicators" of the actual quality of education systems and student expertise.

Rotberg, a program director with the Directorate for Education and Human Resources, argues that a major problem stems from sampling biases: The percentage of teenagers enrolled in high school is much higher in the United States than in many other countries—and the less selective the test-taking population, the lower the scores will be. By the same token, distortions are imposed by huge variations in the proportions of students who take advanced math courses. For example, according to the International Association for the Evaluation of Educational Achievement, Hungary ranks near the top in 8th-grade math achievement. But by the 12th grade, the country falls to the bottom of the list because it enrolls more students than any other country—50%—in advanced math. Hong Kong, in contrast, comes in first, but only 3% of its 12th graders take math.

Rotberg says these problems also affect the Educational Testing Service's [ETS] International Assessment of Education Progress, initiated in 1988. In the first project, only six countries participated, sample sizes were small, and there was no way of knowing if the results reflected differences in students' socioeconomic status rather than differences in the quality of schooling. Rotberg says sampling problems have gotten even more complicated with the recent expansion of the project to 20 countries. In some countries—particularly poor ones, where many students have already left school by the 8th grade—only the elite will be sampled, while countries attempting to democratize education will appear to fall short. Logistical decisions—like including only Mandarin-speak-

ing Chinese in the China sample—also result in an elite bias. The solution? "Let's focus our attention on the difficult public policy issues . . . rather than on comparisons and rankings," says Rotberg.

Both the Department of Education and the ETS disagree with Rotberg and other critics. According to The Washington Post, Diane S. Ravitch, assistant secretary for educational research and improvement, argues that in the first ETS assessment, 99% of the teenagers in all the countries surveyed were in high school. Archie Lapointe of ETS is quoted as saying the surveys "don't overstate anything * * * The fact is students in other countries do better than our students in mathematics."

HUMANS, NOT MASCOTS

• Mr. SIMON. Mr. President, I am one who has long been offended by the use of the term "Redskins" or anything like that for team mascots.

I got into difficulty in Illinois when I publicly said I favored moving away from Chief Illiniwek as the University of Illinois symbol. But I'm pleased to say that the discussion that caused has done some good. The student senate at the University of Illinois voted 34–2 to change the mascot, and I am sure one of these days the University of Illinois is going to be sensitive enough to do that.

I hope that others, including the Washington Redskins, will do the same.

Recently, the Lakota Times, published by Tim Giago in South Dakota, had an editorial on this question.

For those who may wonder what the feeling of American Indians is on this question, this editorial is a clear answer.

I ask unanimous consent that it be printed in the RECORD at this point.

The editorial follows:

[From the Lakota Times, Nov. 13, 1991]

WE ARE HUMANS, NEVER MASCOTS

Most readers of the Lakota Times are now aware of the overt racism that still abounds in America, evidenced by the bitter comments hurled at those Indians protesting the use of Indian tribes and Indian names for baseball and football teams.

Last week's Lakota Times had a very profane letter written by a woman from Phoenix, Ariz., that really came down on Indians for speaking out about this strangely American phenomenon of naming a football team after the color of a people's skin. She vented her spleen against us.

But that just shows there is a pervasive ignorance about this topic and that we must begin to educate the rest of Black, White, Brown and Yellow America about the fact that although we are referred to as Redskins, Redmen, etc., We are not mascots, we are human beings.

As long as we have those members of our own people willing to go on the air or be interviewed by a newspaper and say that they don't mind being called "mascots" or they are making big bucks from selling tomahawks to the Atlanta Braves fans so these very fans can further insult us by using them in a derisive fashion, we will never break this mold.

We must consider those Indian people who would profit at the expense of their own culture and spirituality by selling sacred artifacts to tourists or to professional sporting teams as traitors to their own kind. We can think of no other way to phrase this.

Surely there are other items these profiteers can sell that will not be used to degrade or insult us. There is a lot more support for our beliefs out there than one can imagine, but that support can easily become confused when sell-out Indians say, "We don't mind being used as mascots."

We are not mascots, we are human beings.

From the outpouring of cards, letters and phone calls we have received since we started to protest use of Indians as mascots—99 percent supportive of our stand—we know for a fact that most traditional Indians do resent and detest being used as mascots for sporting teams and sporting events.

To have someone like Princess Pale Moon, a supposed Indian, sing at the Redskin football game at RKF Stadium while Indian people protesting outside the stadium were being spit upon by angry white and black football fans is situation all grassroots Indians should find intolerable.

If there are those Indians who don't mind being mascots, that is their prerogative, but don't get up on national TV and show the rest of America how ignorant you are. If you want to be a mascot—be one—but please understand that most of Indian America will consider you a sellout.

As for most Lakota and Dakota people: We are not mascots, we are human beings. Is that so hard to understand?

If the Washington Redskins advance to the playoffs and then to the Super Bowl, you bet your last dollar that this situation will become even more heated. We must stand together as Indian people to bring this disgraceful use of our heritage and our race to promote fun and games for black and white sports fans to an end. These racial slurs and insults must cease!

The only thing we should remember is: We are not mascots. We are human beings.•

COLLOQUY ON LAMPF DECISION SENATE BANKING BILL, S. 543

• Mr. DOMENICI. I am pleased that, with the cooperation of the Senator from Nevada [Mr. BRYAN] and the help of the chairman and ranking member of the Banking Committee, we were able to work out a strategy for dealing with the several issues associated with the Lampf versus Gilbertson Supreme Court decision. We have been dealing with basically these related issues: What should Congress do about the cases that have been dismissed because of a retroactive application of the Lampf decision? Should the Congress overturn the Supreme Court and, if so, what additional measures should be adopted to eliminate the excessive amount of frivolous securities fraud litigation?

Senator BRYAN made a very compelling case that the dismissed lawsuits should not have been dismissed. I wholeheartedly agree. I believe we are enacting good public policy in addressing this retroactivity issue now.

I commend Senator BRYAN for bringing this urgent problem to the attention of the Senate.

The language included in the manager's amendment means that the Lampf decision would be applied prospectively only.

Mr. BRYAN. I felt that there was a great deal of urgency in dealing with this issue. The most time sensitive aspect of this situation has been resolved once and for all. The cases that have been dismissed can be refiled or reinstated.

Mr. DOMENICI. We are nearing the end of the session and I think the accommodation that has been worked out is in everyone's best interests. Were it not the end of the session I would have insisted on taking the Senate's time to fully consider these issues. I am committed to enacting meaningful securities litigation reforms.

I am convinced that the ability of plaintiffs' lawyers to bring frivolous lawsuits, and the burdens of joint and several liability, under section 10(b) of the Securities Exchange Act are having a very detrimental effect on American companies' ability to compete. It is hurting our economy.

Under our agreement we will postpone until next year the issue of necessary changes to section 10(b), including the appropriate statute of limitations and measures to reduce meritless litigation. This will allow the Congress time to carefully consider the statute of limitations and section 10(b) litigation reforms as a comprehensive package. Since Congress has never really considered the court-created private right of action under section 10(b), it should be an important agenda item for next year.

I look forward to working with the committee to convene hearings on this problem of unwarranted litigation as well as prospective statute of limitations.

Mr. MCCONNELL. I have been a proponent of comprehensive tort reform and I am pleased that the Banking Committee will be examining the litigation explosion in this area of the law.

Mr. DOMENICI. There are similar concerns about this issue in the House. Is it the chairman's position that if this provision becomes an issue during the conference that the Senate will insist upon the compromise that has been worked out today and under no circumstances expand it in conference to cover a new prospective rule?

Mr. RIEGLE. That is my intention to all Senators who have helped resolve this matter.

Mr. GARN. That is my position as well.

Mr. BRYAN. Since it is uncertain which version of the banking bill will actually be sent to the President, is it the chairman and ranking Member's understanding that this provision will be included in any such legislation?

Mr. RIEGLE. Absolutely; this is a critical situation and it must be corrected. Senator BRYAN has been extremely effective in educating the

members of the Senate about this issue.

Mr. GARN. That is my understanding as well. It would be irresponsible for Congress to adjourn without providing for the dismissed cases.•

NORTH DAKOTA PEARL HARBOR SURVIVORS

• Mr. CONRAD. Mr. President, on December 7, 1991, our Nation will pause to commemorate and remember one of the most solemn events of our country's history—the attack on Pearl Harbor during the early days of World War II.

December 7, is of special significance this year as the date marks the 50th anniversary of the attack on Pearl Harbor and America's entry into World War II.

The day of the attack on Pearl Harbor is one of the darkest days in our Nation's history. More than 3,200 American servicemen were killed on that tragic day, and the country's Pacific fleet was severely damaged. Despite these tremendous losses, our Nation stood united, restoring peace to the Pacific, and helping to end the reign of terror in Europe.

The men and women who fought for the cause of democracy and to restore peace in the Second World War deserve the highest praise and appreciation of our Nation. It is most important as we remember this most solemn occasion, that we honor and pay tribute to the sacrifices that our servicemen and their families have made for our country.

It is also most appropriate that we recognize and pay special tribute, on this 50th anniversary of Pearl Harbor, to the survivors of the attack as well as the families of the more than 3,200 servicemen who were killed on that day.

Mr. President, earlier this month, Gov. George Sinner at the State Capitol in Bismarck, honored 23 North Dakota Pearl Harbor survivors and their families with the presentation of the Congressional Pearl Harbor Commemorative Medal.

The Pearl Harbor Commemorative Medal is a well deserved and distinguished tribute to the survivors of the attack on December 7. It is also a fitting memorial to the families of the more than 3,200 servicemen who died on that tragic day.

The Pearl Harbor Commemorative Medal along with the special recognition that we give to December 7 during this 50th anniversary commemoration, is a solemn reminder to all Americans of the many sacrifices made by veterans and their families during World War II—sacrifices that we must never forget, and that take on special importance in 1991 as we witness some of the most dramatic political changes on behalf of democracy across Europe and the Soviet Union.

Mr. President, I ask that an article from the Bismarck Tribune of November 11, 1991, regarding the Pearl Harbor Commemorative Medal ceremony be printed at the conclusions of my remarks in the RECORD.

The article follows:

[From the Bismarck Tribune, Nov. 11, 1991]

N.D. SURVIVOR WON'T FORGET PEARL

(By Jayme Fritel)

HAZEN.—Ed Bridge is among 26 North Dakota survivors of Pearl Harbor who will receive the first Congressional Commemorative Medals Tuesday at the Capitol.

The ceremony in Bismarck will honor survivors, friends and family.

"Remember Pearl Harbor" was the rallying cry for the United States during World War II. With the 50th anniversary of the Dec. 7, 1941, attack approaching, "Remember Pearl Harbor" has renewed significance for those who were there.

Bridge, a retired electrical engineer, joined the Navy when he was 17 and was put on a "kiddie car cruise" until he turned 21.

In February 1941 he was sent to Pearl Harbor. He was at a receiving barracks within eyeshot of Battleship Row waiting for his assignment when the Japanese attacked.

Because the U.S. ships were doing year-end overhauls and weapons checks, Bridge didn't even have a weapon readily available when the Japanese struck.

He remembers standing on a dock, and hastily putting together a single-shot rifle to fire at the enemy planes. The rifle parts were still in Cosmolene grease and he had to tear off his T-shirt to wipe away the grease before assembling the gun.

"The planes came so low in the harbor you could distinguish the pilot. There was not much we could do" he said.

He watched as the battleship Arizona went down and the beleaguered Nevada steamed itself aground so as not to plug up the harbor. He also witnessed a hit to the Utah.

The attack was brief and soldiers immediately prepared for a second wave. Bridge recalls setting up a machine gun along the wharf. Suddenly American planes flew over and Americans fired at them, but fortunately hit none.

The attack was a horrendous ordeal, but, Bridge said, not nearly as terrible as being on burial detail—seeing drowning victims, burning oil and bodies afloat in the bay.

Bridge's wife, Maureen, was in California when word of the attack was received. She was told the Japanese had taken Pearl Harbor and Los Angeles and were on their way to San Diego.

Being young, Maureen was more curious than frightened. She recalls looking skyward for planes.

It took three weeks for Bridge's letter—even burned a bit—to reach Maureen, telling her he was all right. Six weeks later he mailed her an engagement ring and proposed marriage. They were married while he was on leave.

"You grow up fast in a situation like that," Maureen said.

While Pearl Harbor survivors were admittedly unprepared for the attack, Harold Bruschwein said the attack was "not due to them not doing their jobs."

Bruschwein was in an Army antisabotage battalion at the time of the Japanese attack. Americans had been expecting the Japanese to attack the Philippines, and for 11 days before the attack on Pearl Harbor his battalion had patrolled Honolulu and other places to prevent land sabotage and terrorism.

Bruschwein, of Wahpeton, is the state chairman of the Pearl Harbor Survivors Association, which has the motto "Remember Pearl Harbor—Keep America Alert."

Those receiving medals Tuesday have furnished proof that they were at Pearl Harbor. Others can receive medals later after proper documentation is furnished.

Medal recipients are Peter Muth, Dickinson; John Pauek, Fargo; Russell Arhart, Fargo; Bridge; Bruschwein; Charles Christie, Velva; Alfred Dobler, Venturia; John Emery, Fargo; Eugene Finz, Mandan; Milton Gittel, Bismarck; Floyd Graff, Stanley; Clement Lonski, Jamestown; Donald Marman, Beach; John M. Martin, Bismarck; Steven Mozinski, Minto; Gordon Nelson, Fargo; Arthur Neuenschwander, Minot; Arthur Paschke, Grand Forks; George Paul, Mandan; E.J. Penn, Grand Forks; Harold Rivinius, Bismarck; Marcel Saint, McHenry; Everett Severinson, Grand Forks; Robert Shapland, Hettinger; Jacob Suko, Jamestown; and Albert Vennes, Willston.•

THE OUTSTANDING SERVICE OF LISA MOORE

• Mr. MURKOWSKI. Mr. President, when the motion to adjourn is agreed to, and the bells ring to mark the closing of the first session of the 102d Congress, they will signal more than the end of a legislative year. These bells will signal a transition in the life of a person who, for over 7 years, has served America's veterans, Alaska's citizens, and this Senator with distinction.

Mr. President, Lisa Moore began her work in Washington in 1984 when she served as an intern for the Committee on Veterans' Affairs, then chaired by the Senator from Wyoming. At the end of the summer it was evident that her work was outstanding and Lisa was hired full-time with the committee as a research assistant. A few short months later, this Senator had the honor of succeeding my good friend from Wyoming as the chairman of the committee and I retained Lisa as a valued member of my team on the committee staff.

Mr. President, the Committee on Veterans' Affairs has been entrusted by this body, and by the American people, with responsibility for questions of extraordinary importance and sensitivity. For over 6 years, first as chairman and then as ranking member, when those questions were questions of veterans' health or health care I turned to Lisa Moore for research, analysis, and counsel. For more than 6 years Lisa provided these services with the perception, sensitivity, and excellence called for by the significance of the issues.

Earlier this year, when I stepped down as ranking member of the committee, I was fortunate to have Lisa join my personal staff. With this move, Lisa's portfolio was expanded from veterans' issues to all issues relating to health care. Here again, Lisa served with distinction.

Mr. President, this past August I had an opportunity to travel with Lisa to

many communities in Alaska to discuss issues with Alaska's veterans and health care providers. The issues were complex and the hours were long, but Lisa's energy was unwavering. Alaskans were well served by the expertise and experience she brought with her.

Mr. President, Lisa Moore is leaving the Senate to begin her own family. For the past 7 years Lisa has been a valued member of the "family" that has worked on the Veterans Affairs Committee. This Senator would like to express his thanks for 7 years of dedication, sound advice, and friendship. We all wish Lisa and her family the best.•

COMMEMORATING UNIVERSITY OF OREGON ASIAN STUDIES PROGRAM

• Mr. HATFIELD. Mr. President, I rise today to commemorate the 50th anniversary of the Asian Studies Program at the University of Oregon. In 1941 the University of Oregon became one of the first institutions in the Nation to establish an interdisciplinary Asian studies program. Long before anyone coined the term "Pacific Century," the University of Oregon knew that the future would be shared with Asia.

The first Asian studies program grew out of faculty concern that friends and colleagues elsewhere failed to notice Japan's growing economic, political, and military power. There already were modest contacts even earlier than 1941 that helped to establish ties between Oregon and the Asian region. By 1925, relations between Oregon and Japan had grown such that Meiji University defeated Oregon, 11 to 6, in a friendly game of baseball play in Tokyo. In 1927 and again 1931, the University of Oregon's Pacific Basin Good-Will Team made a 35,000-mile speaking and debating tour of the countries of the Pacific. And in the 1930's the University of Oregon sent student representatives to several meetings of the Japanese-American Good-Will Conference, held alternatively on the west coast of the United States and in Tokyo.

Mr. President, much has changed in the Asia-Pacific region since the inception of the Asian Studies Program at the University of Oregon. Japan has come from being one of the United States most bitter adversaries to one of our largest trading partners and valued allies.

In my home State of Oregon, Japanese companies have invested heavily, mostly into the high technology industries. These companies have positive impacts in Oregon communities, employing several thousand workers. I believe that it is the people of Oregon—the students and faculty at the University of Oregon—and their devotion and effort to understand others, who have truly brought the "Pacific Century" to Oregon.

As the complexity and nature of the relationship between the United States and the entire Asian region have changed over the past 50 years, so has the Asian Studies Program at the University of Oregon. Today, the Center of Asian and Pacific Studies at the University of Oregon, of which the Asian Studies Program is a part, focuses the diverse, interdisciplinary interests of some 70 faculty members, on China, Japan, Burma, and Korea, among others. By broadening the student perspective, to not limit the students to just a Western perspective on the Asian region, the University of Oregon offers firsthand experience of Asia through study abroad programs for students in 11 Asian nations. In addition, some 770 foreign students from the Asian region, compromising nearly 59 percent of the foreign student body, come to the University of Oregon every year.

The Oregon Asian studies prepare students to work with the many complex business, cultural, and political issues surrounding the Asia-Pacific region. The work of the students and faculty at the University of Oregon will help us all as we try to understand an increasingly global economy and environment.•

ECONOMIC CONVERSION CHALLENGE

• Mr. SIMON. Mr. President, a longtime friend of mine, Henry Bieniecki, sent me an article from Aerospace America titled "The Challenge of Economic Conversion" by Eric Lerner, as well as an editorial from the same journal written by Elaine J. Camhi titled "Peace Should Not Mean Hard Times."

I am asking that both be printed in the RECORD.

On the fiscal year 1991 bill authorizing funding for the Arms Control And Disarmament Agency, I introduced an amendment to ask that Agency to study the question of economic conversion.

The response that we got was not an in-depth study, but it did suggest that the fears of much of industrial America about the problems of conversion tend to be exaggerated.

However, particularly in a time of economic recession, that adjustment may not be as easy as has been suggested by the ACDA study.

There is no question that we have to shift to civilian investment and production, and in the long run, our economy will benefit by that. We will raise the standard of living of our people.

If we can produce cars and refrigerators instead of tanks and bombers, that helps our standard of living more.

And if we put the research money into civilian improvements and into things like medical research, we will ultimately benefit our population.

But the fears and concerns in an industry like the aerospace industry are very real and understandable.

And the paucity of investment in civilian industry compounds our problem. That problem is obviously severely aggravated by our deficit which causes our long-term interest rates to be much higher than they should be.

The article and editorial should be matters of concern to all of us, not just those involved in the aerospace industry.

The material follows:

THE CHALLENGE OF ECONOMIC CONVERSION

Profound crisis in the Soviet Union, the collapse of the Warsaw Pact, and the end of the Cold War have left the Pentagon with no enemies worthy of its titanic arsenal. Despite the brief respite provided by the conflict in the Persian Gulf, a huge budget deficit and even greater unmet domestic needs have made sharp cuts in the size of the armed forces inevitable.

But if the armed forces are to contract sharply, what becomes of the giant defense industry? It is extremely difficult to justify spending billions on new weapons when existing ones are being moth-balled or destroyed. Sooner or later defense production will have to fall, and far more sharply than the size of the remaining armed forces. What happens now to more than a million engineers, scientists, and skilled workers employed in defense industries and to the modern defense plant and its equipment? Will they lie idle, squandering the nation's most technically advanced productive resources? Or will these plants, engineers, and workers be redirected to the great tasks of modernizing U.S. industry and rebuilding America's neglected and crumbling cities?

The answer will determine to a large extent the prosperity of not only those now involved in the defense industry, but of the nation as a whole, for the resources involved in defense production are vast. Moreover, the debate over military-civilian conversion and the fate of the arms industry will, in the view of many observers, dominate much of American politics in the next few years. For the question of how to spend the "peace dividend" is tied up with the other dilemmas facing America's economy—the federal deficit, the banking crisis, the obsolescence of industry, and the decaying infrastructure.

Yet despite the importance of the conversion question, relatively little about the problem's dimensions and potential remedies has been reported outside highly specialized journals. This two-part report will highlight current debate on this issue and assess prospects for the future of the aerospace-defense industry.

If there is one thing certain about the defense industry it is its importance to the U.S. economy. Some have minimized its impact, pointing out that the Pentagon's expenditures amount to only 7% of the nation's $4 trillion gross national product. But that comparison is misleading. With over $300 billion in expenditures, the Dept. of Defense dwarfs any single industry in the U.S., even the auto industry, with its roughly $200 billion in sales.

Of the total defense budget, over $100 billion is allocated to procurement of goods and another $30 billion to research and development for new armaments. By this measure, which excludes the $170 billion spent on the operations of the armed forces, the defense industry is still two-thirds the size of the auto industry. By other measures, the defense industry is larger. Some 1.4 million people work in defense production, significantly more than the 1.2 million in auto-

motive production, and these are among the most highly skilled and educated in the workforce, including 300,000 scientists and engineers.

Another comparison may be made between arms production and the production of industrial capital goods. Armaments—whether aircraft, ships, missiles, or tanks—are the capital goods of defense, the machinery of war. The plants that produce them are broadly similar to those that produce complex machinery for industry, such as machine tools. Some $80 billion of the total $100 billion in defense production goes for armaments proper (excluding construction and procurement of non-arms goods such as uniforms). By comparison, in 1989 all of U.S. industry purchased some $90 billion worth of industrial machinery. So at present U.S. investment in military equipment nearly equals investment in civilian industry. Similarly, military R&D is nearly half that of the civilian economy.

Thus the defense industry remains a highly significant part of the American economy. Within that sector, aerospace is dominant. Of the $80 billion in arms expenditures last year, nearly $50 billion was for aircraft, missiles, and associated electronics. Of this, aircraft accounted for $24 billion, missiles for $20 billion.

Very little of this industry is invulnerable to the spending cuts likely to come in the wake of global political change. With the Soviet Union and U.S. agreeing to cut strategic nuclear forces by 30% or more, congressional support for additional production of MX missiles and B-2 bombers is evaporating. Congress has already canceled additional Trident submarines.

For conventional forces, the situation is similar. Soviet forces will soon have withdrawn from most or all of Eastern Europe, and the Warsaw Pact has dissolved. U.S. forces in Europe are being drawn down, and all three services are planning size reductions, with the Army having already announced plans for a 25% cut. Tank production is to halt no later than 1993 for the first time since WW II, and with the major force reductions, continued production of Bradley fighting vehicles and Blackhawk helicopters will be increasingly difficult to defend.

The Navy faces similar demands for cuts in its major programs, the Aegis destroyer and SSN-21 attack subs, as does the Air Force for its big ticket items, the F-16 (to end production in FY93) and the C-17 transport. Already F-14 and F-15 production is terminating, and so are new programs such as the Navy P-7A and others. With even former defense secretaries recommending cuts of 50% in the overall defense budget, capital expenditures for new arms are likely to drop far more in the next decade, perhaps by 75%.

Defense spending, 1990

	Billions
Operations	$171
Research and development	31
Construction	7
Non-durables	11
Durables	82
Aircraft	27
Airframes	17
Engines	6
Other	4
Missiles and space	14
Electronics	18
Ships	10
Tanks and armored vehicles	4
Weapons and ammunition	6
Other	3
Total	302

Source: Dept. of Defense.

Some layoffs have already occurred. Over the past two years defense employment has fallen by about 4%, or by 40,000 jobs. Hundreds of thousands more layoffs are likely to take place unless defense plants can be converted to other uses. McDonnell Douglas has announced layoffs of 17,000, nearly 15% of their workforce, for example. To some in the industry, prospects appear hopeless. General Dynamics, which runs the only two tank plants in the U.S., has already stated that it would close the plants rather than convert if defense production ceased. "What can you do with a tank factory?" General Dynamics vice president Michael Wynne asked in the New York Times interview.

Yet the U.S. has vast needs that defense production could help meet, say those who have studied conversion. For example, the nation's stock of housing has fallen far behind needs. The 2 million units of housing produced in the best of years is barely enough to keep up with new family formation, and a million more housing units deteriorate each year without replacement. The net result has been an accumulated deficit of nearly 15-17 million units of housing—and 2-3 million homeless. The housing gap will take over $150 billion to close. Underinvestment in the nation's roads, bridges, and water supply has generated another massive deficit estimated at $300 billion or more. Environmental cleanup of the atomic weapons industry itself is projected to cost over $175 billion and toxic waste cleanup more than $100 billion. More billions are needed to expand mass transit facilities.

There is certainly work to be done—but the nation lacks the industrial capacity to do it. Over the past 15 years, the nation's industrial base has become increasingly obsolescent, and in many industries has shrunk in absolute terms. "Steel capacity has dropped by a third, and the number of machine tools by more than a quarter, since 1973," points our Hofstra Univ.'s John E. Ullman, a member of the National Commission for Economic Conversion and Disarmament, a private conversion study group.

Engineering and scientific employment in defense aerospace

	Thousands
Electrical and electronics engineers	$99
Computer scientists	40
Mechanical engineers	38
Industrial engineers	21
Aeronautical, astronautical engineers	19
Chemical engineers	5
Metallurgical and materials engineers	3
Nuclear engineers	2
Other engineers	49
All engineers	276
Physicists	5
Mathematics	5

Source: Dept. of Defense.

Over the past five years, net investment in industrial equipment has been virtually zero—new equipment has merely replaced worn out machinery, according to the U.S. Bureau of Economic Analysis. This stagnation of U.S. industry has led to a steady decline in American standards of living, with family income falling 12% and real wages falling nearly 20% in the past two decades. This decline has occurred despite a huge increase in the trade deficit, which represents a net shift of material goods to the U.S. from the rest of the world.

To a large extent, this situation is a direct consequence of heavy investment in armaments in past decades, as Seymour Melman of Columbia Univ., a leading expert on conversion, emphasizes. "Money spent on armaments is money that's unavailable for investment in new industrial equipment, and it monopolizes the very resources that are needed to produce that equipment," he explains. (A second key factor is the heavy diversion of money into speculative acquisitions and leveraged buyouts. The $5 billion General Motors spent on acquiring defense contractor Hughes Aircraft, for example, was $5 billion that did not go to modernizing General Motors automobile factories.)

So there is work to be done in rebuilding American cities and factories. But can the current defense industry be converted to do the job? From a technical standpoint, the answer is clearly yes. There are three key components of the defense industry that have to be realigned to new tasks—the productive equipment (plant and machinery), the productive workforce, and the engineering and technical workforce.

The productive equipment is perhaps the easiest part to convert. As studies by Melman and others have documented, the basic equipment in the airframe and aircraft engine sectors of the defense industry, and in large parts of defense shipbuilding and tank reproduction as well, is essentially the same as that needed to produce advanced automated machinery for U.S. industry. The primary equipment is metalworking machinery of various sorts, especially metal cutting machine tools. The productive capacity of the defense aircraft industry alone is comparable to that of the entire metalworking machinery industry, and the equipment used is more modern and efficient. For example, 20% of all machine tools in the aircraft industry are numerically controlled, compared with only 10% in the metalworking machinery industry, according to a recent survey by *American Machinist* magazine.

Investment in manufacturing, 1989

	Billions
Equipment purchase	$63
Structure purchase	16
Total investment	79
Depreciation	80
Net investment	−1
Total manufacturing equipment stock	560
Defense capital goods production	82

Source: U.S. Bureau of Economic Analysis.

While much of the aircraft industry equipment is ideally suited for machinery production, the equally large electronics defense industries are suited to the production of automation equipment used to direct such machinery. Electronics plants are extremely similar to one another, whether the chips involved go to building missiles or industrial robots; only the design and programming of the circuitry change. Indeed, some small defense electronics firms have already made the leap to commercial products. Kavilco, a Moorpack, Calif., contractors, switched from complete dependence on high-tech sensors for military aircraft and missiles to a range of electronic systems for the automotive, air conditioning, and refrigeration industries.

Most of the productive workforce, which will be using the same machines and working in the same plants, is similarly flexible. "Standards and tolerances are, of course, different in civilian work," comments Carl Schwartz, a Boeing inspector and activist with the International Association of Machinists. "But we've found that when people shift to civilian work they need only several weeks of retraining. Basically you just change the number punched into the machine."

The economic impact of any large-scale conversion to the production of metalwork-

ing and other industrial machinery could be profound. Studies of factory-built housing have indicated that the investment of roughly $15 billion a year in the manufacture of highly automated equipment for housing production could more than double the nation's capacity for housing construction and eliminate the housing deficit in a decade. Over a five-year period, a $10-billion annual level of investment in the metalworking machinery industry could more than double capacity. In less than a decade, the overall production level of industrial equipment could double as well. This would mean an annual increase in industrial capacity approaching 10% instead of today's near-zero rate, with investment barely making up for depreciation and obsolescence.

MACHINE TOOLS AND MANUFACTURING CAPACITY

Industry	Metal cutting machine tools	Total capital equipment (billions)	Machinery production capacity (billions/year)
Metalworking machinery	221,000	$16	$30
General industrial machinery	154,000	16	36
Military aircraft	82,000		
Shipbuilding	28,000		30
Tanks	14,000		

Not only would such a conversion plan modernize U.S. industry and preserve the million and a half jobs currently in the defense sector, but the expansion of industrial capacity would increase the number of high-paying industrial jobs by over a million a year, rapidly absorbing long-term unemployment created by the past decade's contraction of industry.

To be sure, not all productive equipment is sufficiently generalized for easy conversion. Much of the equipment in the missile and space sector is so specialized that it would be difficult to redirect outside the civilian space effort. A small part of the airframe industrial equipment is similarly specialized, and it might be used for tasks such as production of high-speed magnetic levitation trains or similar vehicles. But for the most part, the equipment poses no real technical problems.

For the engineering and technical staff the situation is more complex. "The industrail culture in the civilian sector and in defense are utterly different," Melman emphasizes, and others concur. Extensive retraining would be needed to reorient many engineers toward the cost requirements of commercial products. "The problem is that many engineers in the defense industry are assigned to narrow, fractional jobs that limit their flexibility," comments David Levinger, a Boeing flight test engineer who has been active in groups planning for conversions. "A lot of them aren't sure that they could relearn new jobs, mainly because they have been allowed so little initiative in their existing work." However, he believes that if engineers were retrained to work in teams that tackle whole design problems rather than isolated in fractional tasks, "then they could work on anything."

Given adequate retraining in the work methods needed in the civilian realm, most defense engineers have backgrounds that could be used in designing products as dissimilar from aircraft as industrial machinery. Only 10% of aerospace engineers are propulsion or aeronautical engineees, whose specialities would be harder to use outside the aerospace sector. Most are mechanical, electronics, and industrial engineers who will not be so closely tied to the existing products. For those engaged in defense R&D, there are agian large areas in the civilian economy that require intense high-technology efforts. Problems such as the development of fusion power, the efficient destruction of pollutnats, or the development of an ultra-high-speed magnetic levitation rail network provide technical challenges as great as any in defense. In fact, for some scientists and engineers, conversion would mean returning to previous areas of work.

Conversion thus appears to be technically possible—the current defense industry could design and produce advanced industrial machinery needed to solve pressing problems such as the housing shortage and the decay of the infrastructure and environment. But is conversion possible economically and politically? It is these more complex issues that we examine in the second part of this report.

PEACE SHOULD NOT MEAN HARD TIMES

The world appears to be lurching its way, in fits and starts, toward peace. For all intents and purposes the Cold War is over, and our former adversaries are now engrossed in their own internal problems. This is certainly a welcome turn of events, but as the global picture changes, new domestic problems must be addressed.

In a world that is redefining itself almost daily, those who cannot change with the times may be swept away. So it may be with aerospace companies that are primarily or solely defense driven. Certainly the U.S. will always need to be prepared for conflict. But the arms race of the past four decades is essentially over, and economic survival in the 1990's will depend upon innovation and education. For defense industries, the approach should be twofold: identifying new applications and markets for their resources and abilities and then pursuing them.

This country was built on imagination and innovation. The creative minds that revolutionized the conduct of military campaigns can surely find new roles to play. As innovative as this country may be, it is starting to fray around the edges. Taking the energy and creative spark that produced the most technologically advanced military machinery in history and redirecting it toward the reconstruction of a sometimes crumbling infrastructure is just one potential opportunity.

Identifying areas of opportunity may only require close examination of our everyday surroundings. Better and faster public transportation and sturdier bridges and highways come to mind almost immediately as just a few of the country's needs that could be addressed by the right combination of skill and ingenuity. Reconfiguring a plant or facility to branch off in a new direction may be difficult, but it is not an insurmountable task.

Just as plants and machinery will need to be retooled for new applications, so our most valuable natural resource—the work force—may need re-education. Here, enlightened self-interest might stimulate the federal government to help fund this retraining. Surely it is less expensive to subsidize retraining programs than it is to support longer and longer term unemployment insurance payouts and growing welfare rolls. Workers who are not working spend less, creating problems for other, non-defense industries that deal in goods and services. And workers who are not working do not pay taxes, thereby increasing the federal deficit.

The U.S. has always been at its best when faced with a challenge. Finding a solid economic ground in these times of flux may be the most difficult task the country has faced in a long time. But we can meet the challenge. Peace can bring prosperity.

ELAINE J. CAMHI,
Editor.●

DOWNTOWN MEMPHIS OPTIMIST CLUB

● Mr. SASSER. Mr. President, I rise today to commend the Downtown Memphis Optimist Club for sponsoring Project 1991—Liberty Appreciation Week. In observance of the bicentennial of the Bill of Rights, the club has planned activities to bring together the Memphis community during the week of December 15–21, 1991, in celebration of the rights and privileges guaranteed all Americans by the Bill of Rights.

The Downtown Memphis Optimist Club recognizes as invaluable the rights enumerated in the Bill of Rights and hopes to convey their importance to the citizens of Memphis. The liberties that were fought for by the original 13 States are to be held dear by all the Nation's people. In this spirit, the Project 1991 logo features an eagle as a symbol of the eternal vigilance that accompanies liberty. While the eagle offers an olive branch of peace and friendship, he also carries weapons to defend the liberties should his peace offer be refused.

The Downtown Memphis Optimist Club was founded in 1940 and thrives today as a group of 20 successful businessmen and women from the Memphis community. The organization improved the quality of life of the people of Memphis through its commitment to youth and its financial support for charitable organizations providing needed services. The club focuses its efforts on the development of youth in the community by sponsoring a little league footfall team as well as adopting a local elementary school where they provide antidrug programming and career counseling.

I extend my best wishes to the Downtown Memphis Optimist Club in their celebration of Liberty Appreciation Week. I am glad to recognize this distinguished chapter of the Optimist Club for its contributions to Memphis, TN, Nation. I wish them continued success and thank them for the positive impact they have made on the State of Tennessee and its people.●

CONSTRUCTION OF FEDERAL COURT FACILITIES

● Mr. BURDICK. Mr. President, I must make special note of Senator MOYNIHAN'S proposal, which I have cosponsored, to reform the process whereby the Federal judiciary receives the approval of the Congress for the construction of Federal court facilities. As the Federal judicial system confronts an unprecedented case load, and as the need to expand the number of Federal courts rises with it, it is important for

Congress to have a process in place which will allow for a review of the long-term building needs of the courts; expedite the review of specific proposals for court construction; and reestablish the separation of powers between the judiciary and the executive branches of our Government with regard to the construction of these facilities.

I would hope, Mr. President, that the Administrative Office of the Courts, the General Services Administration, and other interested parties would take the time in the coming weeks to review this particular piece of legislation. I believe that Senator MOYNIHAN has crafted a workable proposal, and it is my sincere wish to act on this measure as soon as possible next year.●

FLORIDA VETERANS DENIED FAIR SHARE OF BENEFITS

Mr. GRAHAM. Mr. President, an editorial in the November 23, 1991, St. Petersburg Times details the limitations on access to health care for Florida veterans. The theme is one which I have brought before the Senate on numerous occasions—veterans should not be denied health care simply based on where they live.

The problem, Mr. President, is that many of the veterans' health care facilities were built in geographical locations where there is no longer a large concentration of veterans. But with limited budgets, the VA is unable to relocate or build new facilities in the areas where veterans are moving—South.

Although a new hospital is being constructed in West Palm Beach and another slated for the east central Florida area, veterans in Florida will, at least in the short run, continue to wait longer for limited health care resources than their counterparts in other parts of the country.

The Commission on the Future Structure of Veterans Health Care reported this month that there is a mismatch between the location of VA facilities and veterans' residences and that this maldistribution will worsen by 2010 if adjustments are not made.

The Commission stated, "Our guiding principle for planning is that eligible veterans' health care needs and locations of veteran population concentrations should become the major factors in how VA plans the size, type, and geographic distribution of health care services."

Mr. President, it is my intention to ensure that Congress and the VA heed these words of the Commission and begin appropriating funds for veterans' health care to those parts of the country where the veterans live, and not just where powerful Members of Congress live.

I ask that the text of the St. Petersburg Times' editorial be printed in the RECORD.

The editorial follows:

FLORIDA VETERANS' UNFAIR SHARE

Veterans' hospitals are federal facilities, but no federal law mandates that veterans be offered equal care in every state. In Florida, for instance, there are roughly two beds for every 1,000 military veterans eligible for medical care. Nationwide, the ratio is about three beds for 1,000 veterans. Only five states have worse patient/bed ratios than Florida: Colorado, Idaho, Oklahoma, Nevada and New Hampshire. The District of Columbia has the best, with more than 10 beds per 1,000. Among the states with large concentrations of veterans, Florida has a clear disadvantage.

Veterans who can claim service-related disabilities or squeeze into a handful of other narrow categories won't have a problem in Florida. Others, however, may be lopped from the bottom rungs of the government's priority ladder. Eligible for treatment in states with empty hospital beds, they may find themselves ineligible in Florida.

"All the rest are 'may treat' as available," explained John Vogel, director of the Veterans Administration (VA) medical center at Bay Pines. "Essentially, there is no 'may treat' availability. That's just the reality of things. There is no excess capacity here."

VA hospitals don't turn emergency cases away; the problem is much more subtle. Of the 170 unscheduled patients who turned up at Bay Pines on Monday, for example, some were treated and some were referred elsewhere. "There is a priority for delivering care, and every veteran in the U.S. is not going to get it," Vogel said.

The federal government spends about $12-billion annually on veterans' medical care; some $546.6-million goes to Florida. State experts say that Florida veterans are shortchanged by about $200-million in care each year, money that is made up by shrinking the patient pool. "We can tell how many patients were seen," one expert said, "but we can't tell how many weren't seen."

"The VA has, I believe, an unparalleled ability to manipulate its work load," said Michael Hahn, legislative affairs' director for the Florida Department of Veterans Affairs. "There are terms such as 'constrained or 'restricted' demand. A veteran population can be told 'no' frequently enough that they stop asking. In Florida . . . people have been told no, frequently."

If VA dollars were allocated according to the number of veterans in an area, Florida's share would be much more generous. If the percentage of elderly and disabled wartime era veterans was also brought to the equation, the portion would be larger still. Add the fact that veterans are continuing to migrate to Florida at a rapid rate, and support for medical services in the state might come up to par.

Instead, the federal government hands out money according to a formula that reflects the number of treatment facilities available. Florida has five VA medical centers, in St. Petersburg, Tampa, Gainesville, Lake City and Miami.

A new facility is under construction in the West Palm Beach area, though, and another is planned for the state's east central region. Each new medical complex will include a nursing home, acknowledging the burgeoning needs of veterans in the oldest category.

The real problem with VA allocations is not demographic naivete, but congressional unwillingness to treat the program as an even-handed federal entitlement. Michael Hahn, fighting for Florida's fair share, doesn't hesitate to use the old-fashioned term, "pork barrel." When elected officials stop treating VA facilities as local fiefdoms to be defended, veterans in every state will have a chance to claim the benefits they need and deserve.●

WINNING THE PEACE DIVIDEND: SAVINGS AND SECURITY FOR THE 1990's

● Mr. MCCAIN. Mr. President, the American people deserve a peace dividend; they have earned it. For more than half a century they have sacrificed in the cause of democracy and to deter war. The end of the Warsaw Pact and the ongoing collapse of the Soviet Union make such a dividend possible, and the time has come to reshape American defense spending and American strategy.

The Bush administration deserves credit for the fact that we have already received a major peace dividend over the last 6 years. Real defense spending has dropped each year. The net result is a 24-percent cut in real defense spending between fiscal year 1985 and fiscal year 1992, and that our defense budget has dropped from $350 to $278 billion in constant fiscal year 1992 dollars. Its current plans call for annual cuts of 3 percent through fiscal year 1996.

These plans, however, were formulated back in late 1990, and before the failure of the Soviet coup and the complete breakup of the Warsaw Pact. It is clear that we can and must go further. The American taxpayer has earned relief, and our highest single priority in government is to reduce our budget deficit and free the economy from the shackles of Federal spending.

Cutting defense can only provide part of the funds needed for deficit reduction. Although the American economy has grown 150 percent since 1962—a high point in the cold war—real defense spending has grown only 13 percent, while domestic discretionary spending has grown 187 percent and mandatory Federal spending or "entitlements" have grown 448 percent. Nevertheless, increased cuts in real defense spending might still cut the currently projected Federal deficit in half by fiscal year 1997, and this would have a major impact in raising real personnel income, increasing jobs, and stimulating economic growth.

I have examined this situation in depth, and have costed the alternatives with the aid of the Congressional Budget Office and the Defense budget project. I have prepared a detailed analysis of our strategic requirements, and the options for a peace dividend, an analysis that I respectfully request be placed in the Record immediately following my remarks.

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

(See Exhibit 1.)

Mr. MCCAIN. Mr. President, as a result, I feel that such cuts can reach

levels as high as an average of 6 percent per year during the next 5 years. This would cut real defense spending by another third by fiscal year 1997, and cut annual real defense spending by a total of 54 percent of discretionary spending from the peak levels under the Reagan buildup.

Such a shift in our forces would save some $235 billion compared to continuing to spend at today's level of defense spending. More important, it would reduce defense spending to about 3 percent of the GNP, and 15 to 16 percent of the Federal budget, levels that could be sustained indefinitely without a major burden on the American taxpayer.

Equally important, a 6-percent annual cut would be slow enough to allow us to react to any unanticipated changes in the Soviet Union or Eastern Europe. It would allow us to cut our all volunteer forces without creating massive unemployment, or treating our men and women in uniform unfairly. It would allow our defense industrial base to adapt, it would minimize the impact on communities with defense bases and industries, and it would allow our allies to adapt to the changes in our posture.

Major additional cuts in defense spending are not easy to accomplish. Our current force plans already call for reducing our combat forces by an average of 25 percent by fiscal year 1997, for cutting active and reserve military manpower by more than 500,000, and defense civilians by more than 200,000. This requires cuts of 33 percent in our Army divisions, 38 percent of our tactical air wings, and 100 ships in our Navy, a cut that will produce a 451-ship fleet where our force goal was once 600.

I believe, however, that additional spending reductions can be achieved through a combination of three major types of cuts. First, by terminating major weapons systems that are vestiges of the cold war. Second, by aggressively moving forward with President Bush's new nuclear arms control initiatives to reduce our strategic forces from roughly 10,000 warheads to levels of 6,000 to 3,000. Third, by recognizing the fact we must convert from our present Europe-oriented cold war strategy to a power projection strategy designed to deal with the emerging risks in Asia and the developing world.

The weapons system terminations I recommend include the B-2, the small ICBM, and the SSN-21. The total cost of these three programs is in excess of $100 billion. At the same time, we should slow down high technology programs whose main rationale was an evolving Warsaw Pact threat that no longer exists. These include the U.S. Army Armored System Modernization Program, the advanced technology fighter, and the high-technology/high-cost mix of escorts for our carrier battle groups. This could save up to $25 billion more.

The cuts in strategic forces I recommend would build on cancellation of the B-2 and SICBM to sharply reduce the number of Minutemen, eliminate the Peacekeeper, cut the bomber force, and shift the remaining B-52's to the conventional role, down-load and detube the SSBN force while buying fewer D-5 missiles, and make further reductions in our theater nuclear forces. These cuts would depend on matching cuts by the Soviet Union, but could save $6 to $12 billion a year.

The key to such an aggressive approach to nuclear arms control is, however, to go forward with strategic defenses. The plan advanced by the Senate Armed Services Committee would provide a means for the United States and Soviet Union to eliminate the risk of accidental or unauthorized launch and any remaining incentives for a first strike. It would guard against proliferation, and ensure that our forces and our allies could protect against shorter range threats without relying on the threat of offensive escalation.

The most critical aspect of my proposal, however, is to shift our strategy and force posture to focus on power projection. It is time that Europe assumed the responsibility for the defense of Europe. However, our current force plan would still deploy 150,000 men in Europe in fiscal year 1997. More importantly, it would deploy nearly half of the 2.5 million people planned to be in our force structure in the "Atlantic package," a mission whose rationale is essentially to refight World War II in a prolonged conventional war in Europe.

I believe that no more than 50,000 to 100,000 men and women will be needed in Europe. We also believe that we can phase out large numbers of active and reserve units whose primary, if not only, contingency mission is to mobilize and move from the United States to Europe. This would allow cuts in active and reserve manning of up to 500,000. It would allow us to eliminate two to four active Army divisions, three to four Reserve and two cadre divisions, one to one and one-half Active Air Wings, five to seven Reserve Air Wings, and a substantial number of frigates and other ships, as well as make suitable cuts in headquarters and support and other associated activities.

The precise pace and scale of these cuts could be adjusted to the events in Europe and the rest of the world. Nevertheless, it is clear that this pool of resources is large enough to allow us to reach the goal of a 6 percent annual cut in defense spending, and to do so without cutting the power projection forces we really need.

We are not present at the end of history but rather at the creation of a new role for America and a new strategy. We must be prepared to deal with major threats like a North Korea that is likely to have nuclear weapons by the mid-1990's. We must remember that we have used our military forces more than 220 times in the developing world since World War II, to secure our interests and those of our allies, in contingencies that had little or nothing to do with the Soviet or Warsaw Pact threat.

We are dealing with a developing world where 14 countries have or are developing chemical weapons, 7 have biological warfare capabilities, 21 countries have tactical ballistic missiles, and at least 7 have or are developing nuclear weapons.

We are dealing with a developing world that has imported an average of 1,500 main battle tanks, 2,000 artillery weapons, 3,000 other armored vehicles, 100 combat ships, 350 supersonic combat aircraft, and 5,500 surface-to-air missiles a year.

In advocating a peace dividend, we must recognize that there is a floor beneath which we must not go. We must keep our Marine Corps and Army contingency forces strong and fully combat capable. We must give them the airlift and rapid sealift and other enhancements that are key lessons of the gulf war. We must keep our carrier forces strong enough to maintain a global presence and help deter local conflicts. We must preserve the rapidly deployable elements of our Air Force, and provide enhanced long range tactical strike capability.

Mr. President, we must recognize that we cannot take a peace dividend at random, or waste it by using it to subsidize further Federal spending. A major peace dividend will affect millions of lives in our active forces, reserves, and defense industry. It will affect our security and perceptions of American strength that are critical to world peace and arms control. The systematic changes in spending, strategy, and force structure we advocate will produce both the dividend and security we need. Any less structured approach is almost certain to undermine our security and to waste the funds taken away from our defense.

EXHIBIT 1

MATCHING A PEACE DIVIDEND WITH NATIONAL SECURITY—A NEW STRATEGY FOR THE 1990'S

(By Senator John McCain)

During the next few months, the U.S. will have to begin to make hard choices between a "peace dividend" and national security. The end of the Cold War means that the United States can and should take a peace dividend in the form of additional reductions in defense spending. This peace dividend should provide direct benefits to the Americans taxpayer in terms of deficit reduction and reduced taxes. It should be used to fund the economic growth and competitiveness that can only come from stimulating consumer demand and reducing the federal drain on the nation's credit.

At the same time, new threats are arising and the world remains an unstable and often threatening place. The U.S. must maintain a stable core of combat ready forces to protect its interests, its citizens, its allies, and its

friends. The U.S. must recognize the fact that it may be decades before it can create anything approaching a new world order. History is grimly unpredictable. The improvements in East-West relations may well be replaced with North-South and South-South conflicts. North Korea's efforts to develop nuclear weapons, the war between Iran and Iraq, and the tensions between India and Pakistan—both of which have nuclear and chemical weapons. In such circumstances, there is a level of military capability, and level of defense spending, we must maintain.

We also must recognize the fact that sudden cuts in defense spending have a drastic impact on our men and women in uniform, on communities throughout the United States, on our defense industrial base, and on our economy. A peace dividend must be taken with care, not only to protect our security, but to protect our fellow Americans and our recovery from the current recession.

CREATING THE RIGHT KIND OF PEACE DIVIDEND

There is no easy way to make such tradeoffs, and to choose between the size of the peace dividend we can take and national security. The end of the Cold War means, however, that it is now possible to provide a substantial peace dividend without depriving our nation of the power projection forces it must have in the 1990s, and without acting so precipitously that we will not be able to react if new threats arise.

To be specific, it should be possible to double the rate of cuts in real defense spending that the Bush Administration planned in early 1991, and to go from an average cut of 3 percent in annual defense spending during FY1991–FY1997 to a rate of 6 percent.

In practice, this would mean cutting defense spending during FY1993 from $278 billion in budget authority to $261 billion. Real defense spending in constant FY1992 dollars could than be cut to $245 billion in FY1994, $230 billion in FY1995, $216 billion in FY1996, and as little as $203 billion by FY1997.

There are many different ways that the resulting peace dividend can be calculated, but if we use the present level of $278 billion as our base, it would be $17 billion in FY1993, $33 billion in FY1994, $48 billion in FY1995, $62 billion in FY1996, and $75 billion by FY1997. This would total $235 billion over the next five years.

In all frankness, it is uncertain whether real defense spending should ever drop below $200 billion in constant FY1992 dollars unless we face severe new economic problems and the world remains an extraordinarily peaceful place. A properly phased approach to a peace dividend would, however, avoid any substantial risk in the initial years, and build towards a major saving in the out years.

This approach not only limits risk, it allows us to cut our forces and defense spending in ways which minimize the disruptive impact on the men and women in our armed forces, on communities with defense bases and facilities, and on our economy and defense industry.

Capping defense spending as a percent of Federal spending and the gross national product

The best way of obtaining a peace dividend is not to cut defense to the point we could be forced into crash efforts to rebuild our forces in an emergency—to repeat the "boom and bust" cycle in defense spending that has characterized so much of U.S. history. It is rather to establish a stable level of defense spending that provides the resources that are needed but that steadily reduces defense spending as a share of total federal spending and our gross national product as our economy expands.

To put this issue in perspective, defense spending as a percent of federal spending has already dropped from a post war high of 57%, and a high of 27% during the Reagan Administration, to around 20%. Such cuts would reduce defense spending to around 15–16% of the federal budget by FY1996–FY1997. Similarly, defense spending has dropped from a post war high of 11.9% of the GNP, and 6.3% during the Reagan Administration, to about 4.7% of the GNP today.

The proposed cuts would allow defense spending to drop to as low as 3% of the GNP by the mid to late 1990s. Capping defense at these levels of our federal budget and GNP would still provide around $215–$240 billion in constant FY1992 dollars, but would shrink the burden defense places on the American taxpayer to a small fraction of federal spending, and a far smaller fraction of our total economic activity. At the same time, it would allow us to deter or halt the kind of aggression or conflict that—without American military action—would force us into massive new expenditures and possibly into another major war.

Where the peace dividend would come from

There is no royal road to obtaining a peace dividend. We have already been cutting our real defense spending during each of the last six years, and it has already dropped by 20.5% since FY1986, or from $349.9 billion to $267.3 billion in constant FY1992 dollars. The Bush Administration has already planned on cuts during FY1991–FY1997 that would cut our forces by:

360,000 active duty men and women in uniform.

271,000 men and women in the reserves.

At least 180,000 defense civilians.

About 25% of out total force structure.

33% of our active Army divisions, a cut from 18 to 12.

40% of our Army divisions, a cut from 10 to 6.

100 ships or 18% of our total naval battle force, a drop from 545 to 451 ships.

38% of our tactical air wings, with a cut in active wings from 24 to 15, and from 12 to 11 reserve wings.

33% of our strategic bombers, a cut from 268 to 181.

It is not easy to add to these cuts without being disruptive or eliminating forces we are going to need in the future. Nevertheless, such cuts are possible through two mechanisms. The first is major program terminations. These allow limited near term savings. The second is by eliminating those forces and functions that are largely vestiges of the Cold War as soon as possible, and concentrating on preserving our key conventional power projection capabilities.

Major program terminations

We can terminate or reduce the following programs without taking unacceptable risks with our security:

Eliminate the Small ICBM program, and continuing to rely on upgrades of a single warhead silo deployed version of the Minuteman III. The only justification for a new SICBM is mobility and President Bush has canceled this aspect of the program. Relying on an upgrade of the Minuteman could save a total of up to $35 billion.

Terminate the B–2 program. This aircraft is a technical triumph, but it no longer can be justified for strategic nuclear missions and is far too expensive and mission limited for conventional missions. Canceling this program could save $20.9 billion to $25.9 billion over the next five years, and more than $35 billion over the life of the program if associated support, construction, and weapons costs are included.

Terminate the SSN–21 submarine. This submarine will cost some $2–$3 billion a ship at a time when there is virtually no chance of fighting a Battle of the Atlantic or sea control battle with the Soviet Union. Its practical mission advantages over the SSN–688 are uncertain, and increasingly so because of problems in developing the new weapons systems it is intended to use. Relying on existing SSN–688s, while we develop a new submarine some five or more years in the future could save $15 to $30 billion. Replacing the SSN–21 immediately with the SSN–688I and Centurion type submarine we need, would save $4.6–$5.0 billion over the next five years.

Reduce the construction of high cost escorts like the DDG–51 to take account of the reductions in the threat to our carrier battle groups. We continue to need carriers as a key element of our power projection capability. We do not need to give them the kind of protection needed for an extended naval war with a threat as sophisticated as the Soviet Navy. This could save up to $5 billion.

Slow the advanced technology fighter program, and delaying a production decision until it is clear that a threat exists that forces deployment of this aircraft, could save $4.6 billion. This step is particularly important because the current design is optimized around air combat missions at a time when the primary need of both the Air Force and Navy is for an advanced long range strike fighter, and funding effective production rates requires a high degree of commonality between the Air Force and Navy aircraft.

Reduce funding of the U.S. Army Armored System Modernization (ASM) program. This program was developed to meet the challenge of a Warsaw Pact that no longer exists, and the Gulf War indicates it was based on an exaggerated view of Soviet capabilities. Upgrading existing systems and designing a new family of equipment for power projection could save $2.3–$2.8 billion over the next five years and as much as $25 billion in total program costs.

It is important to note that while some of these cuts produce large cumulative savings, many involve short term termination costs. Further, no combination of major program terminations can—by itself—produce a sustained peace dividend of the scale necessary to double the Bush Administration's planned rate of a 3% annual cut in real defense spending.

Producing a near term peace dividend requires cuts in budget outlays as well as in budget authority. This is often difficult in terminating major procurements, and the end result is likely to be a significant gap between what can be achieved through program terminations and the required cut in expenditure that can only be made through rapid additional involuntary separations of manpower or by slashing readiness and sustainability. This would, almost inevitably, create hollow elements in at least part of our force structure.

Emphasizing cuts in nuclear forces and conventional force structure

In contrast, careful and properly planned changes in strategy and force structure provide a basis for making more substantial force cuts in ways that preserve military capability. This allows a peace dividend to be taken from those elements of our force structure which are least necessary, given the end of the Cold War, and provides suffi-

cient flexibility to fund selected improvements in those forces that remain necessary.

This can best be accomplished in two ways. First, by focusing on President Bush's nuclear arms reduction initiatives to examine ways in which we can use a combination of unilateral action and arms control to accelerate reductions in our nuclear forces and other selected elements of our force structure.

Cuts in nuclear forces: Savings through arms control

The termination of the B-2 and SICBM are tangible reflections of what we can do immediately. In addition, the measures that the President suggested to cut theater and strategic nuclear systems would save at least $5 billion in FY1992-1997 and $13 billion during FY1992-FY2010.

It should, however, be possible to build on President Bush's initiatives by moving aggressively to eliminate land-based MIRV'd ICBMs, freeze most aspects of offensive strategic and theater nuclear technology, and seek additional cuts in strategic warheads of at least 1,000-2,000 warheads. The U.S. should work aggressively towards reductions from the present total of roughly 10,000 warheads on each side to levels as low as 6,000 or 3,000.

Recent work by the Congressional Budget Office indicates that a reduction to 6,000 warheads could eventually save the U.S. up to $6 billion a year, and a reduction to 3,000 warheads could save up to $11.9 billion.

These cuts could be accomplished by downloading bombers and SLBMs/SSBNs, by using the B-1B and ACM to provide future bomber strike capabilities, by further reductions in ICBM numbers, and by seeking cuts in the SSN forces of the U.S. and Soviet Union to reduce any threat to the SSBN forces of either side. This would still allow both sides to maintain a significant retaliatory deterrent, to improve their warning and attack assessment systems, and to deter any attacks by third party nations.

A cut to a force of 6,000 warheads could be accomplished by cutting the number of remaining Minutemen to less than 300 missiles, rather than the 500 permitted under START. Bomber forces would be cut, the first eight Ohio-class SSBNs would not be fitted with D-5 missiles, and fewer D-5 missiles would be purchased. The remaining force of theater nuclear weapons would be cut from 7,000 to 4,000.

A cut to a force of 3,000 warheads would mean a force about one-third the level the U.S. seems likely to retain after START, and would reduce the 6,000 warheads countable under START by about 50%. It would require elimination of the M-X force, and downloading each SLBM remaining in service to three warheads—maintaining the currently programmed number of SSBNs to reduce vulnerability. Detubing would be a possible alternative. The bomber force would consist solely of the B-1 equipped with the ACM or a similar system. All B-52s would be shifted to conventional missions.

Such options will, however, involve risks that arms control alone cannot alleviate. This is why the U.S. must move forward, hopefully in cooperation with the Soviet Union and smaller nuclear powers like Britain, France, and China to do everything possible to reduce the threat of accidental launch, further proliferation, and a political faction or extremist group seizing control of a nuclear armed long-range ballistic missile.

Further, the U.S. cannot rely on offensive nuclear weapons alone under any foreseeable options to deter the risk of long range missile attacks on its allies, its forces, and its territory. As has already been stated, it must proceed with a limited strategic defense system of the kind proposed in the Senate Armed Services Committee plan.

This system must include a mix of modern space borne sensors, land based missile defenses, and space based intercept capabilities. It must involve an active effort to cooperate in strategic defense with the USSR to eliminate any vestigial risk of nuclear attack, "breakout" in offensive weapons, and efforts to seek a first strike advantage. It must also include the development of theater ballistic missile defenses for our friends and allies, and U.S. forces.

It is impossible to estimate the schedule and size of the resulting annual savings, since this would depend on the outcome of arms control negotiations with the USSR, but they should rapidly reach a level of at least $1 billion a year and could reach a level of $4 billion to $8 billion by the mid 1990s if both sides accepted the need to achieve major savings in military spending. This could total $16 billion over the next five years.

The importance of strategic defenses

Such an aggressive approach to arms control does, however, involve risks. No one can be certain of the unity and stability of the Soviet Union. At the same time, a reliance on conventional weapons presents risks in a proliferating world. For this reason, it is essential that the U.S. proceed with a limited strategic defense system that can guard against accidental or limited nuclear strikes, help protect it and its allies from the emerging nuclear forces in the developing world, and deter any future successor regime in the Soviet Union from attempting to gain nuclear superiority by rushing to rebuild or redeploy nuclear forces.

The proposal advanced by the Senate Armed Services Committee represents a prudent and vital approach to providing this capability. It would seek to deploy a limited land based system by FY 1996, continue to fund development of an economic space based system, and encourage active negotiations with the Soviet Union to renegotiate the ABM Treaty. It also allows for cooperative development of such a system with the USSR—which would be as important in preventing the long term risk of nuclear war as any currently foreseeable cut in nuclear offensive forces.

Cuts in conventional forces

Conventional forces make up at least 80% of the forces funded in the defense budget, and any peace dividend must come primarily through cuts in such forces. Many proposals for such cuts, achieve their savings through sweeping cuts in total unit numbers, manpower, or equipment. They do not attempt to focus on the need for major changes in our strategy to reflect the changing threat and the end of the Cold War.

The bulk of such cuts must be based on shifting from an East-West to a power projection strategy that focuses on the existing and emerging threats in other parts of the world. Such a power projection strategy allows us to reduce and/or eliminate forces whose primary mission has been the defense of Europe, particularly in a prolonged conventional war.

While no one can dismiss the possibility of a successful hard line coup in the Soviet Union, or further problems in Eastern Europe, this prospect now seems so unlikely that the force packages developed in August, 1990 have become obsolete. Europe is now capable of assuming primary responsibility for its own defense, and this allows major cuts in the U.S. forces deployed in Europe, reinforcement forces in the U.S., and naval forces whose primary mission is sea control and the battle of the Atlantic, rather than power projection.

As General Powell said in a recent press conference:

"* * * the force structure was to do something about a massive Red Army assault coming west through the Fulda Gap. There is no Fulda Gap, except to tourist traffic. It was once an armed camp. And the Red Army has gone hundreds of kilometers to the east and is in the process of doing that. So that general battlefield situation has changed fundamentally." (9/27/91)

It is time to make it clear to our allies that they must assume far more of the burden of ensuring their future security than in the past. The United States should not abandon its Allies or withdraw from Europe.

At the same time, the U.S. should not assume the responsibility for overseeing the coming massive changes in NATO strategy and force posture. Europe must assume responsibility for Europe's post-CFE defense posture. The FRG, Belgium, Denmark, France, the Netherlands, and United Kingdom must take the lead in restructuring NATO's defense posture in the Central Region.

Further, the U.S. forces that are left in Europe must not be seen as being assigned or earmarked on a full time basis to NATO and SACEUR. They must be treated as contingency forces that the U.S. can use for power projection as long as the Soviet threat remains as low as it is today. It must be made forcefully clear to our German allies that they must increase their burden sharing efforts in terms of the costs they pay for the U.S. forces that remain in Europe, and to our other allies that our forward deployed tactical air, carrier, and Marine Corps forces are power projection forces and we must have the freedom to deploy and sustain them for such missions.

The U.S. must cease responsibility for missions like airborne command and control, surface-to-air missile defenses, emergency resupply, and a host of other infrastructure and support missions it now assumes in NATO. These should be firmly shifted to Europe by FY1996, and the U.S. share of NATO infrastructure expenditures should be steadily cut to reflect both these changes in U.S. strategic alignments and the role the U.S. undertakes for the entire alliance in terms of out of area operations.

We need to make even more serious cuts in our reinforcement forces for Europe in the United States, and in the so-called "reconstitution mission". It is prudent to have power projection forces that can reinforce Central Europe, as well as meet contingency needs for forces that can fight in high and medium intensity combat in other parts of the world. It is another thing entirely to assume that the U.S. must dedicate forces to serve as, "the bedrock of reconstitution capability should we receive warning of a Soviet return to a posture of direct military confrontation with the West."

The current force plan, as presented by General Powell on September 25, 1991, shows that the Atlantic part of the U.S. force structure in FY1997 would total about 1.35 million men, out of a total active and reserve force structure of 2.5 million men. This makes the Atlantic Force package larger that the manpower in all other functions, including the Pacific (550,000 personnel), Contingency (380,000 personnel), and Strategic (100,000 personnel) force packages.

Roughly 60% of the personnel in the Atlantic force package would be reserves in the U.S., of which about 66% are in support functions. The remainder would be active, of which over 75% would be deployed in the United States. This means that close to half of our FY1997 force structure would be reinforcement whose primary mission would essentially consist of refighting World War II against a Warsaw Pact enemy that no longer exists.

Enough is enough. This is not 1945, 1960, or even 1985. If there is a reconstitution mission for the defense of Europe—and that is increasingly doubtful given the end of the Warsaw Pact as a military alliance and the continued pattern of change in the USSR—the cost must be born by our European allies.

We have now lived for two decades with the illusion, if not the lie, that the U.S. can credibly plan to fight an extended conventional war in Europe. First, our allies show no serious interest or capability for such a conflict. Second, we have never funded the strategic lift, sustainability, or readiness to make good on commitments like sustaining 10 divisions in Europe within 10 days, and have no prospect of doing so.

Limiting the reinforcement and reconstitution mission in the mid to late 1990s to those forces needed for global power projection would free substantial resources to fund the modernization, readiness, and forward deployed forces we really need. It would fund the strategic lift and sustainability the Army needs for quick reaction deployments and allow the Marine Corps to remain at its present strength.

The specific force reductions that should result from the end of the Cold War, and the changing situation in Europe are:

Cutting the total active forces the U.S. has in Europe in 1995–1997 to levels of 50,000 (100,000) men, with matching cuts in active army and air force combat strength, and the proper slice of support, logistic, and headquarters forces and bases. This option would be equivalent to a 50% to 66.6% cut in the present "forward presence" part of the Atlantic Forces package.

This would require eliminating 3–4 active brigades from the 1 Corps and 2 divisions currently planned for deployment in Europe in FY1995, and 1.5–2.5 tactical fighter wings, plus associated support, logistics, and headquarters personnel. The heavy equipment for two full divisions, and suitable stocks, could, however, remain prepositioned at least until the end of the 1990s.

Cutting the forces in the U.S. that are scheduled to become the Crisis Response part of the Atlantic Forces package to 50% or 33.3% of their current level. It would require a cut of at least 1–2 active Army divisions, 3–4 reserve Army divisions, 1–1½ active fighter wings, and 5–7 reserve fighter wings, and the proper slice of support, logistic, and headquarters forces and bases. This could save $12.8 to $18.5 billion over the next five years.

Eliminating the Reconstitution Forces portion of the Atlantic Forces package (2 Army cadre divisions, navy frigates, and other related forces.) by FY1995–FY1997. This could save at least $2.2 billion over the next five years.

Eliminating by 1995–1997, any other active and reserve forces whose primary contingency role is the reinforcement of Europe in a prolonged major conventional war.

Options for cutting the overall mix of submarines, ASW forces, and related R&D and procurement programs to reflect the lower Soviet threat, and reduced need for any battle of the Atlantic contingency to supply NATO.

Reducing the number of active carrier battle groups to 10–12 carrier battle groups. Cut the cost of maintaining the present number of active carrier battle groups by delaying aircraft modernization, cutting the number of escort ships to reflect a smaller Soviet threat, and/or delaying construction of a new carrier. This could save $2.2 billion to $26.1 billion over the next five years.

In addition, there are other forces that can be cut or eliminated:

Cut the active army units in Alaska from the force structure, and reduce active air strength to minimum levels.

Eliminate and consolidate the active and reserve components of non-combat Army, Air Force, and Navy support units in the U.S. by an additional 15%–30% beyond the currently programed level by 1995–1997. This could save $35.8 billion to $71.8 billion over the next five years.

This rapid shift away from a Europe-oriented to a power projection strategy will allow us to make further major adjustments that might be made in procurement and research and development expenditures. These adjustments include:

Shifting the mix of major procurements planned for the mid-1990s and early 2000s to rely on upgrades of current major weapons while limiting expenditure on such systems to R&D. This should be able to save at least $2 to $4 billion a year by FY1994.

Reduce funding of R&D, less SDI/TMDI, to 1976–1991 share. These savings would vary by year, but would approach $6 billion in FY1993, $4.6 billion in FY1994, and $1.0 billion in FY1995. This could total $7.1 billion over the next five years.

Mandating a shift away from reliance on MILSPEC and a military industrial base to reliance on civilian technology over the next 5–10 years in all those areas where a shift to a civilian industrial base is possible. These include areas like electronics, engines, and other high cost components.

The U.S. has the option of reducing its active military strength in South Korea to no more than one active Army brigade and one active tactical fighter wing by 1995–1997. Such an option may be possible if the political situation in North Korea should change radically by the mid-1990s. However, the U.S. already has plans to reduce its forces in the Pacific to levels where further major cuts do not seem prudent at this time.

This highlights the need to maintain forward deployed active forces in the areas where these play a powerful deterrent and stabilizing role, and can contain contingencies that might otherwise require far larger force deployments from the U.S.

Tailoring force cuts to provide the peace dividend goal

While it is tempting to propose price tags for each of the above savings, the exact amount of money that can be saved from such cuts in force structure must be tailored to the most desirable pace of reductions shaped by developments in the Soviet Union and Europe. In fact, one of the advantages of these cuts is that they provide a pool of actions where the exact cut in each area can be shaped to minimize the disruption in our capabilities, all volunteer force structure, and defense industrial base.

It is clear, however, that such cuts are drastic enough to meet the annual goals set forth for a six percent reduction in real defense spending. These goals require a saving of $17 billion in FY 1993, $33 billion in FY 1994, $48 billion in FY 1995, $62 billion in FY 1996, and $75 billion by FY 1997, or a total of $235 billion over the next five years. Just the reductions proposed for U.S. forces in Europe, in the reinforcement forces for Europe in the U.S., and in associated headquarters and support forces should be more than adequate to meet these levels of reduction.

SETTING A FLOOR FOR FORCE CUTS AND CUTS IN DEFENSE SPENDING: THE NEED FOR A POWER REDUCTION STRATEGY

At the same time, we must set limits to the cuts we make in defense spending. We must be prepared to shift away from many of the roles and missions of the Cold War era and to focus on our capabilities for power projection: The capabilities that are necessary to deal with regional aggressors, proliferation, and other challenges to world peace that emerge from the continued instability in the Third World. These power projection missions require strong, fully combat, ready, and rapidly deployable forces, and they will consume most of the defense resources we will have available in the 1990s.

As the Gulf War has just shown, wars in the Third World can require heavy armored forces and the most advanced air powers available. They can require all our naval and amphibious capability, and they can place a massive strain on our existing strategic lift and prepositioning capabilities. They also require advanced technology, and the kind of military professionalism and readiness that can win quick and decisive military victories. We cannot realistically hope to engage in prolonged conflicts that lead to high casualties and that do not produce a clear strategic result.

We had a decisive technical and military superiority in the Gulf War, but we must not take such superiority for granted or underestimate its importance. This superiority is essential to minimize American and allied casualties and bring a conflict to a quick and decisive end.

The growing threat in the Third World

It is easy to talk about a new world order, but it may be exceptionally difficult to create one. The end of the Cold War does not change the fact that there have been an average of 20–25 conflicts and civil wars raging in the Third World during every year since 1945. It does not change the fact that the U.S. had had to use military force more than 200 times since the end of World War II to protect its allies, its citizens, and its strategic interests in areas where no element of Soviet bloc forces was involved.

The Third World is not becoming a kinder and gentler place. Third World nations spend nearly 5% of their gross national product, and 20% of all government expenditures on military forces: A total of $175 to $200 billion a year. They take delivery on an average of over $40 billion worth of arms a year, including approximately 1,500 modern main battle tanks, 2,000 artillery weapons, 3,000 other armored fighting vehicles, over 100 combat ships, 350 supersonic jet combat aircraft, and 5,500 surface-to-air missiles.

As Iraq has shown, some such nations can become massive threats to the security of their region, and this threat is likely to grow:

At least fourteen developing countries now have offensive chemical weapons.

Seven developing countries have biological warfare capabilities.

Twenty-one countries now have tactical ballistic missiles. Eighteen developing nations are likely to possess long range tactical ballistic missiles by the year 2000, and up to fifteen countries may be able to manufacture them.

Nine developing countries seem likely to acquire imagery satellites by 2000.

Forty-seven developing countries have modern main battle tanks.

Fifty-eight countries have modern jet fighter aircraft.

103 countries have cruise missiles.

Seventy-one countries have anti-ship cruise missiles, and 46 countries have naval mines.

Over 30 developing countries have submarines.

We must have combat forces that can deal with any foreseeable combination of threats in the Third World, and these threats are not theoretical or ones that may appear in the future. If Iraq's offensive capabilities have been destroyed, those of North Korea remain, and North Korea has chemical and biological weapons and seems to be rapidly moving towards a nuclear capability.

Our forces also must have enough combat readiness, forward deployed capability, and strategic life to deter conflict wherever possible, and to rapidly contain and limit conflict when deterrence fails. Most conflicts in the Third World occur without significant strategic warning, and many take an unpredictable form. In virtually all cases, the level of escalation in such crises and conflicts is dependent on how quickly action is taken to control them.

The role of the U.S. in power projection

There have been an average of more than 25 ongoing civil and international conflicts in the developing world every year since the end of World War II. There are now more than 10 low level conflicts going on in the Middle East and the Gulf.

The U.S. cannot aspire to be the global policeman and intervene in every low level conflict. The fact remains, however, that the U.S. has global interests that can be affected by regional disputes whether it wishes it or not. The U.S. is also the only power capable of assuming a leadership role for the community of democratic nations to focus international efforts on a global basis toward a common goal.

These realities were demonstrated all too clearly during the Gulf War. The world community simply could not risk hostile control of Persian Gulf oil. Important as UN and allied action proved to be, the U.S. was the only nation with the naval power to take the lead in keeping the Gulf open.

We also need to recognize that our interests have changed fundamentally since the beginning of World War II. The U.S. economy is dependent on trade and the flow of high technology goods, and even more dependent on raw materials. The U.S. is critically dependent on imported energy, a dependence that seems certain to increase during the next few decades. The U.S., and U.S. citizens, are also far more involved in political and commercial activities throughout the world. Many are in states vulnerable to internal instability or outside threats, where the U.S. may be called upon to protect its interests with little or no warning.

The balance of power has also changed in ways that have nothing to do with the Soviet or Warsaw Pact threat. Before World War II, European powers defended Western interests, and often those of the U.S. While the U.S. emerged as a major maritime power between 1776 and 1941, it never had to act as the dominant power.

In the years since 1941, the U.S. has emerged as the dominant power securing the West's interests throughout the world and has become the only free world power that can secure the interests of all free world states. Decolonization began an irreversible process that has already stripped Europe's power projection capabilities to largely symbolic levels and is leading to a continuing decline in the forces that remain.

Even the term "Western interests" has become a strategic anachronism as the balance of economic power has shifted to favor Asia and as free nations have become at least partially dependent upon the U.S. in Latin America, the Middle East, the Gulf, and Asia. Japan and the NICS, however, have never developed power projection capabilities, and it is not in our interest for them to do so when they can make far more important contributions in the form of economic aid.

Future contingency requirements

No one has yet been able to predict the contingencies that have been most critical to our security. We became involved in two World Wars despite strong isolationist sentiment. We have been involved in several major, and numerous minor, military actions since the end of World War II that were not foreseen. By contrast, the long awaited Der Tag with the Soviet Union never came despite several promising opportunities. In short, the cumulative probability of having to deal with wild card scenarios has always proven greater than the probability of having to deal with the most frequently predicted case.

It is virtually certain that the future will involve fewer opportunities for confrontation with the Soviet Union or the Warsaw Pact, particularly in the Central Region. The fundamental issue dividing the U.S. and the Soviet Union has been the fate of Europe and the potential impact on the U.S. if Europe were to fall under Soviet domination. There does not appear to be any other issue that would compel the U.S. and Soviet Union to risk general war with each other as this issue fades into history. Regardless of the final form of "Glasnost", however, the world will remain a very troubled place.

As a result, our strategy, our forces, and the roles and missions of our forces must change to reflect both the decline in our real defense resources and the fact that most of the threats to our interests, and our friends and allies, outside of Europe remain and may even intensify.

Unfortunately, our dependence on energy imports is growing again and is projected to continue growing well into the next century with more than 35% of our petroleum products imported in the last year. We continue to be heavily dependent on imports for virtually all our critical minerals and most of our other raw materials.

Equally important, we are critically dependent on the smooth flow of world trade. The total volume of U.S. imports rose from $16.3 billion in 1960 to $42.6 billion in 1970, and $257 billion in 1980. U.S. imports have virtually doubled again since 1980, reaching $460 billion in 1988. Global trade in high technology has also more than doubled in the last five years. Trade in the five most critical technologies has risen from less that $90 billion in 1984 to more than $200 billion today.

The changes in the Soviet Union and Warsaw Pact threat have an important but limited impact in reducing the requirements for U.S. power projection forces. The U.S. still faces the risk of a significant conflict in Northeast Asia and in the Gulf. The U.S. has forces to meet such contingencies, but either one would require most of our power projection capability including forward deployed forces and prepositioned equipment.

Essential forces and force improvements for the 1990's

Given this strategic background, we can see the essential military capabilities we must preserve while seeking a peace dividend. They include:

Maintaining the U.S. Army capability to deploy contingency forces like the XVIIIth Corp to provide a mix of combat ready airborne and air assault capabilities for low intensity conflicts plus a rapidly deployable mix of mechanized and armored forces for medium and high intensity conflicts and sufficent reserve and National Guard forces to provide reinforcement in prolonged medium and high intensity conflicts.

Maintaining sufficient carrier task forces, rapid sealift, amphibious forces, and mine warfare capabilities for our power projection needs in the Atlantic, Pacific, Mediterranean, and Indian Ocean/Gulf.

Maintaining the three MEFs of the Marine Corps as an active forward deployed power projection forces with sufficient prepositioning, lift, and modernization to operate in both low and medium intensity conflict.

Maintaining sufficient conventional bomber, tactical air, and strategic airlift strength to deploy decisive amounts of air power in power projection missions for low, medium, and high intensity conflicts outside Europe.

It is important to note that some elements of these forces are currently underfunded. As a result, the U.S. must make the following investments in its power projection capabilities over the next ten years:

Give the Army's rapidly deployable combat forces the active combat and service support necessary to allow at least medium intensity combat without calling up reserve and National Guard units.

Provide the additional prepositioning and fast sea lift needed to provide suitable strategic mobility for the Marine Corps and the rapidly deployable Army forces requiring fast sealift.

Provide a suitable package of strategic airlift for the power projection of U.S. Army, Air Force, and Marine Corps forces for missions other than a major combat contingency in the central region of Europe.

Develop and deploy an advanced long range attack aircraft to compensate for the range, vulnerability, and mission limits of the F-16 and F-18, and provide suitable improvements in the theater air and tactical amphibious lift of the Marine Corps.

Bring the Marine Corps to three fully combat ready MEFs with the sustainability and equipment modernization necessary for medium intensity combat in the 1990s.

Correct the currently programmed obsolescence of the amphibious force.

These forces can be provided by combining the remaining forces in the Atlantic Force package with the forces in the other two packages of conventional forces presented in the Bush Administration force plans for fiscal year 1992-fiscal year 1996. These two packages include:

Pacific Forces whose primary mission is the defense of Northeast Asia and the Pacific Rim, including Southeast Asia. They seem to split the mission of covering the Indian Ocean, although this is unclear in the material issued to date.

Contingency Forces in the U.S. to provide global crisis and contingency response capability across the spectrum of conflict from counterinsurgency to major conventional conflict.

By the mid-1990s, the forces assigned to Pacific Forces are planned to include 1 Army

division and 1-2 Air Force fighter wings in South Korea; 1-2 Air Force fighter wings, 1 carrier battle group, and 1 Marine MAGTF in Japan; 1 light Army division in Hawaii and Alaska; and 5 carrier battle groups and support ships, and 1 Marine Expeditionary Brigade in the U.S. There will be roughly 30,000 military personnel in South Korea and 35,000 in Japan by the mid-1990s, a reduction from 45,183 in South Korea and 46,824 in Japan in 1990.

The forces assigned to Contingency Forces will include 4-5 Army Divisions, 7 Air Force fighter wings; Air Force Strategic Airlift, undefined remaining Navy and Marine Corps forces from the Atlantic and Pacific, the 8 SL-7 fast sealift ships, and the remainder of the Ready Reserve Fleet. The bulk of the Army forces in the Contingency Forces package will be drawn from the present XVIIIth Corps. They will include the 82nd Airborne and 101st Air Assault Division, and will probably include the 24th Mechanized Division and one to two other Army active divisions.

Preserving the power projection capabilities of the U.S. Army

If one looks at this pool of forces by service, an effective power projection strategy must be founded on a mix in which the U.S. Army provides the bulk of U.S. capability for sustained medium and high intensity combat and reinforcement, as well as Special Forces.

The most critical Army contingency forces now include the XVIIIth Airborne Corps with the 82nd Airborne Division (Ft. Bragg), the 101st Airborne Division (Ft. Campbell), the 7th Infantry Division (Ft. Lewis), the 24th Infantry Division Mechanized (Ft. Stewart), and the 10th Mountain Division (Ft. Drum)—and the three active divisions that are dedicated to the defense of the Pacific region and South Korea.

What is also needed, however, is a mix of 3-5 highly mobile heavy divisions in CONUS and Europe that can deploy within a few weeks to several months and provide the armor, artillery, and heavy weapons necessary for medium and high intensity combat anywhere in the world. These forces will need suitable training, equipment, sustainability, and strategic lift. They will have to be combat ready, although not necessarily at levels of 100% and be able to draw on reserves for combat and service support.

The elements of such a force are already present in the units the U.S. has developed for Europe. What is lacking is the fast sealift and maritime prepositioning and the detailed programming priorities necessary to convert these forces from NATO-oriented to power projection forces. Such changes should be accomplished over the FY1992-FY1996 period.

The role of seapower and the carrier battle group

The U.S. has already cut back to 14 carrier battle groups and two surface action groups centered around our two remaining battleships. It now plans to drop to 12 carrier battle groups and 13 carrier air wings, and eliminate all its surface action groups by 1991. The cuts suggested in this plan would entail further cuts to a force of 10-12 carrier battle groups with each of the remaining battle groups built around a smaller force of escorts.

The importance of the carrier is illustrated by its role in recent power projection missions. Throughout our history, and even during the height of the Cold War, the U.S. has primarily used military forces in the context of regional conflicts. We have used military force well over 200 times since the end of World War II. The numbers are not precise and some regional conflicts obviously derived from the central confrontation between the U.S. and the Soviet Union, however, it remains clear that seapower was used in over 80% of these incidents and carrier forces were needed in over half.

The figures are more precise for the period between 1945 and 1989. We have used our naval forces 187 times in the period between 1945 and November, 1989. We used our carriers in 125 of these 187 cases, 67% of the total.

While it is impossible to characterize our uses of sea power it terms of simple categories or patterns, the vast majority of our naval deployments provided the kind of rapid reaction capability necessary to keep a crisis from escalating. We used force to prevent war, to limit escalation; or to protect American citizens, friends, and allies. There have been, however, many cases where seapower played a critical combat role, including South Korea, Vietnam, Grenada, and the raid on Libya—just to name a few.

What is equally important in terms of our future strategic needs is that we relied primarily on the U.S. Navy and Marine Corps teams. We used amphibious ships in 101 of 187 cases, just over half the time. During 97% of the times we deployed Marine Corps forces we used the U.S. Navy as well. The U.S. Navy has also worked closely with the power projection elements of the U.S. Air Force and U.S. Army. U.S. Navy and U.S. Air Force units were involved in 54 of the 187 cases, or 29%. U.S. Army forces were involved in 34 cases, or 18%.

It is easy to forget that we have never funded the number of carrier task forces necessary to meet the Soviet and Warsaw Pact threat. During the last two decades, requirement study after requirement study has shown that the U.S. would need in excess of twenty carriers in the event of war between NATO and the Warsaw Pact. As a result, even "Peacetime" deployments to the Persian Gulf have forced us to extend carrier tours of duty well beyond the desired time in order to maintain an effective naval presence in other areas.

This sharply limits the "peace dividend" in the form of surplus carriers that we can eliminate because of the changes in the Soviet and Warsaw Pact threat. The potential loss of significant overseas bases—which will probably be increased by the decline of the Soviet Empire—may also make the future burden heavier yet.

We have further increased the burden on our carriers by making cuts in the size of our battleship forces in FY1991. The role of the battleship is badly misunderstood. We have stressed its ability to provide naval gunfire and there is no doubt that such capabilities are important and that the carrier must now assume the role of providing close air support as a substitute for naval gunfire.

We should, however, be willing to adjust the strength of our supporting surface fleet—and the rate of modernization of naval air power, nuclear attack submarines, and fleet weapons systems—to deal with a less sophisticated threat than the Soviet Navy.

The Bush Administration has already recognized this fact in plans that call for cuts in battle force ships from 545 to 451 ships. These plans, however, call for major reductions in amphibious capability from 59 active and 3 reserve ships to around 50 active ships and no reserve ships.

In contrast, the Navy places too much emphasis on preserving capability to fight a major action with the Soviet navy. While the number of major surface combatants is planned to drop from around 140 ships today to 134 ships by the mid-1990s, it will rise towards the end of the decade and reach nearly 150 ships.

The U.S. does not need the capability for a "forward strategy" that would attack the Soviet fleet in its bastions in the North Atlantic and Pacific. Such a strategy and force posture have become needlessly provocative and needlessly costly.

The U.S. can afford to unilaterally adjust its naval force posture and exercise activity to convince the Soviet Union that the primary mission of the U.S. Navy is power projection and sea control and not to directly threaten the Soviet homeland. At the same time, the U.S. can join with the USSR in strengthening existing agreements and confidence building measures that provide both nations with increased confidence that seapower will not be used to threaten each other's territory.

The end result would be smaller battle groups with a focus on modernization, rather than maintaining force strength. The 600 ship navy never had strategic justification and wasted precious U.S. power projection assets. By cutting fleet strength, and converting added ships to the naval reserves, the U.S. can provide the modern escorts, mine warfare ships, and other "coastal combat" capabilities needed to deal with increasingly sophisticated Third World threats and still cut costs.

The Navy can also help improve the carrier force by ensuring that the new F-18E/F program is re-examined to ensure that it will fully meet the need for a longer range and more attack capable multi-role fighter. At the same time, it is difficult to see what justification exists for a separate AX program when there is a clear need for a high degree of commonality with the Air Force for a high performance attack fighter.

The Air Force and Navy should be directed to restructure the ATF program to emphasize attack capabilities. The U.S. simply cannot afford two major aircraft programs at this level of sophistication for the late 1990s and early 2000s. If this entails major delays in the Navy's schedule for the A-X, it should be directed to remanufacture the F-14 to provide a suitable interim capability. The resulting program savings should allow the U.S. to modernize other naval aircraft, maintain the necessary mix of active and reserve air wings, and still cut defense expenditures.

Finally, the Navy now has 87 commissioned SSNs. It should be able to reduce this force to 80 SSNs by the end of the decade, even without any naval arms control agreements with the Soviet Union. These force reductions seem well judged, but the Navy's force improvement plans do not.

Maintaining the active strength of the U.S. Marine Corps

The United States Marine Corps is an elite force designed to provide quick reaction global power projection capabilities. It now has a strength of three active Marine Expeditionary Forces: These are land-air-amphibious task forces built around three divisions.

Two of these divisions are oriented towards the Pacific and Indian Ocean area: The First Division at Camp Pendelton and Twentynine Palms and the Third Division at Okinawa and Hawaii. The other division is oriented towards the Atlantic and Mediterranean Basin: The Second Division at Camp Lejune, North Carolina, and one in Okinawa. The key element of the Corps located outside the main division bases include a brigade in Virginia, a brigade and air group in Hawaii, air units in Arizona, and a wing in Japan.

Some reductions in Marine Corps manpower strength are possible by cutting smaller units, but the Bush Administration now plans cuts that are too large. The MEFs now have only two brigades and one air wing each. Some are units assigned a secondary training role. The U.S. cannot achieve meaningful economies by cutting fully ready power projection forces, particularly since they already have seaborne prepositioning and sustainment. If the U.S. should destroy this existing capability, it will almost certainly find that it will have to be recreated later at greater cost.

Further, the Marine Corps must be given all the contingency capabilities needed for power projection in medium intensity, as well as low intensity combat, and mission capabilities with added sustainability and combat capability that is less tied to amphibious operations. The present structure of the Corps has created a force that is too light for many of the power projection missions of the 1990s, and which is too tied to a traditional role in "over-the-beach" operations. The U.S. cannot afford to limit one of its most critical power projection capabilities in this manner.

The Marine Corps must have the strategic and theater lift it needs to be effective, and the artillery and tanks to sustain itself in medium and high intensity combat. In the case of strategic and tactical lift, this requires a comprehensive re-examination of current U.S. amphibious lift plans which will now severely weaken the Corps' contingency capabilities after the mid 1990s, and a firm decision regarding procurement of the V-22. It also requires the development of an integrated long term plan that ties together amphibious lift, tactical airlift, maritime prepositioning, and overall sustainability.

The Corps also needs enough firepower and maneuver capability to deal with the armored forces of the best equipped developing nations. Marine forces are now too lean to provide its forces with the modern tanks and self-propelled artillery that are vital to effective future operations.

Marine Corps divisions with clear contingency missions are far less well equipped than Army reserve heavy divisions, whose European contingency mission no longer has its past priority. During the Gulf War, this led to a situation where Marine Corps divisions had obsolete M-60A1 tanks, while reserve units that remained in the U.S. had M-1s. This situation needs to be fully reexamined. It may be possible to upgrade Marine Corps land forces by reprogramming procurement funds away from Army reserve units.

Similar problems exist in Marine Corps tactical aviation. The problems in modernizing U.S. Navy aircraft have led to a situation where no clear plan exists to fund the modernization of Marine Corps tactical aircraft. The AV-8B badly needs upgrading and modernization and a clear plan is needed for the overall modernization of Marine Corps fixed wing and rotary wing aircraft.

Finally, we must firmly accept the fact that the basic rationale for the Marine Corps is that its forces already exist, are fully funded and ready, and provide a vital strategic capability. The issue of whether the Marine Corps does or does not duplicate the Army in some capabilities is moot. Combining the forces, or "rationalizing" them in some other fashion would not save money or improve U.S. power projection capabilities, and would almost certainly leave a lasting legacy of problems in morale.

Preserving the power projection capabilities of the U.S. Air Force

The Air Force provides high technology strike power, air defense capabilities, and strategic lift that can rapidly deploy to any friendly base, rapidly changing the regional balance of power in most non-NATO contingencies. In combination with Navy and Marine Corps aviation, it forms the most effective single branch of our power projection capabilities in terms of the ability to react quickly to an unforeseen crisis, support allied and friendly forces, and confront hostile Third World states with capabilities they cannot defend against effectively or match in strike power.

The Bush Administration plans to cut the total number of Air Force tactical fighter wings from 36 to 26 wings, with active wings being cut from 24 to 16 wings. The suggested force cuts would add 2 to 4 active and 5 to 7 reserve wings to this total. The remaining force is a bare minimum to provide power projection capability while providing a prudent reserve for other contingencies. The U.S. must not risk cutting this strength further, or its mix of Navy and Marine Corps aviation.

There is a high risk, however, that such forces will be inadequate because the Air Force has not funded the F-15E or any other long range high capability strike fighter for the late 1990s or early 2000s. The present program calls for a moderate range and capability multi-role fighter and an extremely expensive fighter oriented for air defense may—like funding of the B-1—be an outdated expression of the past mission emphasis of the Air Force and the Cold War.

Emphasis should be given to developing an upgrade of the F-16 or F-15 to provide improved attack capability in a multi-role fighter, while reorienting the ATF program to emphasize long range and high performance attack capability.

If the U.S. Air Force slows the pace of other aircraft and weapons modernization, as has been suggested earlier, and makes the proper cuts in strategic forces, it should be able to fund the mix of active and reserve tactical air forces it will need for the 1990s. The Air Force should also have sufficient resources for its airlift and surveillance and reconnaissance missions.

The Air Force and Navy both need to reexamine their plans for air munitions. Both are now committed to a number of very advanced missile programs, and are canceling production of proven systems like the Phoenix and Maverick. It may well be able to sustain the munitions levels it needs for proper sustainability by continuing production of advanced versions of existing missiles, and slowing the procurement schedule for more advanced systems.

Changes in U.S. strategic lift

Operation Desert Shield and Operation Desert Storm were only possible because of U.S. strategic lift. During the period before the war started (through December 31, 1990), the U.S. was able to move more than 300,000 troops and 305,000 short tons of cargo by air, 220,000 ton of equipment and supplies and 190,000 barrels of fuel from its prepositioned ships and tankers, and 2.5 million short tons of cargo using sealift.

Current U.S. strategic lift plans are sized to provide two major capabilities. First, to deploy about five Army divisions, along with tactical fighter and naval forces, in about six weeks. Second, to augment the U.S. forces in Europe with about 4 Army divisions, 30 tactical fighter squadrons, 1 Marine Expeditionary brigade, and their associated support within 10 days, and to deploy the remaining forces in two to three months. In addition, the U.S. has nine Maritime Prepositioning Ships (MPS), 8 afloat prepositioned ships, and 2 prepositioned tankers.

The U.S. no longer needs all the lift required for the European augmentation mission. This is a vestige of the Cold War. The U.S. does, however, need sufficient lift to deploy heavy Army divisions for a high intensity conflict in the Third World, suitable lift for its tactical air forces, and the amphibious lift and prepositioning ships needed for the Marine Corps.

The U.S. now has an aging fleet of air transport aircraft, and one key aircraft—the C-141—may have to retire earlier than planned. This makes procurement of the C-17 a critical priority for power projection. The U.S. is also dependent on eight fast deployment ships, 23 other cargo ships, 41 tankers, and an aging Ready Reserve Fleet assigned to the Maritime Administration, which currently has very low operational readiness.

The U.S. must create a new affordable mix of strategic and tactical lift that ensures the C-17 will be procured on schedule, and that sufficient fast sea lift ships are available to rapidly move several Army divisions. It needs at least one more maritime prepositioning ship for the Marine Corps. It does not need to fund sealift for a major European war.

The Air Force may have suitable funding plans for the C-17 in the FY1992-FY1996 program—although much depends on the ability to avoid past problems in cost growth and program management. The Navy, however, is again "studying" the sealift problem, plans major cuts in the amphibious force, and force of ammunition, supply, repair, and salvage ships. It also has not funded the added maritime prepositioning needs of the Marines.

Secretary Garrett has stated that, "The lessons learned in Desert Shield and initial analyses conducted in the requirements study indicate that large, roll-on/roll-off ships in the speed range of 19 to 25 knots should be the general target of our acquisition program, and that, "we hope our analysis will be completed some time this summer to provide a firm requirement . . ."

This issue has been studied long enough. The FY1993 budget submission should have a clear request for funding and operating the additional fast sealift ships needed for power projection, it should fund at least one more MPS ship, and should fund an adequate level of amphibious forces and modernization. It should also examine buying maritime prepositioning for the Army and accelerating the draw down of Army prepositioned equipment in Europe. At the same time, the U.S. military cannot and should not subsidize the U.S. commercial fleet and ship building industry. The sealift we need should be procured in the most cost-effective manner possible.

Further, both sea and air lift requirements should be sized for power projection. Present requirements are sized for long, relatively intensive wars that begin with little or no warning. Major improvements in airlift are funded around a troubled program—the C-17—with sealift given lip service. Strategic lift capabilities are not adequately tied to theater lift, and lift requirements have not been regularly updated to deal with changes in contingency requirements.

The U.S. needs to eliminate reserve fleet ships and subsidies to merchant shipping geared to long wars in Europe. Clear decisions are also needed regarding the relative merits of a C-130 follow-on, the V-22, and heliborne lift. This will not achieve savings, but it will create a more effective force mix with the lower strategic lift budgets planned for the 1990s.

Savings in support and infrastructure

Even in the case of power projection forces, it should be possible to achieve major savings by making major cuts in the large numbers of headquarters units, support commands, and other "infrastructure" forces and facilities in the U.S., and in costly overexpansion efforts like "homeporting".

Too much of our current debate over defense spending focuses on the units we need most, and ignores the fact that behind our combat forces is a massive structure of other elements tailored for the contingency of a massive conventional war in Europe. This is the real "fat" in our defense effort and it should be possible to make 10–15% cuts in all headquarters and infrastructure forces over the next two fiscal years. This will achieve a major additional "peace dividend" with minimal impact on our contingency capabilities.

At the same time, it is essential that we restructure our reserve and National Guard forces to provide the kind of reinforcement and sustainability we need for regional contingencies. Reserve and National Guard forces are highly cost-effective—when they are given the resources they need—and they are tailored to missions they can perform without major additional training in a crisis. We need to restructure our reserves to support power projection, rather than a war in Europe.

Creating a new total force concept to balance active and Reserve Forces

This shift to a power projection force posture must be accompanied by the creation of a new total force concept. In spite of recent reports by the Department of Defense, there is no total force concept that ties together plans for active and reserve force strength, manning levels, training readiness, lift and sustainability. Each of these areas tends to be dealt with separately, and "war stoppers" often exist in one or more areas while the others are fully funded.

These problems are compounded by a command structure that originated at the height of the Cold War. We need to re-examine present command structures and the roles and missions of these commands. In particular, it does not seem useful to continue to put Africa under USEUCOM, or leave USCENTCOM so vaguely defined in terms of its associated forces and supporting seapower.

TECHNOLOGY, PROCUREMENT, AND DEFENSE INDUSTRIAL POLICY

Implementing the preceding plans will ease some of the growing problems in preserving our defense industrial base in the areas where we need it most by maintaining the production of existing systems and slipping advanced technologies until they are more mature and affordable.

There is no question, however, that the Department of Defense must stop attempting to deal with the defense industrial base as if a government subsidized mix of highly specialized companies could adjust to defense cuts on the basis of market forces and still preserve the ongoing surge production capabilities, and mix of overall production capabilities, needed during the next decade.

The Department of Defense needs an integrated plan for research and development, procurement, and the defense industrial base which uses competition where this is still possible, but which ensures that a mix of low rate production and emphasis on "centers of excellence" and contingency production capabilities in the U.S. can meet its future needs.

This requires a fundamental change in the way the Department of Defense treats procurement and in the way the Congress reviews both R&D and procurement. The Department has consistently ignored the economic realities that defense industry faces, and has tried to shift the burden of defense cuts to industry without considering what must be done to keep production capability alive.

It has cancelled existing production programs, and created potential production gaps of half a decade or more, as if private industry could somehow "mothball" design and production capabilities. It has stressed efficient rates of production to produce short term savings in unit cost without adequate consideration of what this is doing to the long term efficiency of the American defense industry.

The Department has also failed to come to grips with the need to make clear choices between the preservation of critical production capabilities in the U.S. and interdependence with our friends and allies. The U.S. cannot afford either excessive dependence or futile efforts at autarchy.

At the same time, the Congress has increasingly attempted to micromanage the Department's research and development programs in ways that serve various state and local interests, but are divorced from the fact that no lead in technology is meaningful unless it can be transformed into affordable military equipment. It has risked overfunding research that cannot be translated into procurement, and underfunding the development activity defense industries needed for actual production.

Both the Department and Congress have also failed to put sufficient emphasis on finding ways to transform military designs to make increasing use of technology and production capabilities in the civil sector. The need to shift the design focus of military procurement away from specialized components and production capabilities has been given little more than lip service.

In short, the U.S. must develop a clear plan for defense production and maintaining the key elements of our defense industrial base that focuses on meeting military needs, while carefully avoiding subsidies to given industries and "critical technologies".

While the Bush Administration has indicated that it will address these issues in its FY 1993 defense budget request, its plans remain vague and poorly defined. They are also limited by a Congressional focus on cooperative projects with our allies that have generally failed to save money, produce effective equipment, and meet U.S. requirements, and by a focus on "critical technologies" which involve extensive guesswork about future military needs, are often isolated from the needs of civil industry, and are more suitable to the Cold War than power projection.

What is clearly needed is a focus on actual procurement needs and the production and R&D base necessary to meet them. We need to preserve critical production capabilities or we will never be able to make effective use of critical technologies. We also need to know when we must turn to production methods and technologies available in the civil sector because we can no longer afford to maintain a defense industrial base that is decoupled from the civil economy.

This requires a new type of industrial planning by the Department of Defense, and we must recognize the special nature of the defense industry and the fact that the only way we can deal with the coming cuts in defense procurement is to have a clear defense industrial plan. Half measures, and a focus on technology, will not cope with the problems we face in reshaping key industries like aerospace, electronics, ship building, and nuclear reactor construction to meet our future needs.

BURDENSHARING AND COOPERATION: THE OTHER ELEMENTS OF A PEACE DIVIDEND AND EFFECTIVE STRATEGY

Finally, a peace dividend and power projection strategy must take into account the need for improved cooperation with our allies, and effective burdensharing. The U.S. must not plan its forces in a vacuum. It must accept the need for regional and global partnerships.

The role of allied nations

In the case of Europe, the end of the Cold War means that the defense of Europe should become a European problem. This does not mean that the U.S. should abandon Europe. It does mean that Europe should contribute a far larger portion of Europe's defense, that it should cease to ask the United States to dedicate land and air forces solely to the defense of NATO, and that the U.S. should act quickly and decisively to make Europe assume responsibility for a greatly increased role in its defense.

In the case of Japan, Japan does not need to expand its forces, but it does need to formally accept the fact that the primary function of the strategic partnership between the U.S. and Japan has shifted from the defense of Japan against a Soviet threat to the preservation of strategic stability in Northeast Asia, the Pacific, and Southwest Asia.

More broadly, our wealthier European, Japanese, and Gulf allies must share at least the financial burden of executing those power projection missions that serve their regional and global interests. If they do not play an active military role, they must use their wealth to aid those who do, and to match military action with the economic and military assistance which is often a vital supplement to, or substitute for, the use of military force. There is no partnership without participation, and Germany and Japan must realize that the time has ended when they can stand aside from their responsibilities.

The role of military assistance

Like burdensharing, military assistance is a critical "force multiplier" in an era where the U.S. must cut its own forces and capabilities. The U.S. cannot afford to be the world's policeman; it can only act in conjunction with regional allies, and its allies must be strong enough to deter or counter low to mid-intensity threats wherever possible.

This requires the U.S. to make fundamental shifts in its approach to military assistance from an approach centered around containment of the Communist threat to one centered on regional peace and stability. In many regions, particularly the Gulf and Asia, military assistance also now means providing the weapons and technical assistance our allies need at fair market value, rather than through grants or preferential loans.

This does not mean that the U.S. should encourage massive arms transfers to its allies, or see such arms transfers as the solution to regional arms races. It does mean that the U.S. should do everything possible to encourage regional solutions to regional problems, and should limit its forward deployed and over-the-horizon forces to roles that its allies cannot assume.

Using the advantages of foreign deployment while minimizing costs

The U.S. must adopt a clear strategy towards foreign deployment and basing (with its attendant reliance on allies), burdensharing and military assistance. Both we and our allies need to recognize that we cannot base our strategy and force structure on a "go it alone" approach to power projection. The U.S. must limit its commitments and costs by steadily integrating its power projection concepts with those of regional friends and allies.

The U.S. can almost certainly make reductions in its present overseas strength—even in major threat areas like Northeast Asia. We need to recognize, however, that these forward deployed forces offer the maximum degree of deterrence and ability to deal with a crisis or conflict early enough to minimize the required use of force.

In many cases—particularly Japan and South Korea—our allies have already increased their burden sharing efforts to the point where forward deployment will be cheaper than relocating and maintaining these forces in the U.S. and paying for the strategic mobility required to send them back under emergency conditions. In all cases, active forces in the U.S. will have far less deterrent value and reserve forces will be so intangible that they may have no deterrent value at all.

The role of arms control

Wherever possible, we must use arms control as a substitute for arms, and we must reexamine how arms sales and military assistance can act as a substitute for U.S. military power.

START and CFE already are examples of the kind of agreements that both help achieve military stability and deter war, and that offer both the U.S. and USSR the ability to substantially reduce defense spending in areas that no longer have a major priority for either nation.

We need to aggressively push arms control options in the other parts of the world. Arms control efforts like the renegotiation of the Nuclear Non-Proliferation Treaty, Biological Weapons Convention, draft Chemical Weapons Convention, and Missile Technology Control Regime offer the safest and cheapest road to eliminating the risk of conflicts involving the use of weapons of mass destruction. The end of the Cold War offers a steadily expanding range of opportunities for East-West action in each area, and allows us to rethink all our present objections to intrusive inspection.

We also need to explore every possible route to halting the shipment of conventional arms and military technology to aggressor and terrorist states. The supplier's conference is a first step to this end, but we need to develop a clear recognition on the part of both East and West that there are no real profits in the arms trade to such countries. The end result inevitably conflicts with which cost supplier nations far more in terms of overall trade, aid, and military action than any such arms sales are worth.

Finally, we need to consider whether we can enhance our security and achieve major savings by seeking naval arms control with the USSR in sizing our respective submarine forces. The SSN is the primary threat to the SSBN forces of each side, to the maritime traffic of the West, and to the security of Soviet naval bastions. The ASW/SSN race is also one of the most expensive aspects of defense activity by both the US and USSR.

While most forms of naval arms control present the problem that the U.S. and USSR have fundamentally asymmetric strategic needs, reducing SSN strength and modernization rates might well suit the needs of both sides. They could also achieve broader strategic stability and permit larger reductions in strategic weapons.●

AIDS UPDATE

● Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of October 31, 1991, 199,406 Americans have been diagnosed with AIDS; 126,491 Americans have died from AIDS; and 72,895 Americans are currently living with AIDS.

Mr. President, two recent events will likely change—perhaps dramatically—the face of the AIDS epidemic in the United States. One is the announcement of basketball star Magic Johnson of his HIV-positive status, prompting an awakening by many Americans to the reality of who gets AIDS and how. The other is a new definition of AIDS by the Centers for Disease Control, a move that will broaden the current clinical disease manifestation diagnosis definition to include anyone who is HIV positive and shows evidence of immune system suppression.

The disclosure by Magic Johnson shattered the stereotypes much of our society holds about those who acquire AIDS. Johnson is one of the world's most accomplished and admired athletes. He acquired the AIDS virus, by his own account, through unprotected heterosexual sex. For millions of Americans, the implication is clear: As medical authorities have long warned us, the AIDS virus is not a respector of sexual orientation, or gender; drug abuse is not always a cofactor. So-called high-risk groups are not the only ones to get AIDS—in fact, who you are has nothing to do with whether a person is in danger of being infected. What matters is what a person does.

Magic Johnson's decision to go public about being HIV-positive is a profound public service. Millions of Americans, especially young Americans, are getting a critically important lession in the epidemiology of AIDS. Lives will have been saved by Magic Johnson's selfless action. More lives will be saved by his decision to making fighting the AIDS epidemic a personal mission. I am heartened, too, by President Bush's announcement that he intends to appoint Magic Johnson to the National Commission on AIDS.

In January 1992, the Centers for Disease Control will redefine AIDS, replacing the definition last revised in 1987. The proposed new CDC guidelines will measure the degree of immune suppression by the loss of T-helper (CD4) cells and will no longer rely solely on clinical disease diagnosis. Under the previous AIDS definition, persons were diagnosed as having AIDS when certain medical symptoms appeared, many of which are now seen as advanced indicators of the disease. The new definition will allow for an earlier diagnosis of AIDS, triggered by reliable indications of a compromised immune system, which will allow many people to get earlier treatment and to plan better for the long-range effects of their illness, both medically and financially.

Dr. James Curran, head of the AIDS division at the CDC's National Center for Infectious Diseases, predicts that the broader definition could add 150,000 to 200,000 to the national AIDS caseload. Early drug therapy, already proven to be very important, will become vitally important, as will the need for early treatment and counseling of lifestyle changes. As we now know, the onset of more serious manifestations of the AIDS virus can be at least delayed by early diagnosis and treatment and the quality, even the quantity, of life for the HIV-positive person can be greatly enhanced.

As we look ahead in Federal policy making, there are issues raised by the redefinition of AIDS that will require attention. Federal funding formulas are often linked to the CDC definition of AIDS. Under the Ryan White CARE Act, for example, as many as nine new title I cities—cities heavily impacted by AIDS cases—may qualify for Federal assistance under the new AIDS definition. Under programs such as Social Security the new definition will likely affect the criteria for presumptive eligibility. There will be an impact on the drug approval process, since the CDC definition of AIDS is often used as an endpoint in clinical trials and CDC counts are often the basis for determining the efficacy and approval of experimental therapies.●

THE VETERANS HEALTH CARE AMENDMENTS ACT OF 1991

● Mr. KERREY. Mr. President, I am pleased to support S. 869, the Veterans Health Care Amendments Act of 1991.

This legislation will expand the medical services available through the Veterans' Administration, especially in the areas of post-traumatic stress disorder [PTSD] and mental health research and education. It also includes a new effort to meet the needs of homeless veterans.

The National Vietnam Veterans Readjustment Study [NVVRS] documented a large unmet need for PTSD treatment and services. Yet attention to this need has been slow to materialize. We have added some funds in the appropriations process over the past several years to initiate programs but it is only with this legislation that service people will qualify for care without going through the lengthy process for formal adjudication of service connection. In addition, various outreach and counseling services for PTSD are authorized.

S. 869 also requires the VA to establish five mental illness research, edu-

cation, and clinical centers. The purpose is to improve and expand the capability of VA health facilities to respond to mental illness disabilities, such as PTSD, schizophrenia, and drug and alcohol abuse. They would be charged with research, training and education of professionals, and development of new models for care and treatment. The centers are to be affiliated with medical schools.

Studies have suggested that the number of homeless veterans probably ranges between 150,000 and 250,000. Many of these veterans are mentally ill and/or have serious medical problems. The legislation builds upon the efforts that are underway, extending the Homeless Chronically Mentally Ill Veterans Program, requiring a new assessment of needs of homeless veterans, authorizing a new pilot program of cooperation between the VA and community-based organizations at 15 sites and expanding the domiciliary care program.

Finally, the bill makes numerous other changes in VA health care which are designed to make the VA health care system more responsive and efficient.

My experience as a veteran has taught me the need for quality health care. My experience as a member of the VA-HUD-Independent Agencies Appropriations Subcommittee has taught me the scope and complexity of health care problems facing our veterans today and in the future as our veterans population continues to age. This legislation is another step in our efforts to provide the quality of care which our veterans need and deserve.●

TRIBUTE TO JOHN FINNAN

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky businessman who has left behind 17 years of success in the corporate banking world to pursue his dream of opening a small community bank in northern Kentucky.

This summer, John Finnan left his job as senior vice president of the largest financial institution in northern Kentucky to begin working on plans for Peoples Bank of Northern Kentucky, an institution he envisions as a local, personal bank. Since August, Mr. Finnan has been working around the clock from his Fort Mitchell dining room, lining up investors. Already, the new bank shows promise of success.

The Federal Deposit Insurance Corporation has approved Finnan's bank, and Peoples Bank of Northern Kentucky is now scheduled to open January 2, 1992. Mr. Finnan had originally planned to sell $4 million in stock for startup capital. However, interest has been much higher than expected—more than 200 people have invested $6.5 million in the bank, and Mr. Finnan expects the total to reach $7 or $8 million by January.

John Finnan's decision represents his ongoing commitment to the people of northern Kentucky. He says he's always dreamed of operating a bank where the customers are known by their first names, and are more than just account numbers.

Mr. Finnan is also an active community leader. He has been a member of the Spiral Festival board, Junior Achievement board, and Greater Cincinnati Red Cross board. He also just finished a stint as chairman of the Northern Kentucky Chamber of Commerce.

Mr. President, I congratulate John Finnan for his efforts, both personal and professional, to further enhance the quality of life in northern Kentucky. Please insert the following article from the Kentucky Post into the RECORD:

[From the Kentucky Post, Oct. 22, 1991]

BANKER TAKES CHANCE ON DREAM

(By Tim Stein)

After 17 years climbing the corporate ladder at established banks, John Finnan quit.

Since Aug. 1, he's worked 12- to 18-hour days in his Ft. Mitchell dining room lining up investors in his dream.

That dream will take Finnan from senior vice president of Star Bank, the largest financial institution in Northern Kentucky, to president of a small community bank that will first open in a Kenton County trailer.

"It was a big chance, but it was one I needed to take," Finnan said. "I've always thought there was a market for a local, personal bank. But unless I took the chance there was never going to be a way for me to find out."

Finnan will find out soon.

The new bank has been approved by the Federal Deposit Insurance Corp. and will open Jan. 2 near Lookout Farms in Crestview Hills.

Already, the new bank shows promise of success.

Finnan had planned to sell $4 million in stock for start-up capital. But more than 200 people have invested $6.5 million in the new bank. Finnan expects that total to reach $7 million or $8 million before it opens.

"It's already gone way beyond my complete expectations," said the 38-year-old Finnan. "It's been very reassuring that people believe in me and the concept of the new bank enough to purchase that much stock."

Most of the bank's founders are not bankers, Finnan said.

"The people who are investors are neighbors, are friends, are people who I've dealt with on a professional level for the 10 years that I've been here," he said.

"Never in my wildest dreams did I think it would take off like this," Finnan said.

But success has followed Finnan throughout his banking career.

Finnan, 38, who grew up in Richmond, Ind., graduated in 1975 from Miami University, Oxford, Ohio, with a degree in business administration.

His first banking job was as a teller at Richmond Bank during the summer of 1974.

"I fell in love with banking that summer and decided that's what I was going to do for a living," Finnan said.

After graduating, Finnan became a management trainee with Richmond Bank, then moved up to branch manager in 1976.

He graduated from Ball State University, in Muncie, Ind. in 1978 with a masters degree in management, and progressed to installment loan officer, commercial loan officer and in charge of branch banking with Richmond Bank.

In 1980, Finnan went to work in Jacksonville, Fla. for a statewide banking institution that loaned money to retail businesses.

In December 1981 he moved to Northern Kentucky, where he became vice president of branch adminstration and marketing for Peoples Liberty Bank.

He moved up to executive vice president of Peoples in March 1986, and became president of Peoples Liberty Banking Corp., in December 1987.

When Star Bank bought Peoples Liberty in 1988, Finnan remained with Star as president of its Kenton County affiliate bank, and then as senior vice president when its Northern Kentucky operations merged.

The merger of Star's Northern Kentucky operation and Kentucky National Bank earlier this year created the largest bank in the area, but Finnan felt it also left a void.

He saw his chance to open a community bank.

The new bank will be called Peoples Bank of Northern Kentucky. "It (the name) has name recognition from Peoples Liberty Bank name and it also gives the image that we're trying to project," Finnan said.

"I've always dreamed of operating a bank where you know your customers by a first name basis, and where people are more than a checking account for loan number," Finnan said.

"I could have played it safe and stayed with Star, which is a fine institution," he said. "But this was an opportunity for me to proceed with my dream."

Finnan works on that dream from 6:30 a.m. until after midnight most days.

"I really thought I would have some time to myself since I was working out of the house, but boy, I was sure wrong," he said. The phone rings more than 25 times a day with people interested in buying stock or finding out more about the new bank.

"If I'm not on the phone then I'm doing paperwork. If I'm not doing paperwork I'm out somewhere at a meeting.

"I'm all there is right now, and I really don't mind the long hours," he said. "When the bank finally gets off the ground, I'll probably have some time to myself."

At least he hopes so.

Finnan, who is divorced, plans to remarry next month.

A year or so ago Finnan attended his high school reunion in Richmond, and remet classmate Susan Kinder. Although they didn't date in high school, Finnan said they hit it off well and fell in love. The couple plans to take a short honeymoon.

"We'll take an extended honeymoon next summer after the bank opens," Finnan said. Finnan has an 8-year-old daughter, Stephanie, who lives with him.

Finnan has also been very active in the Northern Kentucky community.

He has been a member of the Spiral Festival board, the Community Chest board, Junior Achievement board, Greater Cincinnati Red Cross board, just finished a stint as chairman of the Northern Kentucky Chamber of Commerce, and was in charge of the United Way drive in Northern Kentucky several years ago.

"I love this area, and I plan to stay here for the rest of my life," he said.●

RETIREMENT OF WILLIAM NAHAS

● Mr. DODD. Mr. President, I rise to pay tribute to Mayor William "Willie"

Nahas, whose inestimable contribution to the city of New London cannot be overstated. Last week, Mayor Nahas passed the reigns of city governance to his successor, Mr. Anthony R. Basilica, after 20 years of faithful service on New London's city council. Swinging the gavel for the last time as Mayor on November 18, Mayor Nahas presided over the changing of New London's guard with amiable grace and honesty that has characterized his political career and earned for him the trust, respect, and reverence of the community.

Known affectionately to all, from constituent to colleague, as Willie, Mayor Nahas' approach to leadership placed the city's needs before party affiliations and personal advancement and, by the strength of his example, achieved a spirit in municipal government of true bipartisanship. Indeed, Willie's ties to the Republican Party have always been incidental to his politics, guided as he is by a devotion to the well-being of New London and an ardent parochial loyalty in short supply these days.

The adjournment of Monday's city council meeting marked the resignation of this mayor for all seasons who has sometimes stood alone, amidst a furor of doomsayers, in his unflagging optimism and belief in the certain recovery of the beleaguered New London economy.

No one who knows Willie doubts that his rich trove of experience and his great commitment to seeing New London on top again will continue to influence and enhance that city's political landscape. For me and all these who have been privileged to witness the effect of Willie's terrific spirit on a community determined to carry out his vision for it, Willie will always be on top.●

THE CONVENTIONAL FORCES IN EUROPE TREATY

● Mr. KERREY. Mr. President, I would like to express my strong support for ratification of the Conventional Forces in Europe [CFE] Treaty.

While the world has changed dramatically since this treaty was negotiated, and even since it was signed, it represents an important step that will assist us in making greater arms reductions down the road with the START Treaty and beyond.

The CFE Treaty's preamble lays out three primary objectives: To establish a secure and stable balance of conventional armed forces in Europe at lower levels; to eliminate disparities prejudicial to stability and security; and to eliminate the capability of a State or States to launch a surprise attack or to initiate large-scale offensive action in Europe.

On all three counts, I believe ratification of the treaty is justified. By requiring major cuts in Soviet Armed Forces, the treaty will enhance the security of NATO nations and also the emerging democracies of Eastern Europe. It codifies the Soviet Union's military withdrawal from Eastern Europe and promotes stability in the region. It will allow us to continue to move beyond the framework of the cold war to a new era characterized by cooperation rather than competition.

The treaty is an important benchmark. It requires that the Soviet Union destroy or disarm more than 20,000 of the 73,000 tanks, artillery, and other heavy weapons used by its forces west of the Urals. This figure, however, does not include the reductions in Soviet conventional power in Europe since the CFE negotiations began in 1989. When measured against the level of Soviet weapons deployed less than 3 years ago, the Soviet Union's arsenal will be reduced by more than two-thirds under the treaty.

I am pleased that the Senate adopted amendments related to the potential impact of future events in the Soviet republics. In particular, I support a move requiring that the administration seek Senate approval of any treaty changes required if the Soviet Republics split off and disavow the agreement. I also support Senator COHEN'S effort to require the President to seek a Senate resolution of support if the decision is made to stick with the treaty even if a republic does not observe the weapons ceilings. The issue of republics' adherence to the treaty is an important one. In the event that one or more republics decline to respect the treaty it is important that we make their adherence to the treaty a high priority.

I welcome the changes called for in this agreement.●

YOUTHBUILD ACT OF 1991

● Mr. D'AMATO. Mr. President, today I am pleased to join my distinguished colleague from Massachusetts, Mr. KERRY, as a cosponsor of Senate bill 1100, the YouthBuild Act of 1991.

The effects of this legislation are far-reaching. By coordinating education and employment opportunities, it provides school dropouts the opportunity to develop technical skills while allowing apprentices to gain on the job experience and training. There is also a second and equally important facet to this legislation, and that is the role that it will play in combating homelessness and fostering neighborhood improvement.

The need for this type of program is overwhelming. Just last year we had 36,471 high school dropouts in my State alone. We also have countless numbers of homeless people on the street every night. Millions of people nationwide are being priced out of their homes. We need affordable housing. We need skills training for disadvantaged youth. This program merges those desperate needs.

Already there are three highly successful YouthBuild programs in my State alone. These programs have become models for similar programs nationwide and in fact serve as the model for this legislation.

The roots of YouthBuild came out of Manhattan and the Youth Action Program of East Harlem. The Youth Action Program provides a comprehensive approach toward expanding life choices and work opportunities for Latino and Afro-American youth. Youth Action's Construction Training Program provides school dropouts with construction skills while they rehabilitate abandoned buildings for badly needed housing for the homeless and low-income families.

In New York City, the Youth Action Program is currently rehabilitating a row of abandoned tenant buildings in East harlem which at one time housed a local gang. These programs are working in neighborhoods of high crime and drug activity. They have become a ray of hope for disadvantaged youth who would not otherwise have this opportunity to improve their life.

But there is more to the YouthBuild Program than the benefits attained from the skills, training, and workplace experience for disadvantaged youth. In preparation for employment in the construction field the individuals involved in these programs supplement their work experience with classroom academics and have the opportunity to earn their graduate equivalency diploma. Individual counseling, peer support, drivers training, parenting skills, and a host of other activities help make this a successful program.

The YouthBuild Program, and this legislation, contain valuable ideas. I believe that the Congress should include these ideas in next year's housing bill or other legislation. The Federal Government ought to support local efforts to revitalize communities and build a high skills, high quality, high performance work force for tomorrow. It's time that we invested in human capital, an idea that has been overlooked for too long.

Finally, Mr. President, let me reiterate how this program simultaneously addresses many serious problems affecting our youth, our cities, and our country. This bill supports a proven program that encourages and enhances the opportunities for disadvantaged youth to obtain education and develop employment-related skills that will enable them to enter the work force as productive employees and good citizens.

The youth are weighed down by anchors of drugs, crime, poor public education, and scarce employment opportunities. This bill attempts to cast off those anchors and enables the program's participants to chart their own course in the Nation's economic wa-

ters. As they do so, they will contribute to the economic growth of the entire country—increasing productivity, unleashing potent economic forces, and improving the financial position of all citizens.●

THE PRIMARY HEALTH CARE INVESTMENT ACT OF 1991—S. 1912

● Mr. PACKWOOD. Mr. President, I have signed on as a cosponsor of S. 1912, the Primary Health Care Investment Act of 1991.

This bill, introduced by my distinguished colleague, Senator DOMENICI of New Mexico, would be a transfusion of hope into our community health centers. This is particularly true in the rural areas of my State of Oregon, where many people will be the recipients of this primary care.

At the present time, 6 million people receive comprehensive primary and preventive health care through our Nation's community health centers. Eight million more people who presently do not have any health insurance will be helped by this legislation. The bill expands the Community Health Center Program by authorizing a 20-percent increase in funding for each of the next 5 years.

The Community Health Center Program is often overlooked as one of the very bright spots in our oft-maligned health care delivery system. Specifically, Mr. President, at a time when health care access and costs are one of our country's most talked about concerns, this bill goes a long way toward helping those Americans with no primary and preventive health care. There is just not another health care program for so many people for so few dollars.

According to the Congressional Budget Office, the community health centers provide primary care to the uninsured for under $90 per patient a year. Under the Medicaid Program, the cost to the system is $625 per person, 600 percent more. Imagine, $90 instead of $625 per person.

The bill also helps those rural areas where there is a critical shortage of health care professionals. It increases the funding for the National Health Service Corps [NHSC] Recruitment Program.

The legislation helps get more caregivers to our underserved rural areas and also into our inner cities. It also encourages hospitals to start recruiting and training more primary care physicians right now.

Mr. President, I am pleased to add my name as a cosponsor of S. 1912 and urge my colleagues to consider doing the same.●

● Mr. DODD. Mr. President, I rise today to pay tribute to a remarkable woman known for her outstanding work for her State of Connecticut and for the entire Nation. Mr. President, this woman is Marian L. Heard, and I am proud to announce that she has recently been named the first woman and the first African-American to head the United Way of Massachusetts Bay.

Marian has been with the United Way of Eastern Fairfield County since 1974, having joined as a child care program specialist. At the United Way, Marian has served in a wide range of positions including director of membership, director of allocations, director of operations, and associate executive director. In 1989, she was appointed executive director and in 1990 was appointed president and chief executive officer. As president and chief executive officer Marian played an integral role in the administration of the United Way community service system affecting the towns of Bridgeport, Fairfield, Easton, Stratford, Trumbull, and Monroe.

In addition to serving on several regional United Way committees, Marian has served her Bridgeport community as a member of the Governor's child day care council, as an instructor at Housatonic Community College, and as a leader in fighting the battle against cocaine use in Bridgeport.

It comes as no surprise, Mr. President, that Marian has received much recognition for her community service. She has won awards from such social service organizations as the American Cancer Society, Big Brothers and Big Sisters of Fairfield County, the United Way of America, and the YWCA.

At the national level, Marian is an active member of President Bush's Points of Light Foundation. She has served as interim president and chief executive officer of the foundation. Most recently, Marian was elected to the board of directors and currently serves as vice chairman.

Mr. President, Marian Heard's drive to treat the serious social ills which plague our communities, our States, and our entire Nation should be an inspiration to us all. While Connecticut will greatly miss this remarkable woman and her commitment to the Bridgeport community, we rejoice in her new challenge as the head of the United Way of Massachusetts Bay and wish her every success.●

ENDANGERED SPECIES ACT

● Mr. SYMMS. Mr. President, in the interest of ensuring that you and my other colleagues in the Senate are well informed on threatened and endangered species issues and, specifically, the Endangered Species Act itself, I ask to submit into the RECORD several articles which I believe are both timely and informative. These articles were recently produced by the National Wilderness Institute which has been conducting ongoing research on this topic. The first is the cover story from volume II, issue 1, of the institute's quarterly magazine, the NWI Resource, published in February of 1991. The second article, "The Art of Statistics," is taken from fall, 1991 edition of the NWI Resource, volume II, issue 3. The third is an excerpt from the October 1991 issue of the institute's bimonthly newsletter, Fresh Tracks. I would also like to submit for the RECORD a recent column published in the Washington Times by nationally syndicated journalist Warren Brookes which discusses the results of research conducted by the National Wilderness Institute on the Fish and Wildlife Service's Endangered and Threatened Species Recovery Program.

Frankly, Mr. President, the information brought forth in these articles is very disturbing, and I believe merits close examination during the upcoming session. So I would urge my colleagues in the Senate to review this material in the interim to more fully understand the many important issues surrounding current endangered species legislation. The manner in which we manage and recover endangered and threatened species is undoubtedly of great importance to the American people. It is our duty, therefore, as elected representatives of the people to first educate ourselves on every aspect of this issue, however contentious or unsavory, and second, accept the responsibility of addressing all aspects of an issue which, in one way or another, will deeply affect the lives and work and future opportunities of Americans for years to come. The material I have submitted here today is an important, much needed step toward fulfilling that obligation.

RESOURCE

(By Robert E. Gordon, Jr.)

One of these two owls is considered threatened by the Federal Government. Can you tell which one? Without knowing where the pictures were taken it would be pretty tough. The one on the left is a threatened Spotted owl of the Northwest. The one on the right is a Spotted owl from California and not threatened. They are nearly identical in appearance and genetic structure. The primary difference may be that they live in different places.

The Northwest-Spotted owl is now part of an exclusive club. According to the 1991 Budget Justification for the Fish and Wildlife Service, there were some 1,070 endangered and threatened plans and animals listed as of 1989. The Service states that "ultimate goal of threatened and endangered species conservation is to recover populations to levels where protection under the Act is no longer required." While that may sound pretty straightforward a close look at the Endangered Species Act, the listed plants and animals, and their record of recovery tells quite a different story.

The Service assesses different animals and plants for listing primarily on the "degree and immediacy of threat and taxonomic uniqueness." What is and isn't taxonomically unique has become extraordinarily hazy in recent years. The species is the basic category for taxonomical classification of living things—it is a kind of animal. A fairly common definition, as stated in one of the National Wildlife Federation-sponsored Peterson Field Guides, is that, "two animals

are considered to be of the same species, or kind, if they are fundamentally similar in structure and interbreed to produce offspring but do not ordinarily interbreed with other groups." Harvard biologist E. O. Wilson would content that "under naturally occurring circumstances" should be added. What is and isn't a naturally occurring circumstance can be subjectively interpreted in any number of ways. Consequently, many of the species and subspecies currently listed may not merit such distinct taxonomic classification.

The degree to which truly taxonomic uniqueness is an important prerequisite for listing is questionable. About 30% of the animals listed as endangered or threatened in the U.S. are subspecies, something many scientists consider an unreliable unit of classification. For example, some antelope in Arizona are called *Antilocapra americana sonoriensis* and list as endangered, while antelope at the species level *Antilocapra americana*—which is not listed, and includes all the antelope in Arizona—is increasing in number in much of its range. In other cases, the listing at the species level is debatable. In addition to species and subspecies, Fish & Wildlife lists populations—a group of a kind of animals living somewhere. Some argue that (what they consider) distinct populations may eventually evolve into entirely different creatures and therefore merit listing. Smaller groups of creatures with smaller odds for a beneficial random mutation in genetic structure is certainly a debatable basis for listing.

Undaunted, Fish & Wildlife projects an increase for listed species from 1,070 in 1989 to 1,170 in 1991. According to the '91 Budget Justification, "the Service has set an expanded goal of 55 species proposed for listing in '91." This is only a minute fraction of what could be considered since "nearly 4,000 species are formally recognized as potential candidates for listing." This figure undoubtedly includes many subspecies and populations. But listing is supposed to be only the first step, with recovery as the "ultimate goal".

The first tactical step in recovering an endangered species is preparing a recovery plan. The Service admits a "backlong" and states that "recovery efforts shifted towards * * * increasing multi-species recovery plans." As of 1989, and were 550+ U.S. listees of which 291 are covered by plans. More than 40 plants and animals are covered by the multi-species plans. The Ash Meadows plan, for example, including four fish, one insect and seven plants. *Peromyscus polionotus*, a mouse which inhabits beaches, has five subspecies listed. It might be on sounder taxonomic grounds to have only one listing and do as well with one plan. But if the total population of each of the variants listed were combined, one must wonder whether the mouse would merit listing at all?

It's been said that failing to plan is planning to fail; that certainly holds true for Fish and Wildlife's record of achieving its "ultimate goal" in endangered species conservation—"recovery". Through 1989, a total of 27 species had been downlisted and 17 delisted since the Act was passed nearly 20 years ago. Not too good when you consider there were over 100 U.S. animals already listed prior to the Act's passage in 1973. It is even worse when you look at what 'delisted' means. For of the 17 were removed because of original data error. Six of the 17 were removed because they are now considered extinct. In five of those cases the creature was a subspecies, and in at least four of them introgression, or breeding, (recall the confusion over the definition of species) with other subspecies was considered a contributing factor to "extinction." Seven of the 17 are considered recovered. Three of the seven recovered species are found on a Pacific Trust Terriroty, Palau Island. According to one Fish & Wildlife official, early population counts of these animals may have been inaccurate. Additionally, their numbers improved following natural habitat recovery since the end of WWII. The Palau owl recovered in part because locals eradicated a coconut beetle which it ate, causing it to die of internal wounds inflicted by a spine on the beetle. Another "recovered" animal is the American alligator which Dennis David of the Florida Game and Fresh Water Commission surmises would not even have been put on the '73 list by today's standards.

He ought to know, considering there may be as many as a million alligators in Florida.

The Service states it "has increased emphasis on . . . implementation of highest priority recovery action . . ." Such actions included $580,000 worth of programs for the Bruneau Hot Springs snail in 1990. The Service also states "that for many species, particularly those that are habitat-limited, maintenance of remaining populations to prevent extinction may be a more realistic objective."

Many of the listed species have severely restricted natural ranges such as islands: there are at least 44 in Hawaii, 27 in Puerto Rico and 17 inhabiting other Trust Territories. Additionally, some are naturally rare in the U.S. like the ocelot that wanders up from Mexico to the extreme northern part of its range in Texas, Arizona and New Mexico. Furthermore, many of the listed populations of subspecies may be losing the battle for survival of the fittest. There are, for example, at least 11 animals on the list limited to a cave or cave system, and one salamander known only from algae mats in a system of spring-fed pools in Texas. The natural rarity of another listee, the New Mexican ridge-nosed rattlesnake, Crotalvs willardi obscurus (read: obscure), is revealed by its name. As Greg Easterbrook states in The New Republic: "More than 99% of the creatures to have ever come into existence have been rendered extinct . . . Nature discards creatures with a pitilessness that makes humity seem saintly."

These examples are not uncharacteristic of this issue. There are undoubtedly many valid cases that deserve our attention, including some in the above statistics. However, there are clearly many problems with the current approach that detract from the ability of the talented biologists and others at Fish & Wildlife to achieve their ultimate endangered species conservation goal—recovery. Sticking things on the list seems to be a priority—something for which we in the environmental community must bear some responsibility. Additionally, it appears evident that serious taxonomic ground rules are needed. And finally, it would seem logical that the Service be required to succeed in recovering at least a few more listees before it considers increasing the rate at which it lists things. One bright point in the '91 budget justification is the statement that the service intends to "encourage greater public participation in the recovery planning process." Hopefully this is true because the current record of performance would not be tolerated in the private sector.

THE ART OF STATISTICS: FISH AND WILDLIFE'S REPORT TO CONGRESS ON THE ENDANGERED AND THREATENED SPECIES RECOVERY PROGRAM

(By Robert E. Gordon, Jr.)

On October 7, 1988 President Reagan signed into law a bill amending the Endangered Species Act which, among other things, makes more specific the general requirement that the Secretary of Interior develop and implement recovery plans. The Amendment further directs the Secretary to report every two years on the status of efforts to develop and implement recovery plans for all listed species and on the status of all species for which recovery plans have been developed. Accordingly, the Fish and Wildlife Service has just released the "first comprehensive accounting" of its efforts since 1967 to conserve and recover endangered species. It is a huge glossy document with lists, codes, graphs and pie charts. The document raises questions about the trends in endangered species recovery work at F&W and, when deciphered, about their success in reaching the ultimate goal of endangered species conservation, recovery of populations "so that protection under the Act is no longer required."

PLANNING TO PLAN

In accordance with the law, the beginning step in endangered species recovery is the development of a recovery plan for each listed species. For 224 of the 581 listees that first step was not taken as of October 1, 1990. Rather oddly, F&W states that it "recognizes the need to develop recovery plans" and further states that after more than two decades "target time frames have been established to guide the development of draft and final plan preparation." While the ostensible objective of the plans is to recover endangered species, the Service repeatedly states that "the most significant recovery status difference between the species with and without recovery plans is the number of 'unknowns' for those species without recovery plans (25% 'unknowns' without plans versus 16% with plans)." Regrettably, this statement appears to be accurate.

RECOVERY . . . "A MAJOR PART OF THE SERVICE'S ENDANGERED SPECIES PROGRAM"

Fish and Wildlife states, in a rather passive voice, that "reclassifications and delistings demonstrate that there can be successes in recovery" but neglects to mention any delisting except the alligator. Dennis David of the Florida Game and Fresh Water Commission surmises that the alligator would not even have been put on the '73 list by today's standards. The only other "delisted" species include three from a U.S. trust territory several hundred miles east of the Philippines (the Palau owl, dove and fantail) and the Rydberg milk-vetch, of which the Service was unable to provide a photograph. According to one F&W official, early counts of the endangered species from Palau may have been underestimated; their habitat recovered naturally following WWII. The owl recovered in part because locals eradicated a coconut beetle which the owl ate with tragic results. A spine on the beetle inflicted fatal internal wounds.

The Report goes on to state that "implementation of recovery plan tasks provide for significant gains towards positive species recovery" and mentions such things as the successful captive breeding of California condors which F&W officials originally opposed. Rather than being presented in straight figures, the percentage of a "species' recovery objective(s) that have been met" are denoted

by an integer of 1-4 representing 0-25%, 26-50%, 51-75% and 76-100%, respectively. As of October 1, 1990, 439 of the 581 U.S. species listed, or 76%, had only between 0-25% of their recovery objectives achieved. In a high percentage of these cases zero would seem the most appropriate percentage for recovery objectives achieved. Several species presumed extinct are status "1" and numerous other "1's" have no anticipated "major recovery activity over the next reporting period". In other instances the planned activities are not impressive. The Sonoran pronghorn, for example, has been listed since 1970 and the next anticipated "major recovery activity" is to "convene a meeting of knowledgeable professionals . . . to evaluate recent information."

On the other end of the spectrum are the "Recovery Objective(s) Achieved" "4's" having 75-100% of their recovery objectives achieved of which there are only 11, or less than 2% of the list. Upon examination the "4's" as additional populations were found by the Bureau of Land Management and taxonomic studies showed that this daisy and another daisy thought to be a different kind were the same thing. In the case of another "4", the Pahrump killifish, F&W wrote a plan and Nevada Department of Wildlife personnel sprayed cattails destroying the fish's habitat with "Rodeo" (an herbicide). The Tinnean monarch, a bird found on a Pacific island, is also a "4" after 20 years without a plan and a population survey nearly a decade ago showed 40,000 birds.

The Report goes on to repeatedly state that "removal from the list is not a reasonable goal for all endangered species" and that "a more realistic measure of the Service's recovery efforts than the number of species delisted is *probably* the portion of listed species whose status as been stabilized" (emphasis added). "Stable" is one of the five status categories the Service assigns each listee. The Report includes an extraordinarily misleading graph of "declining" species to support their statement about the stabilizing effect of the list. The "82%" depicted in F&W graph represents less than 6% or 38 of the total listed species. The other three columns represent over 94% (approx. 269, 152 and 122 respectively) of the listed species unequally and are grouped in time periods of unequal length. The groupings conveniently incorporate a zero percent (from years in which there are less than 10 listees) into columns with the lowest overall percentage.

The statistical artist or artists who designed this graph are deceptively implying that it represents improvement of declining species over time. The selection of time spans which appear to be part of a continuum, the symbols "<" and ">", and the term "function" lead one to believe that these figures were generated over time. Yet, as this graph is a snapshot of "declining" species on October 1, 1990, there is no way to determine if there has been *any* change ever. A graph through time, not at a moment in time, would depict a changing condition of listees. It is, however, impossible to determine trends from the Report as no base year figures are supplied for comparison. A more appropriate name for the graph would be "Percentage of Species Declining as of Oct. 1, 1990 Selectively Grouped by Year Listed".

Additionally, the possible error in the percentage figures for "decreasing" species is tremendous because 19% of all listees are "unknowns" and therefore, possibly, "declining". The probability of this is relatively high as more than 37% of listees are considered "declining" and they are, after all, federally endangered or threatened species. It also seems strange that such a high percentage of the first year listees are known to be "declining" when none of them have plans and F&W itself states that "the most significant recovery status difference between the species with and without recovery plans is the number of unknowns for those species without recovery plans." Is it random chance that the percentage of "declining" species listed the year the Report was produced exceeds every other year's group of listees from nearly 20 to over 60 percent; or could the fact that this Report is being produced prior to the Endangered Species Act's reauthorization have affected the listing process?

This graph reminds one of the sort of figures generated by Soviet economists and would seem to be a deliberate attempt to mislead Congress and the public. One must wonder if the Service has any data to support its claim that "species listed longer appear to have a better chance of becoming stable or improving" or if it only appears that way through contrived graphs.

In explaining this rather bleak record the Report states "though the time frame involved may be perceived as long, recovery can and does happen" and goes on to state that "a serious commitment of both personnel and money are important to ensure stabilization and recovery . . ."

MONEY

According to the Report "the goal of [recovery] is the maintenance of secure, self-sustaining wild populations of species with the minimum necessary investment of resources." According to recent audits by the Interior's Inspector General the potential recovery costs for currently listed species is approximately $4.6 billion. This is an average of over $7.9 million per listed species. If that average were applied to the some 600 candidate species the Service believes "warrant listing" it would amount to another $4.7 billion; furthermore, if that average were applied to the 3,000 candidate species which the Service believes "may warrant listing" it would amount to an additional $23.7 billion. In addition to the recovery costs, the report states that "approximately 25% of all listed species have conflicts with development projects or other forms of economic activity" which certainly entails staggering costs to the economy. Even with its poor recovery record and huge economic impact, the Service argues that it "must be allowed to exercise management discretion in order to achieve the greatest conservation benefits for resources expended."

"MANAGEMENT DISCRETION"

How the Service exercises "management discretion" is also disturbing. The Report states that "Fundamentally, the Endangered Species Act is habitat-oriented. It seeks to conserve the ecosystems upon which endangered species and threatened species depend * * * this orientation has been embraced by the Service.* * *" In part, this appears to mean that the Service is trying to add to the over 87 million acres it already controls. For example, recovery actions for at least 28% of the mammals listed include plans for acquiring more land into the already enormous Federal estate. What is most disturbing is that there appears to be a definite bias within the Service against private property. In the case of the Utah prairie dog, for example, recovery criteria consist of "maintaining 3 populations [for 5 years] on public lands with a minimum number of 813 animals each as counted in Spring censuses." The actual total population of Utah prairie dogs reached 9,200 *adults* in 1989 but *"only 34% were on public property"* (emphasis added). Strangely, F&W states that "population densities are increasingly to a point where a crash is imminent" but that none of the populations have reached "the minimum size for delisting on public lands."

The Service's view of the Endangered Species Act as a beginning rather than a final legal step in endangered species conservation is another disturbing aspect of their management discretion. The Report states "recovery of many species requires concerted efforts on the part of Federal and State authorities, as well as private parties, to enact laws and regulations and to reach agreements to protect listed species independent of the Endangered Species Act," If and when a species actually recovers it may not be delisted. The Service states: "biologically recovered species may still need the Act's protection in order to sustain population levels." F&W seems to be focusing more on empire-building than on the implementation of deeds that actually improve the condition of flora and fauna.

SUMMARY

Rather than directing their efforts toward achieving the "ultimate goal" of endangered species conservation—recovery, the Service seems to focus almost entirely on listing more species, keeping them on the list, acquiring land and budget increases, and because the law mandates, drafting past due plans. As can be seen in the statistics and examples provided, F&W's recovery record is abysmal. After decades of endangered species work with few, if any, legitimate delistings to show,the Service states that "a commitment to endangered species recovery is needed for a long time to show noticeable results." In support of their efforts, the Service states that "species listed longer appear to have a better chance of becoming stable or improving." *Appearances* can be [deliberately] deceiving as in the case of the Report's graph on percentage of declining species. Hopefully, as accurate information reaches the public and our legislators, reforms will be undertaken which result in endangered species conservation that works for those species of wildlife and plants which are truly diminishing.

ENDANGERED SPECIES ACT COMING UP FOR REAUTHORIZATION

Proponents and critics of the Endangered Species Act appear to be gearing up for debate. Word is that Rep. Gerry Studds (D-MA) will try to get a quick multi-year re-authorization of the Endangered Species Act to avoid opening the Act up for debate. Fish & Wildlife has demonstrated considerably more success at listing and keeping species on the list than recovering them. Critics of the Act argue that it is used to promote "Not In My Back Yard" (NIMBY) politics rather than care for rare plants and wildlife. As more candidate species are reviewed, the list will be increasingly composed of snails, mussels, beetles and minnows rather than the "warm and fuzzy" animals the general public tends to associate with endangered species. Unfortunately, there is little, if any, provision in endangered species legislation made for private recovery efforts. Here are some background facts:

According to the U.S. Fish and Wildlife Service, "the ultimate goal of threatened and endangered species conservation is to recover populations to levels where protection under the Act is no longer required." However, as of April 1990, nearly two decades

since the Act was passed, there were only 16 delistings: 6 extinct; 4 removed due to data error; and 6 "recovered". This already dismal recovery record declined according to the July 1991 report in which one listee (purple-spined hedgehog cactus) previously classified as "recovered" was re-classified as "original data error."

The "recovered": 3 of 5 are indigenous to Palau Island, a tiny Pacific Trust Territory located five hundred miles east of the Philippines. According to at least one F&W official, early population counts may have been inaccurate and their habitat recovered naturally, not through Fish & Wildlife efforts, following World War II.

41% of listees are plants; 59% are animals–of which 24% are invertebrates (i.e. insects, spiders, snails, etc.) 12% are reptiles and amphibians, 25% are fishes, 25% are birds, 14% are mammals.

There are currently 1,116 listed species, about 600 of which are U.S., and the Service formally recognizes 3,600 U.S. species as candidates for listing.

Of 3,600 candidate species, Fish and Wildlife "believes 600 warrant listing" and states that "3,000 may warrant listing but sufficient information is not presently available."

Endangered species listings plummet property values. According to the Deputy Chief Tax Appraiser in Travis County, Texas property values have decreased $358.7 million since the federal listing of two songbirds, the Golden-cheeked warbler and the Black-capped vireo. Estimated shortfall in tax revenues next year to the city of Austin, Texas is $2.1 million. With this real estate having a market appraisal ten times less than before the species listing, U.S. Fish and Wildlife's Office of Endangered Species plans to create a wildlife refuge in the area. Landowners have little recourse except to sell. An interesting Constitutional question raised by such events is whether a declaration which results in property devaluations constitutes a taking.

[From the Washington Times, Oct. 18, 1991]

ENDANGERED SPECIES TURF GAME

(By Warren Brooks)

Putting any government agency in charge of solving a problem is certain to make the problem bigger and worse, because a bureaucracy now has a stake in that outcome.

There may be no better illustration of that than the U.S. Fish and Wildlife Service's report released this week on the Endangered and Threatened Species Recovery Program, which alleges great progress, but in fact demonstrates only a bureaucracy bent on expanding its turf.

The primary purpose of the Endangered Species Act is not merely listing and protection, but the development of plans to recover the species, return it to normal levels, and thus take it back off the endangered list.

But this first accounting of FWS efforts since the original act passed shows that virtually all of its activities have been directed not at "recovery" but at listing. Since 1967, some 581 species have been put on the Endangered list, but as the National Wilderness Institute notes in a special report by Director Robert Gordon, as of October 1990, recovery plans have not even been developed for 224 of those species. Yet "in accordance with the law, the beginning step in endangered species recovery is the development of a recovery plan."

FWS admits that such plans are badly needed because, it argues, that "reclassifications and delistings demonstrate that there can be successes in recovery," but as Mr. Gordon points out it "neglects to mention any delisting except the alligator," and "the alligator would not even have been put on the 1973 list by today's standards." The only other delisted species include three from Palau (several hundred miles east of the Philippines) and a plant called the Ryberg Milk-Vetch "of which the FWS was unable to provide a photograph."

What is most troubling in this report, Mr. Gordon argues, is the FWS attempt to use highly misleading graphics to suggest far more recovery has taken place than actually has. One chart shows four bars showing the percentage of species declining in each period ranging from 82 percent in the most recent year to 30 percent for those listed 15 years or more.

Yet the way the chart has been constructed, "there is no way to determine if there has been any change in the groups since listing," and because the periods chosen vary in length and the availability of data itself, it is impossible to make any inference about whether FWS is accomplishing any "recovery" at all.

As Mr. Gordon charges, the data presented "reminds one of the type of figures generated by out-of-work Soviet economists. There can be no doubt that it is part of a deliberate attempt to mislead Congress and the media.

Worse, the 2 percent of all species that are said to have achieved 75 percent to 100 percent (only 11) include species where additional populations have been discovered, suggesting they shouldn't have been listed in the first place, and one bird whose population today is identical to what it was 10 years ago, and for whom no recovery plan has ever been written! Indeed, without such plans the FWS admits there are so many "unknowns" it is almost impossible to determine whether that species is declining or rising, suggesting that entire report alleging progress is in fact fatuous in the extreme.

What is more curious about the FWS report is its frank admission it has no intention of really trying to push species back off the list as "recovered." Instead it says "removal from the list is not a reasonable goal for all endangered species," and even so, "biologically recovered species may still need the Act's protection in order to sustain population levels."

In short, the FWS is using the Act primarily as a way of expanding the total turf it already controls, with the premise that each endangered species listed adds to that turf control.

As the report frankly admits, "Fundamentally the ESA is habitat-oriented. It seeks to conserve the ecosystems upon which endangered species and threatened species depend," which is shorthand, in Mr. Gordon's eyes, for saying "the Service is trying to add to the more than 87 million acres it already controls."

What worries NWI, a market-oriented conservation group that tends to be suspicious of public land ecological policies is "the definite bias within the Service against private property."

As an example, Mr. Gordon cites the Utah prairie dog for which the FWS recovery plan lists as its criteria, "maintaining three populations [for five years] on public lands with a minimum number of 813 animals each [2,439 in all]." Yet as he points out, "the total population of Utah prairie dogs reached 9,200 adults in 1989," but the FWS complains that "only 34 percent were on public property." Worse, even though FWS now admits that the density of population of this "endangered species" has increased to a point "where a crash is imminent," FWS contends that "none of the populations have reached "the minimum size for delisting on public lands."

In others words, even though private lands are teeming with Utah prairie dogs, because the public habitats are not, the animal is endangered. There is of course something classically federal and bureaucratic about such a posture.

In that sense, NWI's Mr. Gordon argues the FWS endangered species program exhibits all the classic elements of "public choice" economics: "Rather than directing their efforts toward achieving the 'ultimate goal' of endangered species conservation, recovery, the Service seems to focus almost entirely on listing more species, keeping them on the list, acquiring land and budget increases; and because the law mandates, drafting past-due recovery plans."

We shouldn't be surprised the FWS report concludes by arguing that "a commitment to endangered species recovery is needed for a long time to show noticeable results." Like forever?

Warren T. Brookes is a nationally syndicated economics columnist.

HONORING THE FORGOTTEN VICTIMS OF THE DECEMBER 7, 1941, ATTACK ON PEARL HARBOR

• Mr. AKAKA. Mr. President, I rise today to recognize the forgotten victims of the December 7, 1941, attack on Pearl Harbor—the innocent civilians who were killed that fateful morning 50 years ago.

In less than 2 weeks, our Nation will commemorate the 50th anniversary of the attack on Pearl Harbor. On behalf of the congressional delegation from the State of Hawaii, I request that a copy of the Delegation Joint Resolution No. 6 be printed in the RECORD following my remarks. The Delegation Resolution honors these forgotten casualties of the war. A copy of the resolution and an accompanying certificate of special recognition will be presented to the surviving families.

Mr. President, I would like to take this opportunity as well to express my appreciation to Ms. Nanette Purnell, a resident of my State, who has done extensive research on this issue; and to the Arizona Memorial National Park Service personnel, especially Mr. Jim Harpster and Mr. Kam Napier, who provided the background and research information for this important endeavor.

Mr. President, it is fitting and proper that we recognize these forgotten victims. As the 50th anniversary of the attack on Pearl Harbor draws near, let us honor all those Americans, both in uniform and in civilian occupations, who gave the greatest sacrifice so that freedom might flourish in this world.

The resolution follows:

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

DELEGATION JOINT RESOLUTION 6

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., first wave of bombers from

the Imperial Japanese Combined Fleet attacked military facilities in the Territory of Hawaii, United States of America; and

Whereas the first bombs fell on Kancohe Naval Air Station, and other military facilities across Oahu soon became targets to incoming bombers; and

Whereas as a result of this unprovoked attack by the Imperial Forces, there were over two thousand American military and civilian casualties; and

Whereas of the two thousand killed in connection with the attack on Pearl Harbor, over 60 were civilians; and

Whereas at least 35 civilians were killed as a result of the inadvertent explosion of American anti-aircraft ordnance which landed at approximately 12 sites on the island of Oahu; and

Whereas at least nine civilians died from direct enemy fire; and

Whereas during the commemoration of the Fiftieth Anniversary of the attack on Pearl Harbor, it is fitting and proper that we honor these innocent victims; now, therefore, Be it

Resolved That: The Hawaii Delegation to the 102nd Congress of the United States calls upon the people of Hawaii and the Nation to remember the innocent victims of that fateful morning fifty years ago; and be it further resolved that,

The Hawaii Delegation, on this Fiftieth Anniversary of the attack on Pearl Harbor, extends its deepest sympathies and compassion to the families, friends, and colleagues of those brave men and women who fell; and be it further resolved that,

A copy of this Joint Resolution of the Hawaii State Congressional Delegation be printed in the Congressional Record and that copies be distributed to Pearl Harbor civilian survivors or their next of kin and interested parties.●

ECONOMIC CRISIS CONFRONTING AMERICA

● Mr. LIEBERMAN. Mr. President, last week my colleague from Connecticut, Senator DODD, rose to speak of the economic crisis we are in and to ask that we stay here until we can offer some real help to the American people. I rise now to support my colleague.

When I think of how the administration is responding to the economic crisis confronting America, something like a cross between the Emperor Nero and Alfred E. Newman comes to mind. Nero fiddled while Rome burned, and Mr. Newman's famous line is, "What? Me Worry?"

There are some who say the President's inaction in the midst of this terrible recession is a real boon for our Democratic Party. That may be so, but, frankly, America cannot afford the luxury of politicizing our economic woes. We need the President to take charge, to lead the way to solutions to our fiscal problems. We need him to act as he did in the gulf war, when he put together an unprecedented global coalition to defeat the aggression of Iraq. We need a domestic equivalent to Operation Desert Storm.

But, we may be waiting in vain. For the President seems to believe that our problems will work themselves out through the market, which is an extremely limited and timid view, particularly in emergencies like the one we face now.

I believe it is time for all of us, Republican or Democrat, to put aside our ideological blinders and get working on a program that's practical, and that can get our economy growing again and our people back to work. Despite rhetoric to the contrary, Government has always been actively involved in the marketplace; witness Government's role in aerospace, defense, and agriculture, for example. Government can and must act in partnership with business to identify ways to promote economic growth and job creation.

The President has said he will propose nothing to Congress in the way of an economic plan, at least not until the State of the Union in January. Mr. President, our economy cannot wait for a midwinter Presidential speech to find relief. We must begin to work now on a plan that will bring relief to millions of Americans who have lost, or are at risk of losing, their jobs.

With that in mind, I believe we owe it to the American people to remain at our posts here in Washington—beyond Thanksgiving—to put together an economic recovery and growth plan. We did pass unemployment compensation legislation, which was desperately needed, and which will help millions of people whose jobless benefits are running out. But we must do more than treat the symptoms of this recession. We must work on a cure.

That means tax relief for working families. That also means tax incentives for business, to help them get back on their feet, growing, keeping and adding jobs for working people. That means passing transportation legislation, which will funnel billions of dollars into the economy in the way of construction and other kinds of jobs.

The American people are demanding answers from their Government, not adjournment. I believe we must remain on the job as long as it takes to bring more relief to our beleaguered economy.

We should stay here, passing legislation, and sending it to the President. If the President will not act on his own to help lead us out of our economic crisis, we must present him with our own solutions, and ask him to take a stand—for or against Government's help in solving this nation's recession.

Nero fiddled while Rome burned. Frankly, I do not know what the Roman Senate did at that time. Clearly, they did not do enough. Let us not make the same mistake. The American people are demanding action, and we should give them results. They do not care about the politics of it all, they just want relief. Let us stay here at work until relief is on the way.●

WILMINGTON LIONS CLUB

● Mr. BIDEN. Mr. President, in towns throughout all of our States, there are organizations that represent the best of our shared community spirit. Through caring service to those in need, active concern for neighbors and a commitment to the basic values that have strengthened our country throughout its history, those community leaders serve and inspire each of us, and help lead the way to a brighter future.

One such organization, familiar to all of us, is Lions International. I pay tribute today to the Lions Club of Wilmington, DE, which will commemorate its 70th anniversary on December 6. Over the years, it has been my privilege to work closely with members of the Lions Club, and I am pleased to have this opportunity to express my respect and appreciation for their efforts.

It would be impossible to list all the contributions and community projects of the Lions Club of Wilmington, but a few examples make clear the depth and breadth of their efforts:

In 1952, the Lions Club organized a children's zoo in Wilmington, which has since become part of the county parks system and is a center of education and enjoyment for Delawareans of all ages.

The Lions have worked with newly naturalized citizens since 1945, helping to make each new American more at home in their new country.

A leader in programs for Delawareans with special needs, the Lions Club invests thousands of dollars every year to help neighbors overcome the challenge of disability and disadvantage.

To help encourage the talents and good citizenship of our young people, and to promote the promise or our future, the Lions Club runs the Teenager of the Year Program, recognizing academic achievement and community service.

The upcoming 70th anniversary is more than a celebration of the spirit of the Lions Club of Wilmington, it is a celebration of the spirit of America—a spirit of caring and service, of pride in the past and hope for the future. I am grateful and proud that on the anniversary of one of the outstanding organizations in my home town, I can share both the meaning and the inspiration of the celebration with the Senate and the Nation.●

ALCOHOL AND DRUG ABUSE

● Mr. GORE. Mr. President, I have been following with interest the efforts of Surgeon General Antonia Novello to educate Americans about alcohol abuse. I speak today to encourage those efforts, particularly as the Surgeon General prepares for a December meeting with members of the alcohol beverage industry, a meeting where she is expected to urge those in the alcohol

beverage industry to eliminate advertising aimed at young people.

The problems associated with alcohol abuse also threaten pregnant women who use alcohol unaware of its deadly impact on their pregnancy. I am very concerned about the number of women who are using alcohol during pregnancy. Study after study confirms that pregnant women are drinking alcohol not realizing that their child is very likely to be permanently damaged by fetal alcohol syndrome. We have had 17 years of research on this issue, most of it supported by the National Institute on Alcohol Abuse and Alcoholism. All of that research has proven that alcohol is a teratogenic drug—it causes birth defects.

Children who suffer from fetal alcohol syndrome have growth deficiencies that are apparent at the moment of birth. Their behavior reflects central nervous system problems. They are hyperexcitable, have poor concentration and attention. They are dependent, stubborn, sullen, or withdrawn.

Children who suffer from fetal alcohol syndrome cry and laugh too easily, and suffer periods of high anxiety. They are permanently affected by the alcohol drinking habits of their mothers. They miss most of life as you and I know it. And they miss it unnecessarily. I believe that if their mothers knew what their children would miss and the struggle their children would face just to live, then these mothers would make very different decisions about drinking alcohol during their pregnancies.

Recently, I learned that the consequences of fetal alcohol syndrome can be even more dire. Michael Dorris, the author of "The Broken Cord" wrote about his adopted son, Adam. Adam, a child of native American descent was finally diagnosed, after much searching, as a child suffering from fetal alcohol effects. Typical of FAS children, Adam could not understand or connect his actions with their consequences. He didn't understand that he should not wear black and walk home late at night along rural roads. His father had told him many times, but Adam couldn't remember that or connect it to his life. He was killed by a driver late one night. She didn't even see him.

I believe, we can prevent the disease that killed Adam. If mothers knew, they could take action to prevent this disease from hurting their children. Fetal alcohol syndrome is totally preventable. That's why I am working with my colleagues here to pass the Alcohol Beverage Advertising Labeling Act. The warning labels this bill requires can help pregnant women learn about fetal alcohol syndrome, what causes it, and what stops it.

The Surgeon General deserves credit for her efforts to stop and prevent alcohol abuse. Clearly, the stakes involved in her efforts and ours are high—they affect our children and our future.●

TRIBUTE TO BRUCE SEATON

● Mr. BREAUX. Mr. President, I would like to call to the attention of the Senate the upcoming retirement of Bruce Seaton, chairman of the board of directors and chief executive officer of American President Companies, Ltd.

Bruce is known by many members of the Senate, particularly those of us involved in the maritime and intermodal transportation communities. He became the president and chief operating officer of American President Lines in 1977, and led the company through a number of periods of growth to become the state-of-the-art intermodal transportation company it is today.

Bruce Seaton has been a visionary and an innovator within the maritime and transportation communities. Well ahead of many of his peers, he recognized that shippers would be best served by transportation companies which blended the advantage inherent in each mode of transportation and linked those modes together through sophisticated information networks.

Bruce's contributions have strengthened the U.S. maritime industry, virtually created America's leading double stack rail network, enhanced the competitiveness of U.S. goods overseas and upgraded out national defense transportation system.

Mr. President, in 1989 Bruce Seaton was named an Admiral of the Ocean Seas [AOTOS], considered by many to be the most prestigious industry award in the U.S. maritime community. By this, and many other measures, Bruce Seaton has made tremendous contributions to the transportation industry and his country.

We wish Bruce Seaton well as he retires from his current position, and look forward to his continued involvement as our Nation wrestles with the challenges of the 1990's.●

WAR ON DRUGS IS FAR FROM OVER

● Mr. DECONCINI. Mr. President, for some time now, the Bush administration has been claiming great progress in the Nation's ongoing war on drugs. This past week, two items caught my attention which would suggest that the progress may not be as great as the administration would like us to believe.

First, the Washington Post on Sunday, November 17, 1991, reported that for the first time in over a year, cocaine-related visits to hospital emergency rooms were on the rise. Since 1989, the number of cocaine-related emergencies had been decreasing slowly, however, according to a study to be released within the next 2 weeks by the drug abuse warning network and the National Institute on Drug Abuse, there was an alarming increase during the first 3 months of 1991. These figures seem to indicate that hard core cocaine use in the United States is again on the rise and remains a serious threat to the public health. It is incumbent on the President and the Director of the Office of National Drug Control Policy, Governor Martinez, to look closely at the results of this study before trying to convince Congress next year that their efforts to eradicate this country's drug problem are succeeding.

The second item which caused me enormous concern occurred on the international front. The Los Angeles Times on November 20, 1991, carried a story which comes at a critical point in the United States' relations with Mexico on counternarcotics activities. It appears that on November 7, 1991, during an inspection of a private aircraft suspected of carrying illegal drugs into Mexico, on a remote airstrip near Veracruz, Mexico, a team of Mexican-Federal law enforcement agents, working as part of a special response team cooperating with United States drug agents, were ambushed and murdered by Mexican Army troops.

According to the Times article, a group of Mexican-Federal law enforcement agents were dispatched to an airstrip where the suspect aircraft found to be carrying 800 pounds of cocaine, was brought down, only to be met by a hailstorm of gunfire and Mexican Army soldiers. Seven Mexican drug agents were killed. Two were shot in the back at close range and one was shot point blank in the mouth.

Mr. President, the Mexican Army initially depicted the attack as a tragic mistake. I find this hard to believe, particularly since the operation took place during a 2-hour period, throughout which a great deal of information concerning the operation was communicated to the Mexican Army commander. From the information in the article, it is absurd to believe that the troops responsible for the slaying could not have known that the men they were aiming fire at were their own Federal drug agents. The aircraft from which the drug agents departed carried the insigna of the Federal Attorney General's office.

Mr. President, I am outraged by this deplorable and inhumane act of criminal wrongdoing. It just demonstrates to what lengths those involved in drug trafficking will go to continue their criminal activities. The article stated that President Salinas has directed the Mexican National Human Rights Commission to investigate the incident. I hope President Salinas is serious about this investigation. Those responsible for this vicious and heinous crime must be vigorously pursued, brought to justice, and prosecuted to the fullest extent of the law.

This incident not only offends my senses, but it may as well have very serious consequences for continued United States cooperation with Mexico on drug enforcement. Since President Salinas took office, United States-Mexico

cooperation on drug interdiction has improved significantly. President Salinas has taken several positive steps to eliminate corruption and reduce the amount of drug traffic transitting Mexico. He has enacted sweeping reforms of the criminal justice system and has directed the Attorney General's office to act on recommendations made by the Human Rights Commission on allegations of abuse of individual rights. He has engaged in a cooperative drug interdiction program with the United States Customs Service allowing United States pilots to fly radar-equipped interception aircraft to conduct operations in Mexico with his law enforcement agents. He has also resumed the authority for the United States Customs Service to overfly Mexico with its P3 aircraft for detecting suspect targets destined for the United States. In fact, it was the Customs Service who altered its Mexican counterparts to the particular suspect target from South America outlined in the Times article.

Unless President Salinas takes swift and forceful action on this incident, the good will and cooperation built by his administration will be lost. How can the United States continue sensitive joint counternarcotics operations without a firm conviction that all of those involved in this partnership, including the Mexican Armed Forces, will work for the common good? How can any relationship continue if we are not convinced that the Mexican Government will take whatever action it must to prove to the world that criminal acts on the part of its own military officials will not be tolerated?

Mr. President, what if those individuals who were killed on that remote airstrip in Mexico were United States agents? Mexico would have an international incident on its hands. I want to make sure that our own United States law enforcement agents are not put at risk due to the greedy and criminal objectives of Mexican citizens, military, or otherwise. It would be irresponsible to do any less.

Mr. President, I would hate to see the progress our two countries have made over the past few years shattered, because powerful drug lords have secured protection of their operations from within. President Salinas has an opportunity to send a strong message to the United States and all those countries trying to rid their countries of drug trafficking. That message should be that Mexico is, indeed, a serious and willing partner in the international fight against drugs and here is a perfect opportunity for Mexico to demonstrate its seriousness to achieve that objective. Much of what will happen in our future dealings with Mexico in this Senator's mind will depend on the recommendations and findings of the Human Rights Commission's investigation. In the meantime, I hope that President Bush and his administration will monitor this situation closely and send a strong communication to the Mexican Government demanding justice.

Mr. President, separately, these two events over the past few weeks would be cause enough for concern. Coming within a week of one another, they only emphasize that the war on drugs needs to be more than a war of rhetoric. It is a war which affects lives here and on foreign soil. Its casualties can be found in hospital emergency rooms here in the United States, as well as on clandestine airstrips in Mexico. Mr. President, it is a war which is far from over.

Mr. President, I ask that the two articles referred to in my remarks be printed in the RECORD in their entirety.

The articles follow:

[From the Los Angeles Times, Nov. 20, 1991]

MEXICO SOLDIERS ACCUSED IN DRUG AGENT KILLINGS

(By Majorie Miller and Douglas Jehl)

MEXICO CITY.—Scores of Mexican soldiers deliberately opened fire and killed seven federal drug agents at a clandestine Veracruz airstrip earlier this month to protect a Colombian cocaine shipment, U.S. and Mexican officials now believe.

The attack had been characterized as a tragic mistake. But autopsies of the victims revealed that two of the slain Mexican agents were shot in the back at close range and a third was shot point-blank in the mouth, leaving powder burns, sources said Tuesday.

"They gave them the coup de grace there at the end," a U.S. drug enforcement official said.

The Americans and Mexicans had been cooperating in tracking the shipment of cocaine from South America to Veracruz.

The attack on the planeload of Mexican police agents, which lasted for more than two hours on the morning of Nov. 7, was filmed from another government aircraft that circled overhead, providing key evidence that has been viewed by U.S. and Mexican officials.

The three traffickers under pursuit by the Mexican agents escaped and remain at large. Sources said that a Mexican army general, based in the area, is suspected of overseeing an operation that offered the smugglers protection and resulted in the attack on the police.

The assault brought a bloody end to an anti-drug mission that began when a U.S. Customs Service radar surveillance plane guided the two planes to the airstrip, pursuing the traffickers' aircraft, sources said.

After Police Cmdr. Eduardo Salazar Carrillo climbed out of the government plane—a Beech King Air with the federal attorney general's insignia on its tail—and began to inspect the traffickers' Cessna, soldiers opened fire on him. That began the fusillade that was fatal to seven officers, although three others from the government plane, including Salazar, survived, the sources said.

An official account of the incident issued that day by the Mexican Defense Ministry and the attorney general's office explained that the seven agents were killed by mistake during a shootout between the two anti-drug forces in the predawn confusion. Other bullets issued by the Mexican government described the government craft as unmarked and said the federal police started shooting at the soldiers about 1,200 feet away.

But the U.S. and Mexican sources say that compelling evidence indicates that the soldiers attacked intentionally, first only one police agent fired a weapon and that some drug agents were shot at such close range that there could have been no doubt as to their identity as police officers.

"This was no accident, a furious senior Bush Administration official said. Added another senior U.S. official: "There is a strong belief that the Mexican army is lying through its teeth on this."

The incident has raised fears among U.S. and Mexican officials of a fracture in the 18-month-old partnership between Washington and Mexico City over the use of U.S. Customs planes to help Mexican officials interdict drug shipments.

The arrangement relies extensively on Mexican army forces and could be jeopardized if drug corruption in the military has penetrated as deeply as the clash between soldiers and police suggests, the officials warned. But U.S. and Mexican officials have gone out of their way to play down the attack and stress that their cooperation will continue.

Under orders from President Carlos Salinas de Gortari, the Defense Ministry has asked the government's National Human Rights Commission to investigate the deaths. "The president wanted an impartial investigation of this," said a Mexican source.

In Washington, spokesmen for Customs, the Drug Enforcement Administration, the State Department and other U.S. agencies declined official comment on the incident and referred inquiries to the Mexican government. The Mexican attorney general's office declined to comment, saying it will wait for the Human Rights Commission's investigation. Defense Ministry officials could not be reached for comment.

But an emerging picture of the incident, based on extensive interviews with U.S. and Mexican sources, provided this account of a brutal, deliberate assault on the police agents at the clandestine airstrip near Tlalixcoyan, 25 miles south of Veracruz.

American drug officials based at the DEA's El Paso intelligence center spotted the Cessna off the coast of Nicaragua as they monitored radar signals from an airborne Customs plane Nov. 7.

The U.S. authorities alerted Mexican drug agents. The Mexican attorney general's office, which oversees the federal judicial police, dispatched two aircraft to pursue the cocaine-laden Cessna from Mexico's southern border to its landing on the airstrip near Tlalixcoyan at about 6:15 a.m.

A truck with eight barrels of fuel was waiting on the ground for the drug plane at the strip, surrounded by more than 100 Mexican soldiers. Despite the soldiers' presence two men and woman escaped from the Cessna, discovered to be transporting more than 800 pounds of cocaine.

The first of the government planes—the King Air with government insignia—landed about half an hour after the drug plane. As Salazar inspected the Cessna, the soldiers fired on him and his agents.

Shortly after the shooting began, the attorney general's office in Mexico City advised the Veracruz army commander, Gen. Alfredo Moran Acevedo, that his troops were firing on federal police. But the soldiers continued firing for another two hours.

The army has asserted that the police agents refused to identify themselves, and a

senior U.S. official said that question "remains in some dispute." But the weekly magazine Proceso reported that the surviving pilots and police commander have given sworn statements that the agents identified themselves by shouting.

U.S. and Mexican sources said that when the second government plane landed at about 8:30 a.m., the soldiers took the pilot and agents into custody while continuing to shoot at officers from the first plane.

"It is unclear whether the seven agents were killed before or after the second plane landed," said a source. But he said that two of the agents had bullet wounds in their backs and had been shot from a distance of less than 12 yards. A third agent had been shot in the mouth at close range, he said. Only one of the victims showed evidence of having fired his weapon.

In Washington, U.S. officials said the Mexican drug agents killed during the raid had been working closely with the DEA for months as part of the new response team, which relied heavily on the radar intelligence gathered by military and U.S. Customs radar planes operating off the Mexican coast. "People around here are really pissed off," one DEA official said "This is a story that really should be told."

But the Administration spokesmen who refused to comment directly on the incident went out of their way —when told that others had provided detailed accounts of the shooting—to praise the Mexican government in what seemed an attempt to forestall any rupture in relations.

[From the Washington Post, Nov. 17, 1991]

REVERSING COURSE, COCAINE-USE INDICATOR IS RISING

(By Michael Isikoff)

Federal health officials will report shortly that the number of cocaine-related visits to hospital emergency rooms has risen for the first time in more than a year, according to sources, familiar with the figures.

"This 15 percent jump in such visits recorded by the government's Drug Abuse Warning Network (DAWN) during the first three months of this year might indicate a resurgence of the nation's hard-core cocaine problems."

"This is a disturbing trend. . . . It's a real jump," said Adele Harrell, senior research analyst at the Urban Institute, who specializes in drug abuse trends. "This indicates an increase in negative health consequences from cocaine use."

The figures also tend to support the view of some federal anti-drug officials that the country may be facing a renewed heroin problem. Herion-related hospital emergencies also rose from the final three months of 1990 to the first three months of this year. But even with the 13 percent increase, the number of heroin-related emergencies was still below the total for the first three months of 1990.

White House drug advisers have used the DAWN figures as one of their principal yardsticks in measuring the nation's progress in fighting drug abuse.

When declines in cocaine emergencies were first reported last year, Secretary of Health and Human Services Louis W. Sullivan hailed it as evidence of "significant headway" in the war against drug use, a theme that has been repeated frequently by President Bush.

But the recent increase—especially if it continues—could undermine the president's ability to make that argument during next year's campaign and give Democrats new ammunition that his war on drugs has failed, particularly in the inner cities.

Rep. Charles B. Rangel (D-N.Y.), chairman of the Select Committee on Narcotics Abuse and Control, said the new figures belie "ridiculous" claims by the administration of progress. "The administration is constantly talking about DAWN reports. . . . They're always looking for good news," he said. "But the truth of the matter is they don't want to acknowledge that in the inner cities, there is still an explosion of cocaine use."

Ingrid Kolb, acting deputy director for demand reduction in the Office of National Drug Control Policy, said the drug office had not seen the new DAWN figures and could not comment. The figures had been scheduled to be released by the National Institute on Drug Abuse within the next two weeks. But a spokeswoman for NIDA said Friday the agency will wait until mid-December to release the study so it can include updated figures for the spring of 1991 that have not yet been analyzed.

Some anti-drug analysts said it is too early to draw hard conclusions from the increase, emphasizing that it could represent a number of factors: higher street purities causing an increase in overdoses, an overall growth in the number of users or possible differences in reporting methods among hospitals in the DAWN system.

Nevertheless, the DAWN system is considered one of the only government indicators capable of measuring that aspect of the drug problem that has proven most intractable: hard-core abuse, especially among the poor, unemployed and other groups that tend to be underrepresented in government-sponsored surveys of drug use.

The DAWN system consists of reporting from a sample of 535 hospital emergency rooms in 21 cities. Throughout the last half of the 1980s, cocaine-related hospital emergencies reported by DAWN skyrocketed as hospitals were flooded with the victims of the crack cocaine epidemic.

Although DAWN's reporting system has changed, the government's adjusted numbers show that the number of cocaine emergencies peaked in the summer of 1989 at 29,939. In the last three months of that year, they began to drop, with the figure leveling off at 19,381 during the last quarter of 1990.

But the trend reversed itself in the first three months of this year as cocaine emergencies rose to 22,282. In addition, heroin-related emergencies increased from 7,510 in the last quarter of 1990 to 8,465 in the first quarter of 1991, although they were still below the 9,967 during the first quarter of 1990.

The total number of drug-related hospital emergencies, which include visits for alcohol, also climbed during this period from 89,325 in the final months of last year to 96,406 in the first quarter of 1991.

Some anti-drug officials noted that there is considerable variation in DAWN figures from city to city.

For example, there was no appreciable increase in cocaine emergencies in the District of Columbia. In Miami, the number of such visits nearly doubled, from 186 to 358.

The increase in Miami is particularly ominous, some analysts said, because South Florida is an entry point for much of the nation's cocaine. A big increase in Miami might suggest that cocaine imports, after being temporarily disrupted over the past two years because of enhanced interdiction, might again be on the rise, some analysts said.•

AOJ IN EASTERN EUROPE: WHAT ADMINISTRATION? WHOSE JUSTICE?

• Mr. CRANSTON. Mr. President, I rise today to express my great dismay over the administration's failure to provide appropriate administration of justice support for the emerging democracies of Eastern Europe.

Earlier this year I introduced, together with my friends and colleagues, the Senator from South Carolina [Mr. THURMOND] and the Senator from Massachusetts [Mr. KERRY], the Omnibus Eastern European Security Assistance Act of 1991.

The purpose of this bill was to provide the emerging democracies of Eastern Europe with knowledge of, and training in, U.S. law enforcement practices.

Mr. President, the U.S. model of civil-military relations and our system of administration of justice are perhaps two of the most successful yet little-promoted underpinnings of our democracy.

Based on the essential distinction between internal security and national defense, the principle of posse comitatus has ensured that our military remain nonpartisan and our police forces professional.

Mr. President, when I introduced our legislation I pointed out the importance of drawing upon our own expertise and experience in this area in offering assistance to the governments of an Eastern Europe whose security establishment was synonymous with misrule and fear.

I pointed then to the growing sense of unease in the region, where economic dislocation, xenophobia, and a resurgence of hate crimes made it imperative that the Soviet-trained security forces in those countries be exposed to democratic models.

I called attention to the fact that foreign investment, the lode star to which so many hopes there are being attached, was a mere chimera unless contracts could be enforced, unless the criminal justice system showed signs of working, and unless businessmen were free of fears of extortion, or crime on the streets.

Mr. President, yesterday the Senator from Delaware [Mr. BIDEN] took to the floor to point out that much of what we've been dealing with on an emergency basis for the former Soviet Union could have been taken care of with strong bipartisan support for the SEED legislation we offered 2 years ago.

Today, I must point out that, in similar fashion, the administration is shooting itself in the foot because of its catch-as-catch-can attitude concerning administration of justice concerns in Eastern Europe.

When we made our proposal last spring, the State Department moved to block it. When it became part of the

discussions in the House-Senate conference on foreign aid, State moved quietly to kill it.

The word went out: Eastern Europe is not ready for an administration of justice program. What it needs they said, is antinarcotics and antiterrorism assistance.

What administration of justice support there is, comes from a $750,000 Rule of Law Program administered by USIA; $750,000 for the entire Eastern European region. Compare that to this administration's continued willingness to throw military assistance at nations with much less democratic vocation.

It is truly unfortunate, Mr. President, the realization that the administration will not work with Congress to ensure that a mere $5 million out of funds already allocated for the region be used to address this problem.

It is truly a cause for confusion to see the State Department, in the person of Special Assistant for Eastern European Affairs Bob Barry, weigh in against such a modest proposal—then have his office find that, on an important request for assistance by the Polish Interior Minister, it lacks the kind of congressional authorization provided in the Cranston-Thurmond bill.

And it is truly a moment for reflection, Mr. President, knowing that requests for assistance from our beleaguered democratic allies in Eastern Europe often go unfulfilled because Ambassador Barry and the State Department choose to kill anything that doesn't have the stamp: "Made Here."

Mr. President, the request by Polish Interior Minister Henryk Majewski included 19 areas that needed assistance. It was finally acted up at an interagency meeting in which the attending players had to pledge money from their existing budgets.

There was no mechanism for central coordination, there was no money available specifically dedicated for these purposes, and one can only wonder what the followthrough will be. This was, of course, only one request. Yet, inquiries by my office have revealed an ad hoc approach to this very important issue, and this one request is just a part of a much larger number that demand urgent attention.

Mr. President, if administration of justice concerns are being addressed in a timely and appropriate manner, why then are private individuals bankrolled by private interests rushing to fill the void, as they are? Why are businesses finding that they have to finance efforts where the U.S. Government can and should be taking the lead?

The assistance being provided is not in question. I must stress that there is not a hint of wrongdoing in the assistance that is being offered.

Yet it is unseemly, this privatization of law enforcement training. In a democracy, the administration of justice is not the concern of a select or well-heeled few.

Unfortunately, this message appears to fall on deaf ears over at the State Department.

How else to explain this scramble for money and authorities, when proposals that would give both are there for the taking?

When will the administration learn that antiterrorism and antinarcotics efforts can only be as effective as the justice system which backs them up?•

CABLE TELEVISION CONSUMER PROTECTION ACT

• Mr. DANFORTH. Mr. President, before this session of Congress draws to a close, I want to thank the majority leader for scheduling S. 12, the Cable Television Consumer Protection Act, for consideration in January. The decision to make this cable reform legislation a high priority for early next year is a victory for the consumer. It is a victory because this much-needed legislation encourages competition to cable, protects the consumer where there is no competition, and helps to ensure the continued existence of free TV.

For too long, the cable industry has been permitted to operate as an unregulated monopoly. The rate increases slated for the new year underscore this fact.

In addition to thanking the majority leader for his assistance and his commitment to bring this bill before the Senate, I want to commend Senator INOUYE, the chairman of the Communications Subcommittee, and Senator HOLLINGS, the chairman of the Commerce Committee, for their hard work on this consumer legislation.•

VIEWS ON S. 543

• Mr. SIMON. Mr. President, on Thursday November 21 the Senate passed S. 543, the banking bill, by voice vote. I wish to go on the Record to state that had there been a rollcall vote, I would have voted no on this measure.

There is little debate that Congress needs to act to recapitalize the nearly bankrupt bank insurance fund in the FDIC. It is this fund that insures deposits in banks throughout the country. The soundness of this bank insurance fund is crucial to the soundness of our banking system and indeed to our entire economy. If all we were voting on last week was a replenishing of the BIF, there would have been little argument, little negotiation. It would have been enacted swiftly and with broad consensus.

Without going through a long history of what was originally intended in bank restructuring legislation, there are two key points in S. 543 I wish to address.

First, S. 543 contains provisions changing long-standing Federal laws preventing banks from establishing national branches. This law was originally written to prevent a few large money-center banks from dominating the allocation and distribution of credit in small communities, rural areas, and even in large cities outside of the country's large commercial centers. It was intended to prevent a few large banks from absorbing deposits in States like Illinois and not providing loans and credit in those areas. I have many serious concerns about this provision in the Senate bill. That is why I voted for the Bumpers amendment insuring that only those States that affirmatively choose to "opt-in" interstate banking will be subject to these new Federal laws.

I hope that this provision will be dropped in conference. But if it is not dropped, I will oppose the conference report and I will request a rollcall vote.

Second, S. 543 originally contained several vital consumer provisions, provisions requiring banks to provide basic banking services and government check cashing services to low-income bank customers. These provisions were deleted during Senate consideration of S. 543 and were not in the bill when it was finally voted out of the Senate. I find it curious that the Senate was willing to provide to the large banks something they very much wanted, interstate banking, but did not require them to provide any services to low-income customers who will tend to be overlooked if banks continue to gain sweeping new powers.

Restructuring the financial industry is a complex project. I hope and assume the Senate will return to this task next year. I also hope that the Senate can address the issues facing the financial industry and still protect the interests of small communities, depositors, consumers, and low-income people.•

KEIRETSU AND THE BUSH ADMINISTRATION

• Mr. BAUCUS. Mr. President, in recent weeks, a host of Bush administration officials have urged Japan to address the central source of United States-Japanese friction—trade relations between our two countries.

I have frequently stated that trade should be the top issue on our agenda with Japan. I doubt that trade is yet atop the administration's agenda, but perhaps it is finally rising.

For as long as I have been involved with international trade issues, the United States has struggled to open the Japanese market.

Prime ministers and presidents change.

Exchange rates ebb and flow.

But one thing seems always to stay the same: It is extremely difficult to sell American goods in Japan. Few challenges we face have proved as illusive as reducing Japanese trade barriers.

I believe Japan's keiretsu system may be the single most important impediment to better trade relations with Japan.

KEIRETSU AND UNITED STATES-JAPANESE TRADE

Most Americans have never heard of keiretsu—Japan's unique system of interlocking corporate families.

In fact, part of the problem is that we're still not sure exactly what we're dealing with. Yet if the precise definition of keiretsu is unclear, the effects are increasingly evident.

Japan can attribute its economic success in large part to the opportunities it enjoys in the American market.

Unfortunately, the United States has not enjoyed reciprocal access. Last year the Japanese surplus with the United States topped $40 billion—four times larger than the United States deficit with any other country.

The anecdotal evidence of keiretsu is also strong. This year's National Trade Estimate—a listing of foreign trade barriers—refers to the effects of keiretsu in blocking access to the Japanese markets for paper, auto parts, and motor vehicles. Strong evidence has been presented about the effects of the keiretsu system on the U.S. glass industry.

The Japanese Government's own report in connection with the structural impediments initiative recognizes the negative effects of keiretsu on trade and investment.

CURRENT EFFORTS TO ADDRESS KEIRETSU

Current efforts to address keiretsu arise out of the structural impediments initiative [SII]. SII has succeeded in sharpening our understanding of the underlying causes of United States-Japanese trade disputes.

Unfortunately, SII has been less effective in crafting remedies. This is particularly true in addressing the problems created by keiretsu.

In fact, U.S. negotiators stated in their first annual SII report that dealing with keiretsu had been one of the biggest disappointments of the SII process.

My experiences in dealing with Japan have convinced me of one thing: The United States achieves results only through sustained pressure. We need mechanisms that establish priorities, deadlines, and criteria for measuring results.

NEW REMEDIES FOR ADDRESSING KEIRETSU

I believe that keiretsu should be addressed using a coordinated combination of multilateral and bilateral mechanisms.

Frankly, what we really need to address the keiretsu system is a renewal of Super 301.

Even without its "super" provisions, "normal" section 301 has been an extremely successful in addressing unfair Japanese trade practices. The United States has used it to open markets in wood products, satellites, supercomputors, leather, footwear, construction, semiconductors, tobacco, and oranges.

It is important to emphasize that section 301 is not inconsistent with multilateral dispute resolution under the GATT.

In tandem with a section 301 investigation, and consistent with section 301 deadlines, the United States should urge the formation of a GATT panel under article XXIII—the nullification and impairment provision.

Keiretsu are not specifically addressed in the GATT. However, article XXIII of the GATT addresses the situation in which a country's practice, although not specifically outlawed, "nullifies" or "impairs" a GATT benefit.

I believe article XXIII should be applied to keiretsu. Keiretsu nullify and impair GATT benefits the United States would otherwise receive. For example, Japan's average tariff rates are quite low. U.S. exporters cannot take advantage of this benefit, however, where keiretsu block access to the market.

FOCUSING ON RESULTS

Whether a resolution to the keiretsu problem is negotiated multilaterally or bilaterally, a solution should focus on results.

Do not get me wrong. I am not talking about assigning market shares.

However, benchmarks can be used to evaluate Japan's progress in a number of areas. We can use benchmarks to compare the openness of the Japanese market to other markets, and to measure progress in addressing a particular barrier.

Benchmarks already are being used with significant effect in addressing Japanese barriers to United States semiconductors. Benchmarks also should be used in evaluating whether prices and import levels in Japan are consistent with other developed countries.

CONCLUSION

There is a lot we can learn from the Japanese. I have been reading with great interest the MIT study, "The Machine that Changed the World." This important book outlines the revolutionary contributions of Japan to the development of industrial processes.

There is much that we Americans must do for ourselves. We have our own structural impediments. There may be aspects of keiretsu that we should emulate.

But it is absolutely clear that keiretsu have seriously protectionist effects. These effects act as a unfair impediment to U.S. goods.

Our ability to eliminate the trade distorting aspects of the keiretsu represents one of the single most important challenges the United States faces in this new era of economic competition.

If President Bush travels to Japan in January, one point must be made loud and clear: Japan must reform its keiretsu system, or relations with the United States will deteriorate.•

ACCESS TO AFFORDABLE HEALTH CARE

• Mr. KERREY. Mr. President, I have made it clear in the past, that the time to reform our Nation's system of financing health care is long overdue. Reforming our Nation's health care system is not only a humanitarian issue, it is a vital economic issue. It is eroding our standard of living and threatening our ability to compete in an aggressive international marketplace.

Access to affordable health care is moving beyond the reach of the working American families. Health care costs are rising as incomes are falling. Individuals and families are spending more for health care and receiving less coverage while they are earning lower wages.

Last July, I introduced the Health USA Act of 1991 to restructure how our Nation pays for health care. Since then, I have received many letters from Nebraskans on the topic of health care and the adverse effects of its rising costs. In a recent letter from Mr. Timothy Deal of Hastings, NE, he illustrates very specifically and honestly how an increase in his families' health care premiums, accompanied by a decrease in the amount of coverage, has put his family on the edge of financial devastation.

Mr. Deal's situation is extremely troublesome. But, tragically, it's not that unusual. Rapidly rising health care costs are crowding out wage and salary increases, impairing the American people's standard of living, and putting the fear of financial ruin resulting from a serious illness into their hearts.

Mr. President, I ask that Mr. Deal's letter be printed in the RECORD. I encourage all of my colleagues to read this letter and realize that the specific situation that Mr. Deal has shared with us, is the norm throughout the Nation.

The letter follows:

HASTINGS, NE, *August 4, 1991.*

DEAR SENATOR KERREY: May I begin by saying that it is indeed a privilege of fortune to enjoy the benefits of life in America. Furthermore, should the wheels of corporate gains and industrial economics suddenly and unexpectedly cease to turn, there is no better place in the world than the USA that I would choose to be. Having made this clear, I do however wish to share with you my personal opinion and perception of present social and economic concerns.

I am well aware that you have great concerns, as do I, of current existing health care deficiencies, and have addressed these pending concerns with your own innovative health care plan. I applaud your efforts and want you to know I support your philosophy with regard to this issue. I am also aware that many have been critical of this plan and voiced openly their opposition toward its

economic support. Please share my letter with them! Please note the following information reflects an honest glimpse of my family's personal income and dispersement of spending. Note as well that I am not venting discontent with these salaries, as they likewise reflect an economic portrait far above the numbers realized by many less fortunate than myself.

My wife and I are both gratefully employed full time and our family's net monthly income is $1150.00 after deductions for federal and state taxes, social security, health insurance, daycare, and education savings. Our monthly expenses are as follows:

$550.00—Housing (house payment and average utilities).

$100.00—Transportation (1977 Honda, 1981 Escort, no maintenance).

$50.00—Auto and Home Insurance.

$25.00—Medical insurance deductible.

$25.00—Dental and Optical expenses (not covered by insurance).

$25.00—Copayment of insured medical expenses (Blue Cross/Blue Shield 80/20 on all medical expenses covered under the current policy).

Total—$775.00.

As you can see, this allows only $375.00 to be appropriated for food for four, household purchases, recreation and entertainment, gifts and contributions, telephone and postal, newspaper and garbage expenses. Clothing, I do not include, but with the exception of socks and undergarments, all clothing for the family is purchased from garage sales and thrift shops.

We have been able to juggle these appropriations each month without the use of credit cards, thus we have our needs met and have therefore remained secure economically. Recently, however, our medical insurance premiums increased from $80.00 a month to $95.00 while our coverage decreased. Please note the seriousness that this change has invoked with regard to our economic stability. As of August 1st, our policy, which previously covered 100 percent of hospitalization and emergency costs with the exception to a small number of exclusions, has been amended to cover 80 percent of all medical whether basic or major medical. This policy included a $3000.00 copayment stop loss annually. I can not express effectively, the concern this presents our family. Allow me to convey it this way. I have two young children, ages 6 and 1, both of which have been hospitalized in the past 2 months for ear surgery. One of the children, our 6 year old, was hospitalized twice as an inpatient and once as an outpatient. Altogether, these medical expenses totaled several thousands of dollars. Had this medical dilemma occurred now, instead of prior to August 1st, our family could be faced with an economic hardship of such magnitude that I hesitate to ponder it. Sad as it seems, more and more medical policies have increasingly diminished in coverage while premiums increase.

Please Mr. Kerrey, I have been frank with you throughout this letter, I have disclosed valid information reflecting average midwestern economics. Please take this letter to the Senate floor and read it. If your opponents scoff at its contents, then they, not I, suffer greater social inequity.

Sincerely yours,

Timothy J. Deal

P.S. note that the $95.00 premium makes up only 20 percent of the policy's total monthly cost. My employer's benefit is nearly $400.00 a month.●

ACCESS TO QUALITY MAMMOGRAPHY SCREENING

● Mr. D'AMATO. Mr. President, I rise today to cosponsor two bills that address the urgent need for expanded access to quality mammography screening for all American women.

Expanding access to mammography screening and ensuring that such screenings meet the highest standards of quality is vital to reducing the unacceptably high death rate associated with breast cancer in this country. It is estimated that in 1991, 175,000 women will be diagnosed with breast cancer, and 44,500 women will die from the disease. This makes breast cancer the second leading cause of cancer death among women in the United States.

Mr. President, next to a cure—and we must do far more at the Federal level to speed research on effective treatments for breast cancer—our best defense against this horrible disease is early detection and treatment. Such early detection, through regular mammograph screening, can, according to the Centers for Disease Control, reduce breast cancer mortality by 30 to 40 percent for women aged 50 and older.

Unfortunately, far too few Americans women receive early cancer detection tests on a regular basis. In 1987, only 25 percent of women over age 50 reported having a mammogram within the preceding 2 years.

We need to encourage and facilitate the use of these tests by American women—and that is why on April 23, 1991, I joined Senators MACK and BREAUX in introducing S.891, legislation which provides a tax credit of up to $250 against the costs of early cancer detection procedures.

Today, I am cosponsoring two bills that I believe will further promote the availability of quality mammograms. The first, Senate Resolution 184, is a sense-of-the-Senate resolution that calls on insurance companies throughout the country to include periodic mammography screening services as part of their basic coverage for women. New York State has required health insurance policies to include coverage for annual mammography screenings since 1988. I am hopeful that this far-sighted bill, introduced by my colleague from Illinois, Senator DIXON, will encourage insurance companies in every state to follow suit.

The second bill, S.1777, will establish national quality standards for mammography to assure that every mammogram a woman receives is safe and accurate. The need to establish national standards was underscored by the findings of a recent General Accounting Office report which found that existing professional standards are not uniformly followed at many screening facilities. The same study found a need for strong Federal standards to assure the quality of mammography screening, and sufficient legal mechanisms to enforce them. S.1777 addresses this need by requiring the Secretary of Health and Human Services to develop national quality standards in the areas of equipment, personnel, oversight, quality control, and enforcement. I commend my colleague from Washington, Senator ADAMS, for introducing this bill, which, by improving the quality of mammography screening, will surely save numerous lives.

Mr. President, we know that one in every nine American women will develop breast cancer at some point in her life. We need to guarantee these women access to the best preventive health care available. These bills will help us do just that. I encourage my colleagues to join me in cosponsoring these measures, and I urge their prompt passage.●

● Mr. GLENN. Mr. President, last year, Congress passed the Chief Finance Officers Act, the first comprehensive effort in years to overhaul the Government's antiquated, inefficient and abuse-ridden financial systems.

I was very pleased to have sponsored the CFO Act, and to have taken the lead in its passage. Federal agencies desperately need to get their financial houses in order, to know what tax dollars are being spent for, and to know if they are being spent wisely. With a trillion-and-a-half-dollar budget to administer every year, Uncle Sam simply can't afford to have holes in his pockets.

With the CFO Act, in fact, I hoped that the Government was finally on its way to eliminating shoddy and duplicative accounting, mismanagement, faulty financial statements, and the unprecedented waste, fraud and abuse that so rightfully disgusts taxpayers and undermines the Government's credibility. I was initially pleased that the administration recognized the importance of the CFO Act, but after a year of watching the White House implement this legislation, I am concerned that the CFO Act is not working as its sponsors intended.

I feel the CFO Act is turning into the Complacency Act, because the White House is nominating some people with limited, if any, direct financial management experience to be agency chief financial officers. In some cases, CFO positions are being tacked onto the already overburdened shoulders of their assistant secretaries for administration or management as an afterthought. This practice all but ensures that these very important jobs—and thus financial management—will get short shrift in many agencies.

Agencies, I might add, are not unlike our country's largest corporations, in that they must account for and spend billions of dollars a year. The difference is that America's leading corporations take their financial management jobs seriously, and the people who hold corporate CFO positions generally are well-qualified for those jobs.

One of the purposes of the CFO Act was to bring individuals with superior qualifications into positions where they have the power and authority to make significant improvements. In fact, the CFO Act is quite specific about CFO qualifications—more so than almost any other law which authorizes Presidentially appointed, Senate-confirmed, positions.

The relevant language in the Act reads as follows: Each agency chief financial officer shall be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in, financial management practices in large governmental or business entities.

But even this statement, strong as it is, is not the last word on CFO qualifications. In addition to the language in the law, the administration itself, through the Office of Management and Budget, has approved qualification standards for CFO's and deputy CFO's. These standards were drafted in consultation with Congress and the General Accounting Office [GAO].

Thus, the administration's own standards for CFO's require that nominees should have practical involvement with financial management in large public or private organizations; direct knowledge and experience with budgets, internal controls, accounting and financial reporting; and finally, substantial familiarity with the design or operation of large financial or management information systems.

These standards—the administration's standards—clearly envision CFO's who bring to their positions solid knowledge of, and experience in, financial management.

But, Mr. President, I think it's safe to say that the standards in the law and in OBM's own guidelines are being ignored. We now have CFOs nominated by the President, and expecting Senate confirmation, who have essentially no direct financial management experience. There is a pattern emerging that disturbs me. In several cases now, the Senate has been asked to confirm CFO's who, while perhaps qualified generally in management or policy issues, have little of the financial know-how necessary to guide changes in major cabinet agencies. While they may be perfectly bright, hard working individuals, and qualified to assume the duties of an assistant secretary for management, I am very concerned about their abilities to fulfill the CFO mandate.

The enormous job of cleaning up the books and hauling the government into the modern financial management age cannot be undertaken by just any political appointee simply looking to polish a resume. The CFO Act envisioned and deserves must more. The taxpayers and the elimination of waste, fraud and abuse deserve much more.

I will not believe that the White House, and, yes, the Senate, are serious about financial management until they get serious about CFO nominations. Unless we appoint CFO's who understand the financial problems of our government agencies and can quickly act to fix them, then I can assure my colleagues that the CFO Act will not work—business as usual is all we will get. And if the administration and this Senate are unable to muster the interest and the political will to hold our standards high, to bring in the best and the brightest, then I would suggest that business as usual is all we deserve.

While I will not hold up the CFO nominations at the Departments of Agriculture and Health and Human Services that the authorizing committees have already seen fit to approve, I regret that I cannot support them, either. I recognize that assistant secretaries for management have responsibilities that go beyond their CFO duties, and that as a result, the authorizing committees must judge the nominees on many issues. But that is part of the problem.

The authorizing committees have chosen to report these nominations out favorably, and for that reason I am not going to oppose them. But very simply, we need to do better. The administration, the authorizing committees, this Senate, need to do better in nominating and confirming people for CFO positions.

Granted, these are not high profile jobs, but they are very important. If we are to make any progress at all, they cannot be handed out cavalierly, or like some trophy. Make no mistake, CFO jobs will be hard—their problems are tough and their responses must be tough. Our only chance to get the job done is to put in place people with the skills and experience who know what must be done, and then let them do it. That's what the CFO Act envisioned and that's what the CFO Act deserves. Financial Management, and sewing up the holes in Uncle Sam's pockets, are just too important for anything less.●

THE NEED FOR FARMLAND PRESERVATION

● Mr. WOFFORD. Mr. President, I rise today to support the need for farmland preservation. As part of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 the State of Vermont will be eligible for funding from the Commodity Credit Corporation [CCC] to support the purchase of development rights on prime farmland. I strongly support this measure because it is the first Federal program that recognizes the need for such protection and builds on existing State farmland protection programs.

The Farms for the Future Act, if expanded to other eligible States, will assist Pennsylvania and other States with approved preservation programs in preserving their most valuable resource. It will also encourage those States which currently do not have programs to initiate the process. This program is an excellent opportunity to leverage scarce public funds at both the Federal and State levels.

As many States know, land conservation is costly. But, it is a resource worth preserving in view of the billions of dollars in economic activity generated annually by agriculture industry. That economic benefit reaches into all parts of the economy making farmland preservation important to all States.

Mr. President, I support farmland preservation. It has preserved many prime farms in Pennsylvania. The assistance received from the Federal level will greatly assist States in their efforts to conserve this natural resource.●

PROPOSED SCIENCE AND TECHNOLOGY STUDY CONFERENCE

● Mr. GORE. Mr. President, in April 1988, the Carnegie Corporation created the Carnegie Commission on Science, Technology, and Government to study how Federal and State Governments could better deal with science and technology issues. The 22 members of the Commission are leaders from industry, government, and academia who have a great deal of experience dealing with science and technology issues. President Jimmy Carter and former Senators Daniel Evans and Charles McC. Mathias are among the members.

To examine how Congress deals with science and technology issues, the commission formed a Committee on Science, Technology, and Congress, chaired by John Brademus. For the last 2 years, several of my colleagues and I have served on a Congressional Advisory Council which has provided the Committee with advice and direction.

So far, the Committee has prepared two very useful reports on how the Congress gathers and utilizes information on scientific and technical questions. The first report, "Science, Technology, and Congress: Expert Advice and the Decision-Making Process," contained a number of insightful observations on the congressional process and made some helpful recommendations to the Congress.

I found one recommendation particularly useful; the report call for creation of a Science and Technology Study Conference which would help Congress deal with the increasing complicated science and technology policy issues that we face. The Study Conference would be modeled on the very successful Environmental and Energy Study Conference [EESC] which was created in 1975 to provide members and staff with information on legislation relat-

ing to energy and environment matters. Today, more than 380 members of the House and Senate contribute to the EESC and benefit from the newsletters, bulletins, and briefings that it provides.

Ten years ago, most science and technology issues were put on the back burner—they just did not get much attention on the Hill. That's not the case today. This year, there have been extended floor debates on a number of scientific programs, including the Space Station and the Superconducting Super Collider. The Commerce Committee, chaired by Senator HOLLINGS, and the Commerce Committee's Science Subcommittee, which I chair, have held numerous hearings on how the government could do more to work with industry and academia to develop new technologies. The Commerce Committee and others are working to formulate a coherent, pro-active U.S. technology policy to do just that. At the same time, the Energy committee is hard at work defining new roles for the Department of Energy's national laboratories so that they can contribute more to America's technological competitiveness. On the Armed Services Committee, Senator NUNN, Senator BINGAMAN, and I are seeking ways to leverage the billions of dollars that the Defense Department spends on technology development in order to help our civilian high-technology industries. The Judiciary Committee is grappling with difficult issues involving intellectual property rights, computer security, and bioethics. Both the Environment Committee and the Agriculture Committees face a number of thorny scientific and technological questions, too, ranging from the control of genetically-engineered organisms to the development of new technologies for less-polluting farming practices.

With so many congressional committees working on science and technology issues, I feel it would be useful to have a Science and Technology Study Conference [STSC] to keep everyone informed about developments in the Congress. We cannot hope to coordinate our science and technology policy if the right hand does not know what the left hand is doing. To coordinate you need to communicate. In addition to tracking congressional activities, the STSC could help us keep up with developments in the administration, in industry, and in the laboratories.

The Science and Technology Study Conference could publish a weekly bulletin like the EESC Bulletin that could keep congressional offices up-to-date on new legislation and new scientific developments. It could organize briefings by researchers, administration officials, and industry representatives for members and staff. It could provide a forum for discussions of key issues that span more than one committee or subcommittee.

The STSC, like other legislative service organizations, would rely on contributions from Members' clerk hire accounts. I know that none of us have extra money in our office accounts, but I think if 70 to 100 Members in the House and Senate can chip in, we can create a viable organization that could help us all keep up with fast-moving developments in science and technology. In addition, if we can get adequate funding from Members, it is likely that we would be able to attract outside funding from foundations and elsewhere to fund an institute, like the Environmental and Energy Study Institute, which could supplement the efforts of the STSC.

During the recess, my staff and I will be contacting Member's offices to gauge interest in forming a Science and Technology Study Conference and to discuss how to organize such a study conference to best help the Congress deal with the many complex issues we face. We are clearly in the formative stages, but I have already found a lot of interest. here in the Senate, Senators DOMENICI, SANFORD, and BINGAMAN and others on the Carnegie Committee's Advisory Committee have expressed interest. In the House, Congressmen TIM VALENTINE, BILL GREEN, GEORGE BROWN, and others are interested in exploring the idea. I think we all understand that there is a need here, and I look forward to working with my colleagues to address that need.•

HERE'S A WAY TO GET OUT THE VOTE

• Mr. WOFFORD, Mr. President, it is unfortunate that a constitutional right of Americans—the right to participate in the elective process—is exercised by decreasing numbers of eligible voters. In 1988, only 50.1 percent of those eligible to vote for President did so. That was the lowest voter turnout rate in 64 years. Worse still, the President of the United States was chosen by only 26.8 percent of eligible voters.

There are many reasons why people choose not to vote. But if we are to maintain Lincoln's vision that a "government of the people, by the people, for the people, shall not perish from the earth," we must find ways to encourage fuller participation in the political process.

Recently, Mr. Andrew Henshel of Philadelphia wrote an article that appeared in the Philadelphia Inquirer on this topic. In that article, Mr. Henshel offers a thoughtful, well reasoned argument on the necessity of reforming this nation's voter registration laws which I recommend to my colleagues. I ask that this article be printed in the RECORD.

[From the Philadelphia Inquirer, Sept. 16, 1991]

HERE'S A WAY TO GET OUT THE VOTE

(By Andrew Henshel)

With about one-third of eligible Americans not registered to vote, there is a clear need for national voter registration reform. According to the Federal Election Commission, only about 50 percent of the eligible voters participated in the 1988 presidential election, while less than 40 percent turned out in the 1990 congressional elections.

These deplorable rates of participation, which one congressional committee has suggested could create "serious problems for our democratic society," can be attributed in large part to archaic and restrictive voter registration laws and procedures.

The proposed National Voter Registration Act of 1991 (Senate Bill 250), which is expected to come before the Senate for consideration in the next few weeks, responds to these dismal rates of voter participation in a fair, sensible manner. The bill, sponsored by Sen. Wendell H. Ford (D., Ky.), chairman of the Rules Committee, is the most important proposed expansion of voting rights and opportunities since the passage of the Voting Rights Act of 1965. It would remove barriers to registration that presently exist in a number of states and localities.

This comprehensive measure would, for the first time, establish clear national standards for voter registration. It calls for each of the states to implement a variety of procedures to increase voter participation, including registration by mail, "motor-voter" registration and registration at government agencies that serve the public.

The bill approved by the Senate Rules Committee contains the following key provisions:

The application for a driver's license, renewal, change of address or a non-driving ID card would also serve as an application to register to vote, unless the individual is ineligible to vote or declines to exercise this option. It has been estimated that this system, which has been implemented successfully in a number of states, would enfranchise as many as 90 percent of eligible voters.

In order to reach eligible citizens who are less likely to have driver's licenses, the bill provides for agency-based voter registration and assistance in completing registration applications at government offices, such as unemployment, public assistance and vocational rehabilitation offices. In addition, such locations as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus and tax offices, would be required to make voter registration applications available. Federal offices, as well as voluntary private sector agencies, also would be encouraged to participate.

A uniform mail registration system, allowing citizens the opportunity to register by mail, would be adopted nationwide. Already, more than half the states, including Pennsylvania and New Jersey, utilize some form of voter registration by mail.

The present system of "purging," or removing voters from the registration rolls for failing to vote in a prescribed number of elections would be eliminated entirely. Removal of a voter's name from the registration rolls would be permitted only at the request of the voter, because of a verifiable change of residence, upon the death of the voter, or as provided by state law for criminal conviction or mental incapacity. Any programs used by the states to update and

maintain the accuracy of voter registration lists would be required to be uniform, nondiscriminatory, and in compliance with the provisions of the Voting Rights Act.

To prevent electoral fraud or abuse in federal elections, the submission of false or fraudulent registrations and other abuses of the election process would be made a federal crime.

There is widespread support for voter registration reform. A similar bill was approved overwhelmingly by the House in February 1990 and only the threat of a filibuster prevented Senate consideration of the bill.

Although the need for this legislation is clear, a tough fight to get it enacted into law is a strong possibility. Any effort to attach amendments that would weaken the proposed bill should be opposed.

At a time when people of countries around the world are risking their lives for the principles of freedom and democracy, and the right to vote, we must increase active participation and involvement by citizens in our democratic system of government.

In this 200th anniversary year of the Bill of Rights, passage of this vital legislation would demonstrate a renewed national commitment to the revitalization of American democracy and citizen participation. As Thomas Jefferson said, "In democracy, agreement is not essential, but participation is."•

CURRENT GATT NEGOTIATIONS

• Mr. LEAHY. Mr. President, the recession is hitting rural America hard.

One in every eight rural Americans is now out of work—20 percent more than a year ago. Unemployment in rural areas is 27 percent higher than in urban areas.

While rural America pleads for help in these times of economic hardship, the administration turns its back.

Last week, the administration successfully blocked—for the third time this year—help for our Nation's dairy farmers. Farmers will lose thousands of dollars. Some will lose their farms.

While many farmers are wondering how they will make it through the next year, the administration is working quietly behind closed doors in Geneva on a new trade policy that could intensify their attack on dairy farmers, as well as other parts of American agriculture.

Reports from the GATT (General Agreement on Tariffs and Trade) negotiations suggest that the administration has effectively given away section 22 import protections for dairy and other commodities without any assurances that we will get a commensurate response from other countries. The administration's blanket acceptance of tariffication while leaving the details to be worked out later could undermine our ability to achieve a fair and balanced outcome for American agriculture.

Our GATT negotiators have established an artificial deadline of late December to reach a basic agreement. I am worried that this new trade package could be the kind of unwanted Christmas gift that only Ebenezer Scrooge would think of delivering.

I have long been a supporter of efforts to lower trade barriers to end subsidy wars to expand overseas markets. This is why I supported a free-trade agreement with Canada and the initial fast track GATT negotiating authority 4 years ago.

In fact, early in the GATT negotiations, I believed an agreement could benefit all agricultural commodities. In 1987, the administration calculated that 40 percent of U.S. agricultural spending was required just to offset the money spent by other nations to subsidize their exports.

It clearly makes no sense for the United States and Europeans to bid against each other and bribe other countries to buy their farm products. This only drives prices down and raises taxpayer costs. I believed our negotiators deserved the chance to end this chaos and rid agricultural trade of direct export subsidies.

But I have become increasingly concerned about the administration's trade negotiating strategy. We appear to be rushing headlong into a GATT agreement simply for the sake of getting an agreement. But we must not let our desire for an agreement lead us to an agreement that is not fair for every part of American agriculture.

As Chairman of the Senate Agriculture Committee and the Judiciary Committee's Technology Subcommittee, I met privately with administration officials, pushing them to specify their negotiating goals and positions. I also chaired hearings to flesh out the pros and cons of the GATT negotiations.

I have been troubled by the administration's refusal to give the American public greater assurances on U.S. negotiating strategy. While the administration cannot be expected to spell out each and every detail of its negotiating strategy, the public and those industries affected by the negotiations have the right to know more about how the administration plans to prevent the loss of American jobs. They need more than vague promises that these issues can be resolved in some foreign capital.

For these reasons, I voted last May against the administration's request for the extension of GATT fast track negotiating authority. I felt then—as I do now—that the administration has not shown that it is willing only to negotiate a GATT agreement that is fair for all of American agriculture.

The administration won its fast track request and continued GATT negotiations. Now, as the negotiators appear to be moving quickly to a close, my worst fears may be realized.

And despite its efforts that could negotiate away section 22 and other programs that protect American farmers from unfair foreign competition, the administration continues to refuse to promise income protection to American farmers hurt by a GATT agreement.

Despite the ominous signs for the farm community, the GATT negotiations could have potential benefits, particularly on the issue of achieving stronger protection for U.S. intellectual property—such as computers, software, motion pictures, sound recordings, and pharmaceuticals.

Intellectual property is one of the crown jewels of our economy. While smokestack industries—like steel and autos—used to fire the engine of our economic growth, more and more that engine is being fired by the works of our imagination—software, motion pictures, sound recordings, and the like. Our core copyright industries in 1989 alone accounted for $22 billion in foreign sales, more than the entire U.S. aerospace industry.

At the same time, success carries risks. Products like computer programs, pharmaceuticals, and movies are expensive to make, but easy to copy. It takes no great genius for an overseas bootlegger to duplicate a U.S.-made floppy disk or a video cassette or for a foreign chemist to break down the components of a new wonder drug.

Modern-day pirates who steal the creations of American artists, scientists, and engineers cheat the American economy of billions of dollars each year.

We must demand the highest level of worldwide protection for intellectual property. We must demand strict standards of protection and serious enforcement.

Earlier this year, the administration sent China, Thailand, and India the right messages under section 301 of the 1988 Trade Act: Entry into the United States market is not a one-way street; reciprocity must guide our trade relations; and countries that raise barriers to American goods cannot expect a free ride into our open market.

But with respect to GATT negotiations on intellectual property and services, we know that after 4 long years of negotiations, serious problems still exist. These include: the level of protection for computer software and for semiconductor chip designs; the European determination to exempt cultural industries from a Services agreement; the conditions under which countries may grant compulsory licenses for patented products; and the right, if any, of producers of sound recordings and software to prohibit rental.

Other issues remain as well. I am troubled that an agreement may preclude us from taking a unilateral action under section 301—our most potent tool for securing tougher protection for intellectual property and other industries. The last thing we want is a watered-down, least-common-denominator agreement on intellectual property that codifies inadequate levels of protection while curtailing our ability to act.

Also affected by GATT negotiations are a number of environmental issues.

For example, in a troubling ruling, a GATT panel earlier this year invalidated a United States environmental statute requiring Mexican exporters to reduce the number of dolphins killed by tuna fishermen. This means that U.S. tuna fishermen must follow one environmental standard while foreign fishermen follow another. It is unclear how a GATT negotiated agreement will affect other American environmental standards.

It is in the details of this agreement—not in the symbolism of international cooperation or in the political imperative of getting a deal—that American jobs will be won or lost.

In the end, this GATT agreement will be judged not on whether it is ideologically correct, but on whether it improves the lives of American families.●

LAWRENCE B. LINDSEY'S NOMINATION TO THE FEDERAL RESERVE BOARD OF GOVERNORS

● Mr. MACK. Mr. President, last Friday the Senate confirmed the nomination of Lawrence B. Lindsey as member of the Board of Governors of the Federal Reserve System. This action was a significant step toward improved Government economic policymaking.

The current economic state of affairs has us all concerned. The credit crunch is stifling business activity. Rising unemployment and bankruptcies are shaking the confidence of consumers nationwide. Plummeting real estate values are rocking our construction and financial industries. Exploding budget deficits are wiping out what little faith people had that Government can effectively deal with these problems.

What we need is some good, old-fashioned economic growth. But it's as though the burst of energy which spurred the thousands of new businesses and millions of new jobs during the 1980's has been stamped out. The avalance of Federal State and local tax and regulatory increases over the last few years have considerably slowed down the ability of the U.S. economy to grow. Frankly, Mr. President, we in Congress have forgotten that the things we do—the laws we pass, the taxes we raise, the regulations we impose—all have consequences. They affect real people with real jobs and real families.

I would like to share with you some startling numbers. Both OMB and CBO are forecasting rates of growth over the next 5 years that are well below the post-WWII trendline of 3 percent economic growth. If OMB's forecast of 2.6 percent is right, economic output over the next 5 years will be $1.6 trillion less than it would be if the economy would grow at its post-war average.

CBO's projections are even worse. It predicts an average growth rate of 2.3 percent throught 1996. If this would hold true, economic output would be $1.8 trillion less. Larry Kudlow, who is the Chief Economist for Bear Sterns in New York, calculates that this loss in output implies a stunning 6 million lost jobs!

Clearly, Congress absolutely must get its act together and correct its past fiscal policy mistakes. The luxury taxes, high capital gains taxes, arbitrary real estate tax law changes, inflexible banking and environmental regulations all must go.

Under these circumstances, it is critical that the key insitution involved in formulating monetary policy—the Board of Governors of the Federal Reserve System—be comprised of individuals who understand that strong economic growth and zero inflation are not mutually exclusive policy achievements.

Such an individual is Lawrence Lindsey. Dr. Lindsey is a highly regarded economist whose background includes President Reagan's Council of Economic Advisors, the Harvard economics faculty, and President Bush's White House Office of Policy Development.

Today's economy is globally integrated to such a degree that it is inappropriate, if not impossible, for the Federal Reserve to conduct monetary policy without a careful assessment of fiscal policy. Monetary policy's goal of negligible inflation is highly dependent upon international capital flows, exchange rate fluctuations, and domestic/international exchange rate and interest rate differentials—all of which are affected by the Government's tax, spending, and regulatory decisions.

This is precisely why Larry's presence on the Federal Reserve Board will prove valuable. He is a renowned expert on tax policy whose credentials have been earned through astute analysis of the relationship between tax policy and economic growth. His unique skills will complement those of existing Board members.

I am very pleased that the Senate has confirmed his nomination. I am confident that his impact on the shape of monetary policy will be significant.●

LIGHT OF THE WORLD CHRISTIAN CHURCH, 125TH ANNIVERSARY

Mr. LUGAR. Mr. President, I bring to your attention today one of the largest and fastest growing Disciples of Christ congregations in the world. Light of the World Christian Church, formerly known as Second Christian Church, was organized in Indianapolis as a mission project in 1866. It was later remodeled from materials removed from the Civil War barracks in Military Park.

Beginning November 24, 1991, Light of the World Christian Church will celebrate "125 Years of Excellence: The Victory is in the Vision." Their plan includes construction of a campus that will encompass a community and family center, the senior saint complex and the academy, which will provide Christian and cultural learning in a drug-free, gang-free and violence-free environment.

The ministry has grown and prospered under the able and visionary leadership of Dr. T. Garrett Benjamin. Technological advances have allowed the work of the church to reach some 35 million viewers.

Please join with me in congratulating my good friends, Dr. and Mrs. Benjamin, for their leadership and spiritual guidance. The Light of the World Christian Church has made a great difference in the city of Indianapolis, the State of Indiana and our Nation.

HIDTAs ARE MAKING A DIFFERENCE

Mr. DeCONCINI. Mr. President, I rise today to turn this body's attention to the war on drugs. It is an ongoing war that confronts us everyday in newspapers and on newscasts in every part of the country and the sad truth is that the story is always the same. Drug crime remains a front-page issue and is not likely to be fully under control in the near future. I chair the Appropriations Subcommittee on Treasury, Postal Service and General Government which has funding jurisdiction over the Treasury law enforcement bureaus, including the Customs Service, the Bureau of Alcohol, Tobacco and Firearms [ATF], the Secret Service, and the IRS as well as the Office of National Drug Control Policy [ONDCP]. They do a Herculean amount of work in the drug war, and the word from them is that they have more business than they can handle.

Halting drug trafficking is a long-term proposition demanding an intensive and aggressive approach. Drug traffickers are constantly changing their methods to adapt to existing law enforcement practices. The creativity of these traffickers in coming up with new ways to circumvent law enforcement efforts means that enforcement must have the resources to meet the fluid environment of the drug trade. We are making progress, but our future success depends on the continued support of Federal, State and local law enforcement agencies. We cannot afford to focus attention away from this Nation's drug problem. Just as importantly, is the recognition and support of enforcement programs that have proven to be effective and are slowly gaining ground in this uphill battle.

Mr. President, there is a program that is making a difference. It is the designation of certain areas in this country as High Intensity Drug Trafficking Areas [HIDTAs]. The purpose of the HIDTAs is to concentrate manpower and funds to curtail the espe-

cially high level of illegal drug trafficking in these regions. In the 1988 Anti-Drug Abuse Act, Congress authorized the designation of High Intensity Drug Trafficking Areas [HIDTAs] and directed that they be coordinated by the Office of National Drug Control Policy [ONDCP]. ONDCP designated the five areas of New York City, Houston, Los Angeles, Miami, and the southwest border as priority drug trafficking points. Following the designation of these areas, Congress provided ONDCP $25 million in the 1990 supplemental appropriations bill to support Federal anti-drug trafficking efforts in the HIDTAs. Subsequently in FY 1991, Congress increased the appropriations to $82 million for the HIDTAs with $50 million for Federal programs. Congress increased the amount for HIDTA activities in fiscal year 1991 above the Administration's request and instituted an earmark for this increase of $32 million for direct assistance to State and local law enforcement agencies in the HIDTAs. This year, despite ONDCP's failure to request funds for State and local law enforcement, we appropriated $86 million to the HIDTAs, or $36 million above the request while maintaining the $50 million for Federal programs and earmarking $36 million for State and locals. Mr. President, despite early skepticism, over the past few years the HIDTA Program has proven its value and effectiveness in combating drug trafficking. It is a program that we can be proud of. In spite of this success, yearly we receive a budget from the President that fails to request increased resources for maintaining the vigilant law enforcement activities in the HIDTA's by ignoring State and local needs.

Recently, federally funded task forces in the HIDTA's have achieved significant victories in the drug war. A few weeks ago a High-Intensity Drug Trafficking Area [HIDTA] Violent Gang Task Force made up of agents from Federal, State, and local law enforcement agencies in New York City arrested seventeen members of a vicious Dominican drug gang known as the "Gerry Curls." Months of undercover work and dedication by members of the task force culminated in the bust. The Gerry Curls are believed to be responsible for a cocaine operation worth more than $11 million. For over 2 years, they have terrorized the residents of the West 157th Street neighborhood where the gang bases its operations. It is indicative of the gang's reign of terror that even after the arrests neighbors refused to speak with the media for fear of retaliation. Two murders are directly attributed to the Gerry Curls and they are certainly responsible for many more. One of the killings was the brutal slaying of a 66-year-old resident who tried to organize tenants to oust the gang members.

Mr. President, the Gerry Curls' flamboyant manner, identified by members' distinctive hair styles and flashy gold cars, typifies the lack of fear these drug gangs have of law enforcement. Often these gangs operate on the streets and out of apartment buildings with no fear of retribution. The efforts of the New York City HIDTA Violent Gang Task Force show these gangs that such activities are no longer tolerable. The crippling of the Gerry Curls illustrates the effect organized law enforcement can have in the drug war and reinforces the importance of supporting Federal, State, and local law enforcement in the HIDTA's. I would like to congratulate the agents and officers who make up the HIDTA Task Force as well as New York County District Attorney, Robert Morgenthau, on the success of this operation.

In my own State of Arizona, a large-scale drug operation that brought an average of 16 kilos of cocaine a week into Arizona through California and Mexico was significantly curtailed by a task force supported by HIDTA funding to State and locals. Rex Holgerson of the Arizona Criminal Justice Commission said that this effort would not have been successful without HIDTA funds. The city of Phoenix used its entire allotment of 1991 HIDTA money to purchase equipment and support a multijurisdictional effort with the DEA. About 250 officers served 32 search warrants and seized 19 kilos of cocaine, over $171,000 in cash, 48 vehicles, and numerous weapons including an AR15 assault weapon and a grenade launcher. Forty-eight arrests have been made and 90 indictments are expected with the investigation still ongoing. This was a massive effort with remarkable results. Mr. President, it is gratifying to know that the money we provide to the HIDTA's, although not nearly the amount I would like, is having a strong effect in curbing drug trafficking.

Contrary to what we have heard and read lately, I can assure you that the war on drugs has not been won. Arizona, the Southwest Border States, and the other HIDTA's are still inundated with illegal drugs. Decreasing emergency room admissions cannot be used as a measure of the incidence of drug-related crime. It is wrong to claim that halting drug trafficking no longer requires an aggressive approach. Law enforcement, however, is doing its level best fighting day in and day out to put a dent into operations like the Gerry Curls and the one in Arizona. The concentration of resources in the HIDTA's makes such efforts possible. The officers in the HIDTA task forces deserve our sincere thanks and continued support as they wade into the daily battle to keep our streets and homes safe from drug crime and violence.●

TRIBUTE TO JAMES EARL COWART; ONE OF MISSISSIPPI'S FINEST

● Mr. LOTT. Mr. President, in a few weeks our Nation will pause to remember the service and dedication of the men and women who served in America's Armed Forces in Southwest Asia 1 year ago. In that campaign our cause was noble, our principle just, and our determination strong.

Our Nation's history is filled with accounts of noble pursuits and sacrificial dedication. And each time our great country sought to strike a blow for freedom, the blood of America's best was shed. Such was the case on September 16, 1964.

James Earl Cowart was a boiler technician aboard the U.S.S. *Coontz* (DLG-9) and enjoyed the good fortune of being from Poplarville, MI. On a special operation in the South China Sea, the U.S.S. *Coontz* was operating in support of the U.S.S. *Ranger* in its plane guard position while answering flank speed turns for 32 knots.

Serving on his upper level duty station, James suffered second and third degree burns over 60 percent of his body when several rear wall boiler tubes burst in the 1B boiler. James managed to escape the scalding confines of the boiler room and was transferred to the U.S.S. *Ranger* for medical attention. Sadly, 4 days later James Earl Cowart died from his injuries.

Like tens of thousands of other Americans who gave their life in pursuit of a cause, James lost his life in service to his country. Later his brother Donald was also killed while serving in the National Guard. The Cowart family endured the pain and loss twice, all in service and dedication to our country.

So it is with patriots—men whose goals are noble and dedication supreme. James was like many great Americans—Americans who sacrificed ultimately out of courage—because they had hope for the future. Napoleon once said, "Courage is like love; it must have hope for nourishment."

As the anniversary of America's involvement in Iraq approaches, I am compelled to think of all the young men and women—many of them from Mississippi—who have sacrificed with courage and hope. As the United States begins to savor our victory over communism and Soviet oppression, we can clearly see that the hope of James and the thousands of men and women like him has not been lost. Theirs is an investment which is now reaping great returns.

It is with honor and admiration that I recognize James Earl Cowart's life, his death and his sacrifice. May God bless him, his family, the state of Mississippi, and God bless the United States.●

CHAMPUS REFORM INITIATIVE CONTRACT

• Mr. McCAIN. Mr. President, last week Congress passed both a Department of Defense authorization and appropriation bill, and these bills have been forwarded to the President for his signature. The relationship between these two bills was the subject of much discussion on the Senate floor. I myself offered some remarks on this relationship when the Senate considered the appropriation bill. I believe that one particular subject area that is addressed in both bills, and on which I spoke briefly last week, deserves further clarification.

Specifically, I wish to clarify the relationship between the treatment by the two bills of the delivery of medical services under the CHAMPUS reform initiative beyond the scheduled termination of the current vendor contract on January 31, 1993. The appropriation bill directs the Secretary of Defense to extend the current contract for an additional year without the benefit of competitive bidding or any other customary procurement practices. The authorizing committees of both Houses, however, have a different position. And, that is, that competitive bidding must be the practice for such contracts as opposed to political favors. Accordingly, the authorization bill requires that the Secretary utilize competitive bidding and other customary procurement practices in any award of the right to provide services under the CHAMPUS reform initiative program beyond the scheduled termination of the current contract on January 31, 1993.

The two provisions are directly at odds. In essence, it is the intent of each provision to repeal the other and substitute its own direction to the Secretary for that provided by the other bill. For this reason, I believe that the latter of the two bills to be signed into law must prevail on this issue and effectively extinguish the earlier signed measure.

While I believe that the course taken in the authorization is the correct one, it is not my purpose here to argue that case. I am simply making clear for the record, prior to the signing of these bills by the President, my understanding as ranking member of the Subcommittee on Manpower and Personnel of the Committee on Armed Services as to the relationship between these conflicting CHAMPUS Reform Initiative provisions.•

TRIBUTE TO WILLIAM H. HUDNUT III

• Mr. LUGAR. Mr. President, I rise today to honor a man who, for the past 16 years, has served the city of Indianapolis with distinction. He was honored by the Indianapolis Star in 1979, as "Man of the Year," and in 1988, City and State magazine named him the "Nation's Outstanding Mayor."

Bill Hudnut's commitment to public service began at an early age. He graduated from Princeton University in 1954, with high honors and was selected for Phi Beta Kappa. He then attended Union Theological Seminary in New York City, where he graduated summa cum laude, and subsequently became a third generation Presbyterian minister. Prior to coming to Indianapolis, Bill served in two churches located in New York and Maryland.

In 1972, Bill Hudnut was elected to Congress. During his tenure, he sponsored 17 bills which are now public law. In 1975, he was elected mayor of Indianapolis, where he has served for 4 consecutive terms.

As a former president of the National League of Cities and the Indiana Association of Cities and Towns, Bill Hudnut has helped Indianapolis achieve spectacular growth while maintaining a small town feel. Under Bill's leadership, more than 100,000 jobs have been created and 5,000 new businesses have opened their doors. Public-private partnerships have spirited the redevelopment of downtown Indy, while preserving the historic older neighborhoods.

Mayor Hudnut has demonstrated a solid commitment to the advancement of Indianapolis' minority population. He promoted the appointment of minority candidates in the highest levels of his administration. He has also supported investment intiatives which fostered the growth of minority-owned business enterprises in the city.

I ask my colleagues to join me in saluting this outstanding public servant for his forward-looking leadership in building a better Indianapolis.•

ALLEGHENY WILD AND SCENIC RIVER BILL

• Mr. SPECTER. Mr. President, I am pleased to support passage of S. 606, the Allegheny Wild and Scenic River bill, which designates certain segments of the Allegheny River of Pennsylvania as a part of the National Wild and Scenic River System.

Our friend and colleague, Senator John Heinz, was the original sponsor and an ardent supporter of this bill. As you know, John Heinz was noted for his dedication to environmental protection and his innovative efforts to find solutions to the complex environmental threats that confront us. I feel that it would be a fitting tribute to Senator Heinz to pass this year the Allegheny Wild and Scenic River bill, which is representative of his passionate commitment to the preservation of our natural resources.

Mr. President, 22 years ago, Congress enacted the Wild and Scenic River Act to set the policy of our country in protecting and preserving certain rivers in the United States that possess remarkable scenic, geologic, historic, cultural, or recreational attributes. The Wild and Scenic Rivers System represents a balanced approach to land management that allows for productive interaction between man and nature. This program affords the people of this country the opportunity to enjoy fully the natural values of rivers such as the Allegheny while ensuring the long-term preservation of those assets so that future generations may enjoy the same benefits.

For those who have not had the pleasure to visit, the Allegheny River is located in northwestern Pennsylvania and flows through portions of the Allegheny National Forest, one of the most beautiful forests in the country. Seventy-three percent of the Allegheny River corridor is forested, predominantly with oak, hemlock, and northern and Allegheny hardwoods. The Pennsylvania Fish and Wildlife Service lists 394 species of mammals, birds, amphibians, reptiles, and fish that are likely to be found along the river corridor. Of these, 34 are designated as threatened, endangered, or of special concern in the State of Pennsylvania. Passage of this bill would extend added protection to the bald eagle, the only federally listed endangered species known to live in the corridor.

In 1978, Congress directed the Forest Service to conduct a study to determine which portions of the Allegheny River were eligible for protection under the Wild and Scenic Rivers Act. The study, completed earlier this year, concluded that 85 miles of the river contained outstanding remarkable values. In addition to the beautiful scenic value of the river, there are 109 islands containing significant ecological and recreational value. The Allegheny River also has cultural value as a principal travel route for more than 12,000 years, marked by a site known as Indian God Rock, which is listed on the National Register of Historic Places.

As no section of the Allegheny River was remote enough to be classified as a wild river area, the 85 miles of the river will be designated as a recreational river. This is fitting, as this beautiful river supports a strong tradition of fishing, canoeing, camping, and other recreational activities.

Mr. President, this bill has been developed through extensive consultation with the Forest Service, local and county governments, and members of the public. The Allegheny River is located within 3 hours of several major metropolitan areas, and there are 2,000 cottages and permanent homes located within the eligible river segments. In addition, the Allegheny study report estimates that recreational use could increase by 30 percent within 6 years following designation, creating jobs in the region and stimulating the local economy by $315,000 each year.

Mr. President, this legislation represents another step in our efforts to

preserve, enhance, and protect the natural heritage and beauty of our great Nation. I am proud to join in support of this legislation to preserve a piece of our natural heritage for future generations of Pennsylvanians and all Americans.●

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I had several discussions throughout the evening with the Speaker and with the distinguished Republican leader and other Members of the leadership—both House and Senate, Republican and Democratic—in an effort to determine the best way to proceed to complete action on the important measures remaining before the Congress.

I am advised by the Speaker that the House will remain in session throughout the night in an effort to act upon several of those important measures, including the surface transportation conference report and, if it is available during the night, the banking bill conference report, and perhaps other measures as well.

Since, under our procedures, the Senate cannot act on those measures until after they have been acted upon by the House and transportated to the Senate, we are now in the position of awaiting House action before we can act here in the Senate.

It is my conclusion that under those circumstances it is the most sensible and prudent thing for the Senate to recess now for a period of time while we await action in the House on these measures so that, to the extent possible, Senators can get some sleep and be ready to go tomorrow morning when we do have these measures from the House.

Since at this time I am not in a position to make a judgment on precisely when those actions will occur in the House, I am going to suggest that we recess subject to the call of the Chair, with the intention of reconvening the Senate at about 9 a.m. this morning.

If a decision is made to reconvene prior to that, Senators will, of course, be given as much notice as possible.

I do not think that is likely to occur, but, of course, we do not know as we await these actions by the House.

I have discussed this with the distinguished Republican leader and I intend to meet with the Speaker shortly, to talk with the Speaker again, shortly, to get a better and perhaps more up-to-date view on the timing of the action in the House on these various measures.

Mr. President, before I do so, I will yield to the distinguished Republican leader for such comments as he may wish to make.

Mr. DOLE. Mr. President, I concur in the statements by the majority leader. I think this would permit Senate staff to get some rest, too, is that correct? So they would not have to stay here subject to the call of the Chair.

As I understand it, we are still on target. It just happens in this time we are a little ahead of the House. Generally I think the House is sometimes waiting for us. This time we are waiting for them.

It is my understanding tomorrow morning we will have the supplemental appropriation measure available. Shortly thereafter, maybe the highway bill. And they are still in conference on the banking bill. And I am not certain about Medicaid.

It seems to me we are pretty much on target. We could complete action on most of those sometime tomorrow morning, early afternoon.

Mr. MITCHELL. That is my hope and expectation.

Mr. President, so there is no misunderstanding, I may have misspoken, my intention is to, at least at this point, recess subject to the call of the Chair. Following further discussion with the Speaker, perhaps recess over to a definite time this morning.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, for now, unless the distinguished Republican leader has anything further he wishes to say, or any other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 12:14 a.m., the Senate recessed subject to the call of the Chair; whereupon, the Senate reassembled at 1:02 a.m. when called to order by the Presiding Officer (Mr. FORD).

The PRESIDING OFFICER. The distinguished majority leader.

RECESS UNTIL TODAY AT 9 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 9 a.m. this morning.

There being no objection, the Senate, at 1:02 and 15 seconds a.m., recessed until Wednesday, November 27, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 26, 1991:

THE JUDICIARY

JAMES B. FRANKLIN, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA VICE ANTHONY A. ALAIMO, RETIRED.

EDUARDO C. ROBRENO, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE LOUIS H. POLLAK, RETIRED.

URSULA MANCUSI UNGARO, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF JUSTICE

DAVID JAMES JORDAN, OF UTAH, TO BE U.S. ATTORNEY FOR THE DISTRICT OF UTAH FOR A TERM OF 4 YEARS, VICE DEE V. BENSON, RESIGNED.

THE FOLLOWING NAMED PERSONS TO BE COMMISSIONERS OF THE U.S. PAROLE COMMISSION FOR THE TERMS INDICATED:

EDWARD F. REILLY, OF KANSAS, FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997, VICE BENJAMIN F. BAER.

JOHN R. SIMPSON, OF MARYLAND, FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997, VICE CAMERON M. BATJER, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, FOR THE PERSONAL RANK OF CAREER AMBASSADOR IN RECOGNITION OF ESPECIALLY DISTINGUISHED SERVICE OVER A SUSTAINED PERIOD:

HERMAN J. COHEN, OF NEW YORK

CONFIRMATION

Executive Nomination Confirmed by the Senate November 26, 1991:

DEPARTMENT OF EDUCATION

CAROLYNN REID-WALLACE, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR POST-SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.